Contracted Services Audit – Academics

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Final Report
Audit Plan Code: 21-05.02

We determined the ten Academics contracts in our sample were aligned to the high-level District goals. However, there was no documentation to support strategic planning activities were conducted for five contracted services totaling $1.89 million.

We also identified (i) a purchase that was not budgeted, (ii) potential waste of District funds, and (iii) the appearance of conflicts of interest.

Contents

Executive Summary

Internal Audit Report

Abbreviations

ACFE	Association of Certified Fraud Examiners
BEFM	Budget and External Financial Management
BOT	Board of Trustees
CAF	Contract Approval Form
CAP	Corrective Action Plan
CMM	Con Mi Madre
C&I	Curriculum and Instruction
DIP	District Improvement Plan
E2L	Engage Learning
ELA	English Language Arts
ELL	English Language Learner
EPISD	El Paso Independent School District
FASRG	Financial Accountability System Resource Guide
FY	Fiscal Year
GAO	Government Accounting Office
IIA	Institute of Internal Auditors
PEIMS	Public Education Information Management System
PMI	Project Management Institute
RTI	Response to Intervention
TEA	Texas Education Agency
TNSA	Texas New Schools Accelerator

We have completed the audit of Contracted Services approved by the Board of Trustees (BOT) as part of the 2020-2021 Internal Audit Plan. The objective of the audit was to determine whether Academics strategically acquired contracted services by (i) identifying needs, (ii) justifying the decision to undertake the acquisition of services (aka business justification), (iii) aligning the contracted services to the District goals, and (iv) obtaining input from appropriate stakeholders.

The scope included Academics contracted services rendered during fiscal years 2019-2020 and 2020-2021 with a cost of $25,000 or more and recorded in Academics' Miscellaneous Contracted Services account (class object code 6299).

The Executive Summary provides, on a summarized basis, the findings discussed throughout the body of the detailed Internal Audit Report that follows. The Internal Audit Report includes background information, detailed findings, an observation, recommendations, and exhibits.

Summary of Results

We determined the ten (10) contracts tested were aligned to the high-level goals outlined in the District Improvement Plans and the EPISD 2020: Strategic Plan. However, we identified six findings and one observation as summarized in this section.

1. For five (5) of the ten (10) Academics contracts tested, which totaled approximately $1.89 million (See Figure 1. Items 1-5), there was no documentation to show that the following three strategic planning activities were performed before acquiring contracted services:
   • identification of the need,
   • justification of the decision to undertake the acquisition of services, and
   • obtaining appropriate stakeholder input.

Figure 1. Summary of Results – Strategic Planning Activities per Contract Tested

Item	Vendor	Contract Amount	PART OF A BUSINESS ANALYSIS (BA)			
			Needs Assessment	Business Justification	Alignment to Goals	Stakeholders' Input
1	Engage Learning (E2L)	$1,088,413	X	X	●	X
2	Renaissance Learning (Freckle Math)*	351,000	X	X	●	X
3	Con Mi Madre	198,830	X	X	●	X
4	Kids Excel El Paso	164,000	X	X	●	X
5	Hoonuit	95,000	X	X	●	X
6	Accelerate Learning	465,638	O	O	●	O
7	Achieve3000	388,070	O	O	●	O
8	Edgenuity	349,000	O	O	●	O
9	Eduphoria	218,370	O	O	●	O
10	Ellevation	174,000	O	O	●	O
	Total	$3,492,321	● Sufficient Documentation O Some Documentation			
			X No Documentation			

See Exhibit A for a description of the services according to the contract, and the Academics area that owns/budgets the contracted services.

*Freckle Math was part of our sample and is one of the three Renaissance contracts recommended by administration and approved on June 16, 2020. The three contracts (STAR360, Freckle Math, and Freckle ELA) totaled $1,036,143.50.

2. The former Superintendent directed Academics staff to acquire contracted services from Renaissance Learning (Renaissance), Engage Learning (E2L), and Con Mi Madre, which totaled approximately $2.32 million. The contracted services were acquired without (i) conducting a needs assessment, (ii) conducting a business justification, and (iii) obtaining key internal stakeholders' input. Current District processes and policies do not prohibit a superintendent from directing District staff in this manner. However, the former Superintendent's actions do not align with the public sector's best practices of strategic planning and transparency.

3. Funds were not budgeted to cover the contracted services from E2L in the amount of approximately $1.08 million. We found emails between District staff discussing finding the money to pay for the contracted services. The individual acquisition of $1.08 million in September 2020 was not taken to the BOT for approval. As such, the BOT was not aware of this specific contract.

4. The former Superintendent made a decision, without a needs assessment or a business justification, to outsource services to E2L and Con Mi Madre instead of considering the expertise and capacity that was available in-house. Using in-house Academics staff may have saved the District approximately $1.28 million. The combined actions and comments made by the former Superintendent regarding these contracted services are consistent with what the Government Accounting Office (GAO) defines as waste.

5. There is an appearance of a conflict of interest between the former Superintendent and two vendors (Renaissance and E2L) due to close social/professional relationships. The contracted services that we identified as part of this audit for the two vendors totaled $2.12 million.

   The District has additional contracts with the two vendors. According to the District's enterprise resource planning system, Renaissance and E2L have received payments totaling $2.86 million and $2.92 million, respectively, for fiscal years (FY) 2019-2020 and 2020-2021 (through May 10, 2021).

6. For six (6) of the ten (10) contracts tested, there was no utilization data, or the data available could not be used to determine if the contracted services were being utilized as expected (e.g., number of licenses purchased per contract). The District could potentially receive a refund from Renaissance if the number of licenses used by the District is lower than the number of licenses acquired, as per a clause in the contracts for Freckle Math, Freckle ELA, and STAR 360.

7. Observation: The Board Goals in the EPISD website, as of March 23, 2021, still reference Istation as part of the Early Childhood Math and Literacy Board Outcome goals. The District is not using Istation for the fiscal year ending 2021.

Management's Corrective Action Plan

District management and leadership submitted a Corrective Action Plan (CAP) outlining the activities to be implemented. All the recommendations made by Internal Audit were incorporated into the CAP. The CAP appears to be sufficient to address the findings outlined in this report. Internal Audit will conduct follow-up reviews to validate CAP activities have been implemented.

Conclusion

Although the ten (10) Academics contracts tested were aligned to the high-level goals, we determined five (5) of these contracts were not strategically acquired. We also identified (i) a purchase that was not budgeted, (ii) potential waste of District funds, and (iii) the appearance of conflicts of interest.

The Academics Department does not have a consistent and formal process for conducting and documenting strategic planning activities before acquiring contracted services under account class object code 6299. Because the District does not require departments to conduct and document a formal business analysis or other related strategic planning activities, departments are left to determine on their own (i) how to strategize their acquisitions, (ii) the degree of documentation to support their decisions, and (iii) how to maintain the documentation.

Therefore, there is a risk these contracted services:
• did not address the underlying need/problem;
• did not solve the need/problem completely;
• were not needed;
• overlapped with an existing service;
• contained unnecessary features; and
• were not adequately scrutinized or vetted by key stakeholders.

Strategic planning is critical for acquiring the right contracted service and ensuring the right need or problem is being solved. A best practice is to perform a business analysis as part of strategic planning. A business analysis prompts the sponsor stakeholder to methodically document and strategically scrutinize proposed solutions before committing resources, time, and taxpayer monies. Plus, the business analysis helps organizations in:
• reducing the likelihood that an unfit solution will be chosen;
• providing the sponsor stakeholder sufficient, reliable, and well-documented information before making a decision;
• increasing transparency and taxpayers' confidence that monies are being spent efficiently;
• documenting why the investment/solution was worth pursuing;
• obtaining a higher level of assurance that all the key stakeholders were consulted and their interests were considered early in the process; and
• obtaining and sustaining buy-in support throughout the life of the solution.

A business analysis will also help the District meet the challenges of oversight that come with purchasing in the public sector environment. According to the Texas Education Agency (TEA) Financial Accountability System Resource Guide, "School district purchasing is scrutinized by diverse groups including the public, the media, state and federal agencies, and auditors. Strict adherence to established guidelines and consistency in record keeping, documentation, and execution of procedures, assists the school district in withstanding this scrutiny. Transparency in all processes should be maintained."

We are providing recommendations based on business analysis best practices and our understanding of District internal controls. If District management implements these recommendations effectively, consistently, and with sufficient quality and detail, they will assist Academics in:
• improving their strategic planning;
• preventing excessive or redundant services;
• selecting services/solutions that provide even greater business value;
• gaining better collaboration and internal buy-in support;
• increasing accountability from internal stakeholders; and
• increasing transparency of the Academics Department operations.

Background

According to Audit Standard 2110 – Governance, "The internal audit activity must assess and make appropriate recommendations to improve the organization's governance processes for making strategic and operational decisions." To that end, the Board of Trustees approved the Contracted Services Audit as part of the 2020-2021 Internal Audit Plan.

The District developed the EPISD 2020 Strategic Plan, which "builds on a commitment to the strategic priorities, outlines action-oriented focus areas, and leverages existing continuous improvement processes which work together toward community-identified student learning goals." One of the focus areas and initiatives in the District EPISD 2020 Strategic Plan is "Providing Engaging and Challenging Learning" for students. To accomplish this, the District allocates resources in different ways, including acquiring contracted services. Academics has been entrusted with the planning, budgeting, acquiring, and overseeing of Academics contracted services.

For fiscal year (FY) 2020, the District spent $18.08 million in Miscellaneous Contracted Services (class object code 6299), of which Academics' expenditures accounted for $5.41 million (30%).

In accordance with state and local budget guidelines, contracted services expenditures are recorded in the District's Miscellaneous Contracted Services account (class object code 6299). Academics leadership presents the estimated budget (including 6299) to the Budget Department during the District's annual budget hearing process. Academics' budget is officially adopted when the Board of Trustees approves the District's Annual Budget.

Depending on the cost of the contracted service, Academics must use the appropriate procurement method to acquire these services. Often, contracted services are acquired using interlocal or cooperative agreements since they are considered a cost-effective procurement method. As stated in the District's Procurement Manual, these cooperatives/agreements can "save time and money." However, as good stewards of public funds, District departments, including Academics, are responsible for strategically acquiring solutions and services which are relevant, useful, reliable, efficient, and cost-effective regardless of the procurement method used.

Objective and Scope

The objective of the audit was to determine whether Academics strategically acquired services by (i) identifying needs, (ii) justifying the decision to undertake the acquisition of services (aka business justification), (iii) aligning the contracted services to the District goals, and (iv) obtaining input from appropriate stakeholders.

The scope included Academics contracted services rendered during fiscal years 2019-2020 and 2020-2021 with a cost of $25,000 or more and recorded in Academics' Miscellaneous Contracted Services account (class object code 6299).

Methodology

To achieve our audit objective, we:
- Researched relevant state guidelines, Board policies, and department manual/guidelines.
- Researched business analysis best practices and foundational standards from project management industry-leading experts.
- Used pre-audit surveys and internal control questionnaires to obtain an understanding of the area under audit.
- Performed a risk assessment based on our understanding of the process Academics follows in acquiring contracted services.
- Obtained and analyzed the population of Academics contracted services under account class object code 6299 (49 contracts) and used the Internal Audit Sampling Guidance to determine the sample size.
- Selected a judgmental (risk-based) sample of ten (10) out of 49 Academics contracts based on the (i) financial impact on the District, (ii) criticality, (iii) length of relationship with the vendor, and (iv) complaints. See Exhibit A for the list of contracts selected as part of the sample.
- Communicated with Academics, Finance and Operations, Procurement, and Budget staff to understand related processes.
- Conducted interviews with current and former District administrators involved in the contracts selected in the sample.
- Reviewed all documentation provided to determine whether the Academics Department performed and documented, to a sufficient degree, the strategic planning activities in Figure 1 for each of the ten (10) contracts tested. If Academics provided documentation of work performed under any of these activities, we verified it against the attributes of (i) sufficiency, (ii) usefulness, (iii) relevancy, (iv) and reliability. Internal Audit did not evaluate whether the contracted services were needed; rather, our findings are based on interview responses and documentation reviewed.

Inherent Limitations

Because of the inherent limitations in a system of internal controls, there is a risk that errors or irregularities occurred and were not detected. Due professional care requires the internal auditor to conduct examinations and verifications to a reasonable extent.

Accordingly, an auditor is able to obtain reasonable, but not absolute, assurance that procedures and internal controls are followed and adhered to in accordance with the federal, state, local policies, and guidelines.

The following represents a scope limitation encountered during our audit; however, it did not significantly impact our ability to achieve our audit objective. We contacted the former Chief of Staff to request information related to three (3) Academics contracts selected as part of our audit. We made several attempts to gather information from the former Chief of Staff while he was still employed by the District, but he did not provide responses to our questions.

Acknowledgement

We would like to thank District employees who participated in this audit for their time.

Results

We determined the ten (10) contracts tested were aligned to the high-level goals outlined in the District Improvement Plans and the EPISD 2020: Strategic Plan. However, we identified six findings and one observation as outlined in this section.

Finding 1

For five (5) of the ten (10) Academics contracts tested, there was no documentation to show that the following three strategic planning activities were performed before acquiring contracted services:
- identification of the need,
- justification of the decision to undertake the acquisition of services (aka business justification), and
- obtaining appropriate stakeholder input.

Those five (5) contracts totaled $1.89 million (See Figure 1. Items 1-5). The budget owners for the five (5) contracts stated the following:
- They were not involved in the needs assessment to acquire the contracted services, and/or
- The contracted services had been passed down to them, and/or
- They did not know if there had been a needs assessment since there had been changes in positions within their areas.

Figure 1.
Summary of Results – Strategic Planning Activities per Contract Tested

Item	Vendor	Contract Amount	PART OF A BUSINESS ANALYSIS (BA)			
			Needs Assessment	Business Justification	Alignment to Goals	Stakeholders' Input
1	Engage Learning (E2L)	$1,088,413.00	X	X	●	X
2	Renaissance Learning (Freckle Math)*	351,000.00	X	X	●	X
3	Con Mi Madre	198,830.00	X	X	●	X
4	Kids Excel El Paso	164,000.00	X	X	●	X
5	Hoonuit	95,000.00	X	X	●	X
6	Accelerate Learning	465,638.75	O	O	●	O
7	Achieve3000	388,070.00	O	O	●	O
8	Edgenuity	349,000.00	O	O	●	O
9	Eduphoria	218,370.00	O	O	●	O
10	Ellevation	174,000.00	O	O	●	O
	Total	$3,492,321.75	● Sufficient Documentation O Some Documentation X No Documentation			

See Exhibit A for a description of the services according to the contract, and the Academics area that owns/budgets the contracted services.

*Freckle Math was part of our sample and is one of the three Renaissance contracts recommended by administration and approved on June 16, 2020. The three contracts (STAR360, Freckle Math, and Freckle ELA) totaled $1,036,143.50.

1.1 For the remaining five (5) contracts (See Figure 1. Items 6-10), the documentation provided showed that the budget owner performed some planning activities related to a needs assessment and a business justification. However, the documents did not clearly identify some of the following elements:

- Dates when the planning activities were performed.
- Identification and signatures of stakeholders involved.
- Facts to substantiate the need (e.g., statistics, percentages).
- List of benefits and drawbacks of each alternative.
- Impact on the District (time/effort, human resources, equipment, additional services).

- Constraints (resources, time, budget, etc.).
- A metric to measure success (e.g., return on investment).

The budget owner offered to provide additional documents that could assist in identifying some of the elements that were not clearly identified in the documents originally provided but stated it would take him/her a substantial number of hours to gather all of them. Documentation should be readily available and must be sufficient, relevant, reliable, and useful to withstand scrutiny from different internal and external groups.

1.2 Causes for this finding include:

    1.2.1 Academics does not have a standard process to document strategic planning activities for the acquisition of contracted services, and there is no central repository for the documentation.

    1.2.2 Since the District does not require departments to conduct and document a formal business analysis or other related strategic planning activities, except when using Federal funds, departments are left to determine on their own:
- how to strategize their acquisitions,
- the degree of documentation to support their decisions, and
- how to maintain the documentation.

    1.2.3 All of the contracts selected as part of the sample were acquired through cooperative agreements. There is no requirement to complete a needs assessment when contracted services are acquired through cooperatives as opposed to a formal bid process. According to the District Procurement Manual, the bid owner has the responsibility of completing a written needs assessment for the department in a formal bid process.

1.3 The risks of not performing a needs assessment for the acquisition of contracted services may include, but are not limited to:

- Acquiring contracted services that were not needed or that contained unnecessary features;
- Not having a clear understanding of the need and how to fulfill it;
- Not solving the right problem or not solving it completely;
- Spending limited resources on services that overlap or do not add value to what the District already has;
- Not prioritizing needs;
- Not identifying the appropriate stakeholders.

1.4 The risks of not performing a business justification or conducting related justification strategic planning activities may include, but are not limited to:

- Potential constraints are not identified early with subsequent reactive implementation problems;
- Not exploring multiple viable solutions;
- Cost overruns;
- Indirect costs;
- Rework or needing to buy additional services;
- Unclear scope/objectives;
- Delays;
- Numerous changes.

1.5 According to the Chief Academic Officer, "It is very important to note that for any resource that has been initiated and purchased by Academics under my leadership,

I am confident that purchases were based on either an identified need or in response to a TEA mandate. We can do a better job of organizing our processes, but again, I want to underscore that the need to be more organized does not indicate a lack of due diligence. I take pride in ensuring we are good stewards over resources and decision making. I am very confident we could provide any documentation needed to justify any purchases initiated by Academics."

For additional criteria relevant to this finding, see Exhibit C (Criteria No. 4, 5, 6, and 7).

Finding 2

The former Superintendent directed Academics staff to acquire contracted services from Renaissance Learning (Renaissance), Engage Learning (E2L), and Con Mi Madre, which totaled approximately $2.32 million. The contracted services were acquired without (i) conducting a needs assessment, (ii) conducting a business justification, and (iii) obtaining key internal stakeholders' input. Current District processes and policies do not prohibit a superintendent from directing District staff in this manner. However, the former Superintendent's actions do not align with the public sector's best practices of strategic planning and transparency.

Below are excerpts from documentation/interviews collected during our audit:

The former Superintendent stated, "The academics team from 2013 to 2020 at the district did not support any of my major initiatives including engage to learn, active learning, project-based learning, new tech network or renaissance. They all literally fought me at every turn, as did [union representatives], and if I had listened to them we would not be the highest performing urban district in Texas and one of the highest performing in the country. Everyone (sic) of those ideas was mine and I stand behind them 100% today no regrets."

2.1 <u>Renaissance $1.03 million (STAR360, Freckle Math, and Freckle ELA):</u>
   2.1.1   Initially, the Academics team submitted a recommendation for the Board of Trustees (BOT) to approve a renewal for Istation (for the June 16, 2020 BOT meeting). However, in an email dated June 10, 2020, that was sent to several District leadership members, the Chief Academic Officer asked the Executive Director of Curriculum & Instruction to "pull Istation from the June 16 agenda…We are taking Renaissance STAR 360 to the June board meeting for Reading and Math, English and Spanish".

   2.1.2   The change from Istation to Renaissance was made six days before the BOT meeting and two months before the 2020-2021 school year started (August 17, 2020).

   2.1.3   In the June 10, 2020 email, the Chief Academic Officer added the following:
      • "We are purchasing both Renaissance Freckle Math and Renaissance Freckle Reading (math has Spanish but Reading does not. We will have to find an alternate way to support reading in Spanish)."
      • "We can discuss how to use the 44,689 licenses following the board meeting."

   2.1.4   The Chief Academic Officer said s/he did not know how the number of licenses had been determined. S/he stated: "We had no idea how to allocate the licenses (between Elementary Schools, Middle Schools or High Schools). We had not enough information or enough time to process the information…Nothing had been decided, but we had a deadline because we had to get the contract in the Board agenda. There was no time to process those details that are critically important. I had no conversation with

Renaissance. We had no idea of how that number of licenses came up. Decisions were made before I came into the conversation. The number came from [former Chief of Staff]. [Former Chief of Staff] communicated with [name omitted], who is a Renaissance Account Executive. [Former Chief of Staff] gave me the action item for the Board meeting. The 44K licenses were enough licenses to cover K-10 grade. However, before acquiring the Renaissance licenses, we didn't screen students in high school. It was probably decided by [former Chief of Staff] or [former Superintendent] with [Renaissance Account Executive]."

2.1.5 The Chief Academic Officer stated that after the change to Renaissance, the Academics Department had to "revise both the goals and the infrastructure." S/he also stated that it "was not a good timing" for the change due to the pandemic as it put more pressure on the teachers who, in addition to teaching virtually, also had to learn the new programs.

2.1.6 Renaissance does not have a Spanish intervention (for ELA), which Istation had. As such, the change prompted the need to acquire another tool to cover intervention. The District has not purchased another product to support dual language students.

    2.1.6.1 On May 30, 2020, the Renaissance Sr. Strategic Field Acct. Executive (Renaissance Representative) sent an email to the former Chief of Staff and the former Superintendent, which states: "we don't have an ELA content RTI in Spanish its [sic] only available in English… I would highly recommend that EPISD stay with Istation ELA content software but use our STAR Reading and STAR Math for the current products in place in EPISD."

    2.1.6.2 The Interim Chief of Connecting Languages & Dual Language stated:
- "When we came to find out that it was moving forward as Renaissance to the Board, that's when I made my statement that … the division will look for another product to serve the dual language and ELLs for Spanish and English."
- "If it was our decision to make, we would have not gone that route with the intervention because then we needed to go out and find a product to serve our dual language students…"
- "By the time we got our meetings together, due diligence, research of everything, we were assisted with funding to purchase and… go through all the different steps, we were not going to make a decent timeline for the children. So it just, you know, came down to using whatever other resources we had to assist our students in the classrooms."

2.1.7 According to the Chief Academic Officer and the Executive Director of Curriculum & Instruction, they did not support the recommendation to change from Istation to Renaissance. One of the reasons they did not support the change was that teachers already knew how to use Istation. The Chief Academic Officer said s/he had meetings with the former Superintendent about why the change should not go forward. District key internal stakeholders stated the following:

    2.1.7.1 The Chief Academic Officer stated that the acquisition of Renaissance was the result from a "directive from the Superintendent's office," Renaissance was "a forced buy. It was

not my decision…" and with Istation, "we had board goals and infrastructure."

2.1.7.2 The Executive Director of Curriculum & Instruction indicated that the acquisition of Renaissance was performed per instruction of the former Chief of Staff and the former Superintendent.

2.1.7.3 The Director of Mathematics stated that the "feeling in the house was that we were going in that direction" (Freckle Math) because there was involvement (e.g., attending meetings, calls) from the former Chief of Staff and the former Superintendent. They could have looked at other products if they knew they had money, but they "read between the lines" and knew they were getting Freckle (i.e., Renaissance).

2.1.8 The former Superintendent stated the following:

2.1.8.1 "The need was established to acquire a digital testing systems (sic) was based on my many conversations with the TEA and largest school districts in America and based on the conditions due to school closures and Covid."

2.1.8.2 "In the midst of a pandemic we had to act quickly I do not believe there was a written needs assessment but I trust my judgment over the judgment of anyone else in curriculum and instruction and I have felt that way from day one."

2.1.8.3 "The justification was created by the pandemic and as the academic and operational leader of the entire district I am responsible for and have the authority to make the best decisions for the district."

2.1.8.4 "Personally, since 2013, I have researched every major vendor in the space including Curriculum associates, NWEA, and renaissance as they are the only players that have districtwide computer-based solutions for all subjects, National reputations, normed national data, predictive analytics proven over time and dashboards to allow us to compare schools to each other and compare our schools to others."

2.1.8.5 "In my opinion, the highest and greatest concerns was assessing our students in a digital format to identify learning loss the most efficient and economical manner to get there was to lock down on one company and one product for consistent information. Renaissance was the closest company to get us to district coverage based on past purchases and current licenses."

2.1.8.6 "I did not have a particular problem with Istation but I did want to minimize the number of systems we used to monitor students which would save the district money and provide consistent data for the trustees and administration."

2.1.8.7 When asked why the Chief Academic Officer was not aware of the specifics of the contract, he stated that the Chief Academic Officer "should know the specifics of all the transactions if [s/he's] taking it to the board for approval."

2.1.8.8 When asked whether teachers or principals were asked to provide input into the change from Istation to Renaissance, he stated, "i'm not sure who the curriculum and instruction team asked for input. Regardless of anyone's input I am 100% certain that this was the best strategy to use during a virtual school in the situation presented by the pandemic."

2.1.8.9 Regarding his involvement and role in the selection and acquisition of contracted services with Renaissance, he stated:

- "I am involved in any major Academic decision I often give my input especially in a situation such as this where I have quite a bit of knowledge about the subject matter area and Have done quite a bit of research over the years."

- "Because I am ultimately responsible for the academic outcomes of the district and I consider myself the most knowledgeable person in the district and quite honestly one of the most knowledgeable in the country on this topic. Again because I wanted to overcome the reputation we had at EPISD this has been a major focus of study and research since 2013."

- "I'm 100% responsible for the academics of the district and I am not shy about giving my opinion on what I think is best for kids…I've went through 5 chief academic officers in my tenure as Sup and I trust my judgment over all 5 of them and I continually question and push back on their choices and recommendations…."

2.1.9 The former Superintendent did not consult with internal stakeholders. However, he obtained input or consulted with two individuals who are not part of the District in relation to the change from Istation to Renaissance:

2.1.9.1 A "Sr. Strategic Field Acct Exec" (representative) for Renaissance provided a comparison, between Istation and Renaissance, to the former Superintendent in an email dated June 1, 2020. According to the former Superintendent, the representative (i) "is a national strategy consultant for renaissance, thus I asked for his input and comparison to other options including i-station" and (ii) "would be one of the resources we considered and [sic] making decisions in passing information to leadership."

2.1.9.2 The former Superintendent also sought advice from the Chief Innovation Officer for the Public School Partners organization (refer to Finding 5 for more on this organization). In response to our questions about this individual's relationship with Renaissance, the former Superintendent said:

- "as far as I know [Chief Innovation Officer] does not have any relationship with Renaissance or the Renaissance contract at EPISD, I sought his advice because he was the chief of high schools for Austin ISD and helped the district achieve all A's and B's across the 17 high schools. Austin was the only urban school district to score that high and [Chief Innovation Officer] is considered a [sic] expert in accountability…"

- "I wanted his opinion on formative assessments during the pandemic."

- "he was informally involved and as I have done with many education individuals I seek the advice and input of people in other districts who have gained success."

2.2 <u>Engage Learning (E2L) - $1.08 million</u>:

2.2.1 The budget owner (Director of Active Learning) said, "I'm not sure what triggered that we needed to acquire the outside services. I don't know honestly," and "this came as a surprise." S/he was informed s/he was going to take care of the contract when the decision to acquire the contracted services had already been made. S/he did not feel s/he should be accountable for the success of the program. However, s/he believes it falls on him/her since the money was put in his/her department and needs to do the best s/he can for the contract.

2.2.2 The Chief Academic Officer indicated Academics did not identify the need for virtual coaching services and that the former Superintendent wanted E2L to provide services to EPISD.

2.2.3 When we asked the former Superintendent who had established the need to acquire E2L, he stated:
- "That would be the responsibility fo (sic) the academics team, but I believe that this was obvious because of the pandemic…"

- "I have no idea who lead (sic) this effort for this service."

2.2.4 When we asked if he had instructed EPISD employees to acquire the contracted services from E2L, he stated, "I instructed leadership to identify coaching I know we discussed potentially transferring existing contract dollars to virtual coaching but I do not recall instructing anyone in this manner. Specifically"

2.3 <u>Con Mi Madre - $198,830</u>:

2.3.1 The budget owner (Executive Director of Student and Family Engagement) stated his/her team could provide the services in-house as opposed to outsourcing them, but s/he was not allowed to make that call.

2.3.2 According to the Associate Superintendent of Academics and School Leadership, the budget owner "voiced concerns about two years ago about the program not being sustainable, and fairly expensive for limited output (too much money for few students). However, it was a favored program from [former Superintendent], even though it was not the best use of funds. S/he recalled that the sentiment from [budget owner] was I don't have a choice but to keep doing this."

2.3.3 The Deputy Superintendent of Finance and Operations stated that this service was "supported at the Superintendent level. It was superintendent directed." S/he remembered that there were some issues raised such as high cost per student. But it appeared a good program with good success when presented. S/he indicated that the Superintendent directed to get it, so "we moved forward with it… A budget authority might recommend a course of action, but when you are directed to do something regarding a service, because the Superintendent feels that it's going to make a difference, he's going to get it continued or deleted."

2.4 According to the Chief Academic Officer, "Even though these services were not initiated by Academics, my team has worked hard to use the services to benefit teachers, students, and families."

According to the District's Procurement Manual:
• "EPISD utilizes site-based decision making for campuses and departments. From a purchasing perspective this means that schools and departments (the end-users) determine what is needed and when it is needed and determine how to best meet the needs of our students."

• "District key stakeholders shall be involved to ensure the needs of the District are clearly recognized and identified."

• "The Bid Owner is the Department Head or Budget Owner… the person or department that will benefit from the products or services procured" and "should be a professional knowledgeable in the products or services being sought and shall participate during the needs assessment to ensure all related variables are considered and identify the need and needs for major initiatives."

Finding 3

Funds were not budgeted to cover the contracted services from Engage Learning (E2L) in the amount of approximately $1.08 million. According to Board Policy CE (Local), "The adopted budget provides authority to expend funds for the purposes indicated and in accordance with state law, Board policy, and the District's approved purchasing procedures. The expenditure of funds shall be under the direction of the Superintendent or designee who shall ensure that funds are expended in accordance with the adopted budget."

3.1 We found emails, in August and September 2020, between District staff discussing finding the money to pay for the contracted services.

    3.1.1   In an email dated August 26, 2020, the Deputy Superintendent of Finance and Operations states to the Chief Academic Officer, "if you would like to move forward with such services, you have two options: 1) you can use local funds for these expenses… or 2) you can go out for bid using federal funds, however, e2L would be prohibited from bidding because they provided you with details on how to develop the scope of work."

    3.1.2   The Chief Academic Officer responded by stating, "I do not have local money to cover the cost of this work. We will have to forego at this time. I will notify the team."

    3.1.3   However, in an email dated September 11, 2020, sent to the Deputy Superintendent of Finance and Operations, the Executive Director of Budget and External Financial Management states, "As agreed, we will take the $1,100,000 for the E2L contract from the funding reserved to COVID related expenses in fund 199." The Deputy Superintendent of Finance and Operations told us the former Chief of Staff verbally confirmed the E2L contract was for "direct training as a result of the COVID-19 pandemic."

3.2 According to the Executive Director of Budget and External Financial Management, the BOT had previously approved a budget amendment for $10 million to allocate budget for COVID-related expenses. The budget amendment was approved on July 14, 2020, for Fund 199 and functions 11, 23, 41, and 51 for "instructional technology" (student laptops) and "personal protective equipment and supplies for

the safe operation of District campuses and departments." There was no mention of Curriculum & Instruction Staff Development.

3.2.1   Contracted services from E2L were acquired with function 13 (Curriculum & Instruction Staff Development), which was not included in the budget amendment approved by the BOT. It appears the acquisition of the contracted services from E2L had not been planned as of July 14, 2020.

3.2.2   The Budget Manual states, "Amendments that will change the budgeted function totals, as approved by the Board of Trustees, require formal Board approval." As such, a cross-function budget transfer should have been required. A cross-function budget transfer has not been approved by the BOT as of April 2021.

3.2.3   Instead of a cross-function budget transfer, we found a budget request (transfer) dated September 11, 2020, to transfer $1.10 million from a salary account (function 13) in Curriculum & Instruction (C&I) to a miscellaneous contracted services account (function 13) under the Active Learning Department budget. These funds were used to acquire the E2L contracted services. According to the Executive Director of Budget and External Financial Management, "The funds were initially reduced from a personnel account in C&I to expedite the budget allocation into the Active Learning Department."

3.2.4   The budget request (transfer) affected two different budgets, Curriculum & Instruction and Active Learning. The budget owners in Curriculum & Instruction and Active Learning were not required to approve the change request. The budget owners and the Chief Academic Officer stated that they were not aware where the funds came from. According to the Executive Director of Budget and External Financial Management, "Department personnel costs are not managed by the department budget authority; they are centralized allocations."

3.3   The individual acquisition of $1.08 million in September 2020 was not taken to the BOT for approval. As such, the BOT was not aware of this specific contract. According to contract and purchase order documents, the acquisition was part of a "bucket" previously approved by the BOT on November 19, 2019. The agenda item related to the "bucket," S.10, states, "Approval to Purchase Academic Resources and Materials to include Resource Training, Consulting Services, and Professional Staff Development, Utilizing Interlocal Cooperative Contracts... (Budgeted Federal, State, Grant, and Local Funds - $4,000,000.00)." However, based on the statements and documentation obtained during the audit, this "bucket" was ultimately not used to acquire the contracted services.

Finding 4

The former Superintendent made a decision, without a needs assessment or a business justification, to outsource services to Engage Learning and Con Mi Madre instead of considering the expertise and capacity that was available in-house. Using in-house Academics staff may have saved the District approximately $1.29 million. The combined actions and comments made by the former Superintendent regarding these contracts are consistent with what the Government Accounting Office (GAO) defines as waste. According to the GAO, waste is defined as "the act of using or expending resources carelessly, extravagantly, or to no purpose. Importantly, waste can include activities that do not include abuse and does not necessarily involve a violation of law. Rather, waste relates primarily to mismanagement, inappropriate actions, and inadequate oversight."

Below are the comments we received from the Academics staff and the former Superintendent regarding these contracted services:

4.1 Engage Learning - $1.08 million

    4.1.1 The budget owner (Director of Active Learning) indicated that after spring break 2020, his/her team was ready to train teachers. S/he stated, "we were working to help teachers and prepare materials. We have the capacity; we need to be allowed to do it."

    4.1.2 The Chief Academic Officer corroborated the information provided by the Director of Active Learning by stating, "…we had a plan, we had already pulled together how we were going to support the teachers and worked all summer on it."

    4.1.3 The former Superintendent stated, "I do not recall specific conversations but I find it hard to believe that in the midst of the pandemic with everyone scrambling to support students that our internal team would have the time and would be prepared to support teachers virtually at the same capacity and expertise as a company that does it professionally for a living as one of its core businesses."

4.2 Con Mi Madre (CMM) - $198,830

    4.2.1 The budget owner (Executive Director of Student and Family Empowerment) stated that s/he attempted to end the Con Mi Madre services for two years because the cost per student was high. In an internal document used for budgeting purposes, s/he included the services from Con Mi Madre with a cost of $240,589 on the lower side of the priority spectrum and as part of the "rational notes," s/he included "serving 240 students. We can manage this internally. Counseling and Advising can partner with Family Engagement and offer similar support."

    4.2.2 According to the Associate Superintendent Academics and School Leadership, the budget owner "felt that EPISD could do something in-house similar to what Con Mi Madre was providing and really be able to reach to the community. However, [budget owner] could not say no because [former Superintendent] felt strongly about it."

    4.2.3 The former Superintendent stated the following, "I created [Executive Director of Student and Family Empowerment] organization from scratch and I understand what they do and what their purpose was and I also know their limitations. I did not trust them to do this work as CMM specialized in this activity for over 20 years and was founded and researched at the University of Texas at Austin. I am not saying they couldn't do it over time, but CMM was a research based entity that specialized in helping single Latina mothers and their daughters."

"Many individuals in public school districts feel they are qualified to duplicate external efforts once they see them do the work but ultimately that is my decision to make as I am responsible for the outcomes and I am responsible for the overall budget. [Executive Director of Student and Family Empowerment] does not have visibility on all decisions being made at the superintendent and leadership level. I'm not concerned about [his/her] opinion on what [s/he] could and could not do and the impact you could have on students. I provide [him/her] resources and direction and [s/he] needs to execute against my directives."

| **Finding 5** | There is an appearance of a conflict of interest between the former Superintendent and two vendors (Renaissance and Engage Learning) due to close social/professional relationships. The contracted services that we identified as part of this audit for the two vendors totaled $2.12 million. |

The District has additional contracts with the two vendors. According to the District's enterprise resource planning system, the two vendors have received the following payments for fiscal years (FY) 2019-2020 and 2020-2021 (through May 10, 2021):

Figure 2.
Payments to Renaissance and Engage Learning Inc.

Vendor	FY 2019-2020	FY2020-2021 (through 5/10/2021)	Total per Vendor
Engage Learning Inc.	$1,734,705.82	$1,193,693.10	**$2,928,398.92**
Renaissance Learning	938,245.08	1,922,408.71	2,860,653.79
Total per FY	**$2,672,950.90**	**$3,116,101.81**	**$5,789,052.71**

According to the Association of Certified Fraud Examiners, unexplained favoritism of a particular vendor is considered a red flag of a conflict of interest. Board Policy CHE (Local) states, "The implication from the appearance of a conflict of interest is just as important as the implication from an actual conflict. If an outside independent party might question the intent of a transaction or relationship, such transaction or relationship is deemed to impact the appearance of a conflict and therefore should be avoided. Circumstances related to an appearance of conflict include those that would cause a reasonable and informed third party, having knowledge of the relevant information, to reasonably conclude that a Board member or employee has compromised objectivity related to a vendor relationship."

The following instances under each vendor made us question whether vendor favoritism was present and the intent behind the acquisition of contracted services from Renaissance and Engage Learning.

5.1 Renaissance $1.03 million (STAR360, Freckle Math, and Freckle ELA)
 5.1.1 The former Superintendent confirmed having a professional and also a "social relationship" with the "Sr. Strategic Field Acct Exec" (Representative) for Renaissance, who was the main contact between EPISD and Renaissance. The former Superintendent stated that he met the Renaissance Representative "…in 1983 in college in South Texas. We have a professional relationship and also a social relationship as I do with many individuals in school districts and individuals who serve as vendors to school districts. I believe it's important to build relationships with individuals who have knowledge about innovative methodology used to improve student outcomes and thus I seek out these relationships."

 5.1.2 The Representative for Renaissance is the spouse of a board member within the Texas New Schools Accelerator (TNSA) Inc., dba Public Schools Partners, a non-profit organization, of which the former Superintendent is the Founder and Board Chair.

5.2 Engage Learning (E2L) - $1.08 million
 5.2.1 During interviews with top leaders within the District, they stated the following:

- According to the Associate Superintendent Academics & School Leadership, "The attitude of the prior leadership was that if it is an E2L connection, EPISD should pursue it."

- According to the Chief Academic Officer, the former Superintendent asked questions such as, "how much money are we spending on Engage to Learn?" "what can Engage to Learn do to give teachers support?" and "what can we do to get them to give us services?" but the former Superintendent did not ask, "what do teachers need?"

5.2.2 The Superintendent had requested to present at the Council of Great City Schools (COGCS) Annual Fall Conference in October 2020. The presentation would include the Founder and CEO of E2L as a speaker. However, the former Superintendent canceled the presentation after the COGCS told him "corporate partners may not serve as presenters."

As Board Chair of his organization (TNSA), the former Superintendent voted in favor of acquiring services from Renaissance and E2L on May 4, 2020. As Superintendent of EPISD, he signed contracts with the same vendors on June 16, 2020, and September 25, 2020, respectively. The proximity of these events, along with the statements provided by Academics regarding the actions of the former Superintendent, create an appearance of favoritism for these two vendors. As stated in Finding 2, the former Superintendent takes ownership of acquiring E2L and Renaissance as major initiatives for the District.

Also, we noted the most recent Local Government Officer Conflicts Disclosure Statements (form CIS) on file for the former Superintendent is dated June 26, 2017 (fiscal year 2016-2017). No disclosures were reported on the 2017 form. In addition, the Procurement Department did not have any annual conflict of interest affidavits from the former Superintendent.

For additional criteria relevant to this finding, see Exhibit C (Criteria No.1).

Finding 6

For six (6) of the ten (10) contracts tested, there was no utilization data, or the data available could not be used to determine if the contracted services were being utilized as expected (e.g., number of licenses purchased per contract). Also, it is possible the District can get a refund from one vendor.

6.1 The six (6) contracts were Edgenuity Inc., Achieve 3000, Engage Learning Inc. (E2L), Kids Excel El Paso, Eduphoria, and Renaissance.

6.2 The District could potentially receive a refund from Renaissance if the number of licenses used by the District is lower than the number of licenses acquired. The clause in the contracts for Freckle Math, Freckle ELA, and STAR 360 states, "Number of units required are based on an estimated student enrollment. The District will pay Vendor for the actual number of licenses used, and Vendor will promptly refund any overage to the District at the end of the Contract term."

6.3 According to a budget owner, "reviewing metrics is something [s/he] does regularly in instructional resource contracts," but those are metrics "that connect with the purpose of the contract. For example-Achieve 300 [sic] is purchased for students failing STAAR in reading so the metrics align with measuring reading growth."

6.4 Measuring utilization assists departments to:

- Identify under-utilization or lack of utilization, which can be further evaluated to determine the cause(s) (e.g., the solution is not needed, lack of buy-in from end-users, availability, end-users do not know how to use it, etc.).

- Determine whether the cost, time, and effort invested in contracted services justify the actual utilization.

- Determine if the actual cost per user is reasonable compared to the cost calculated on the total licenses acquired.

Observation

While conducting this audit, one observation was made that was outside of our original scope and objectives. This observation does not violate local, state, or federal guidelines, and as such, was not included in the findings section of this report. However, we felt the item noted or observed was worthy of informing you as the data owner/expert to determine whether it should be addressed.

Observation 1

The Board Goals in the EPISD website, as of March 23, 2021, still reference Istation as part of the Early Childhood Math and Literacy Board Outcome goals. The District is not using Istation for the fiscal year ending 2021. The outcome goals state:

- The percent of Kinder through 2nd grade students scoring at Tier 1 overall in Istation/ISIP reading will increase from 53% to 63% by June 2024.

- The percent of Kinder - 2nd grade students scoring at Tier 1 overall in Istation/ISIP math will increase from 58% to 69% by June 2024.

According to the Chief Academic Officer, "the reason we have not updated the Board Goals is because in order to establish the goal, we have to have baseline data which is established following at least one year of usage. Because 2020-2021 is the first year we are using Renaissance, we do not have the baseline data to be able to write a goal."

Recommendations and Management's Corrective Action Plan

Strategic planning is critical for acquiring the right contracted service and ensuring the right need or problem is being solved. A widely accepted best practice is to perform a business analysis as part of strategic decision-making. A business analysis prompts the sponsor stakeholder to methodically document and strategically scrutinize proposed solutions before committing resources, time, and taxpayer monies.

We are providing recommendations based on business analysis best practices and our understanding of District internal controls. If District management implements these recommendations effectively, consistently, and with sufficient quality and detail, they will assist Academics in improving their strategic planning.

District management and leadership submitted a Corrective Action Plan (CAP) outlining the activities to be implemented. All the recommendations made by Internal Audit were incorporated into the CAP. The CAP appears to be sufficient to address the findings outlined in this report. Internal Audit will conduct follow-up reviews to validate CAP activities have been implemented.

We recommend the interim Superintendent reiterate the fiduciary relationship all cabinet/leadership administrators have with the District, which includes being good stewards of public funds. At a minimum, we recommend the following actions are taken and documented:

1

1.1 Remind all cabinet/leadership administrators their annual electronic acceptance of the EPISD Employee Handbook includes a requirement to report and prevent losses due to waste, fraud, or unethical acts.

1.2 Remind all cabinet/leadership administrators of the proper channels available to them if they wish to express concerns, complaints, or criticism of actions taken by administrators, including the Superintendent. If not feasible, or their concern has not been addressed, or if the employee wants to remain anonymous, the employee is to report it through the District's Fraud Waste and Abuse Hotline or directly to the Internal Audit Department.

1.3 The reminders should include explanations of the terms defined below and how they apply to cabinet/leadership administrators' roles and responsibilities.

    1.3.1 **Fiduciary relationship and duty** is defined by the Association of Certified Fraud Examiners (ACFE) as "People in position of trust or fiduciary relationship—such as officers, directors, high-level employees of a corporation or business, and agents and brokers—owe certain duties imposed by law to their principals or employers, and any action that runs afoul of such fiduciary duties constitutes a breach."

    Refer to Exhibit C – Criteria No.1 for the ACFE's definitions of fiduciary duties of loyalty and care.

    1.3.2 **Waste** is defined by the Government Accounting Office as "the act of using or expending resources carelessly, extravagantly, or to no purpose. Importantly, waste can include activities that do not include abuse and does not necessarily involve a violation of law. Rather, waste relates primarily to mismanagement, inappropriate actions, and inadequate oversight."

Management and Leadership Response: Agreed with the recommendation and incorporated it into the CAP as activity one (1).

Person(s) Responsible: Interim Superintendent

Implementation Date: June 30, 2021

2

We recommend the Chief Academic Officer consult with Academics budget owners to develop and establish a centralized formal business analysis (BA) process for contracted services acquired under the Miscellaneous Contracted Services account (class object code 6299). The business analysis process should be practical and flexible to accommodate from regular to expedited needs and emergencies. If necessary, it should also be updated throughout the life of the solution/service. At a minimum, we recommend the BA:

2.1 Apply to contracts valued at $25K or more regardless of procurement method used.
2.2 Begin soon after the need is identified.
2.3 Be documented to a sufficient degree to sustain reasonable scrutiny from interested internal and external stakeholders.
2.4 Be completed and submitted to the Budget Department during the budget hearing process for budget justification purposes. Budget will benefit by having their business

justification review of 6299 budgets include a completed and signed business analysis provided by the initiating stakeholder.

2.5 Be completed and submitted to the Procurement Department when requested.

2.6 Incorporate best/strong practices and is kept current with business analysis practices to facilitate continuous process improvement.

2.7 Be updated accordingly so it stays current during the life of the service. If an update involves proposing a new solution, not in the original business analysis, the stakeholder(s) (up to the Superintendent) supporting the new solution will provide a business justification on the business analysis and document with a sign-off. The originating stakeholders will document their reason for agreeing/disagreeing with the new proposed solution and sign-off as well.

Why conduct a business analysis as a strategic planning activity?

According to the Project Management Institute (PMI), "…organizations that take a proactive approach to requirements activities will improve their competitive advantage by reducing waste and delivering projects that provide business value."

A widely accepted best practice is to conduct a business analysis since it helps organizations in their strategic decision-making process. It also helps to methodically document and scrutinize proposed solutions/initiatives before committing resources, time, and taxpayer monies.

A crucial element of a business analysis is to begin by identifying and understanding the need *before* acquiring any one solution/initiative or contracted service. During the business analysis process, stakeholders should gather enough information to adequately understand the situation by asking questions such as:

- *"What problem are we solving?"*
- *"What exactly are we trying to improve?"*
- *"What problems do our students/teachers/staff have that this service/ opportunity/solution will address?"*
- *"What are my requirements to meet the objective?"*
- *"What do we expect from the solution/service?"*
- *"What and who is needed to facilitate the successful implementation of the proposed solution?"*
- *"What are the alternatives?"*
- *"What other alternatives have we tried in the past, and why didn't they work?"*

Management and Leadership Response: Agreed with the recommendation and incorporated it into the CAP as activity two (2).

Person(s) Responsible: Executive Director, Curriculum and Instruction

Implementation Date: June 30, 2021

3

We recommend the Chief Academic Officer and Academics budget owners outline the formal business analysis process (in recommendation 2) in their standard operating procedures. The Chief Academic Officer and Academics budget owners should train all appropriate Academics personnel on the related standard operating procedures as often as necessary.

Management and Leadership Response: Agreed with the recommendation and incorporated it into the CAP as activities three (3) and four (4).

Person(s) Responsible: Executive Director, Curriculum and Instruction; Executive Director, Student and Family Empowerment; Executive Director, 21st Century Learning; Director, Staff Development; and Director, Active Learning

Implementation Date: August 30, 2021

4

We recommend the initiating or responsible stakeholders (i.e., budget owners) of the ten (10) contracts mentioned in Finding 1 perform a full business analysis if they plan to continue with said services in the fiscal year 2022. However, due to the proximity to the next fiscal year and the fact that budget hearings have already taken place, a full business analysis may not be feasible. As such, we recommend an abbreviated business analysis be performed before the next fiscal year to adequately document the need and business justification for these contracts. Depending on the results of this abbreviated BA, Academics can take the necessary and appropriate actions before entering into a contract.

Management and Leadership Response: Agreed with the recommendation and incorporated it into the CAP as activity five (5).

Person(s) Responsible: Executive Director, Curriculum and Instruction; Executive Director, Student and Family Empowerment; Executive Director, 21st Century Learning; Director, Staff Development; and Director, Active Learning

Implementation Date: August 30, 2021

5

We recommend the Executive Director of Procurement and School Resources (Procurement) add a requirement in the Procurement Manual for budget owners (sponsor stakeholders) to complete a business analysis (BA) for Academics Miscellaneous Contracted Services (class object code 6299). Procurement will benefit by having an opportunity to verify if the contracted service is in "…alignment with the District's vision, mission and strategic priorities…" as stated in the Procurement Manual. This requirement would apply to contracted services valued at $25K or more regardless of the procurement method used. This manual control intends to have Procurement check for existence and stakeholder approvals in the business analysis as early in their procurement review process. Procurement can determine how to document this manual control to withstand scrutiny from interested groups. Procurement can also specify when this new requirement will become effective to allow stakeholders to become familiar with and understand it. Procurement should evaluate whether to gradually expand this requirement beyond Academics to all campuses/departments for contracted services.

Management and Leadership Response: Agreed with the recommendation and incorporated it into the CAP as activity six (6). Management and Leadership added activity eight (8), which states:

Activity 8: "Conduct training on Business Analysis Process to Academics related departments to be implemented for any Contracted Services above $25,000."

Person(s) Responsible: Executive Director, Procurement and School Resources

Implementation Dates: June 30, 2021, and August 31, 2021

6

We recommend the Executive Director Budget and External Financial Management add a requirement in the Budget Manual for Academics to complete a business analysis as part of their budget hearing process. The Budget Department's review of Academics' business analysis should be proportionate to the value and/or impact of the proposed contracted service. Budget can determine how to document this review to withstand scrutiny from interested groups. Until a District-wide requirement for a business analysis process is in place, we recommend this requirement begins with contracts recorded in Academics' Miscellaneous Contracted Services account (class object code 6299) valued at $25K or more (regardless of procurement method used). The Budget Department should evaluate whether to expand this requirement beyond Academics and take advantage of all the benefits a business analysis can bring to the budget development and hearing process.

Management and Leadership Response: Agreed with the recommendation and incorporated it into the CAP as activity seven (7). Management and Leadership added activity eight (8), which states:

Activity 8: "Conduct training on Business Analysis Process to Academics related departments to be implemented for any Contracted Services above $25,000."

Person(s) Responsible: Executive Director, Budget and External Financial Management

Implementation Dates: June 30, 2021, and August 31, 2021

7

We recommend the Executive Director of Budget and External Financial Management submit the cross-function budget transfer, mentioned in Finding 3, to the BOT for after-the-fact approval, if not done already. According to management, the funds to pay for the E2L contract came from the $10 million Board-Approved Budget amendment for COVID-19 related expenses. However, the BOT did not approve funds allocated to function 13 in said budget amendment.

Management and Leadership Response: Agreed with the recommendation and incorporated it into the CAP as activity nine (9).

Person(s) Responsible: Executive Director, Budget and External Financial Management

Implementation Date: June 30, 2021

8

We recommend the Chief Academic Officer and the Executive Director of Curriculum & Instruction obtain appropriate data to perform a comparison of actual to expected utilization for the Renaissance contracts (Freckle Math, Freckle ELA, and STAR 360) and determine whether the District is owed a refund for using fewer licenses than the ones acquired. If it is determined Renaissance owes the District, the Chief Academic Officer, in consultation with the Legal Department, should initiate the process to request a refund.

Management and Leadership Response: Agreed with the recommendation and incorporated it into the CAP as activities 10 and 11.

Person(s) Responsible: Executive Director, Curriculum and Instruction

Implementation Dates: June 30, 2021, and August 30, 2021

9 We recommend the initiating or responsible stakeholders (i.e., budget owners) of the six (6) contracts mentioned in Finding 6 obtain appropriate data to perform a comparison of actual to expected utilization. The results of the comparison can assist in determining whether the cost, time, and effort invested in contracted services justify the actual usage.

Management and Leadership Response: Agreed with the recommendation and incorporated it into the CAP as activity 12.

Person(s) Responsible: Executive Director, Curriculum and Instruction; Executive Director, 21st Century Learning; and Director, Active Learning

Implementation Date: August 30, 2021

10 We recommend the Executive Director of Procurement and School Resources implement controls to ensure all District employees with primary purchasing responsibilities (budget authorities including the Superintendent) file annual affidavits to comply with Board Policy DBD (Local) regarding conflicts of interest. Also, we recommend the requirement to file annual affidavits and corresponding deadlines be outlined in the Procurement Manual.

Management and Leadership Response: Agreed with the recommendation and incorporated it into the CAP as activity 13.

Person(s) Responsible: Executive Director, Procurement and School Resources

Implementation Date: June 30, 2021

11 We recommend the Academics Department work with the Board of Trustees to ensure the Board Outcome Goals are updated as necessary.

Management and Leadership Response: Agreed with the recommendation and incorporated it into the CAP as activity 14.

Person(s) Responsible: Executive Director, Curriculum and Instruction

Implementation Date: December 30, 2021

Exhibit A – List of Contracts Sampled

Item #	Vendor	Area	Contract	Fiscal Year	Services Acquired per Contract	Amount
1	Engage Learning (E2L)	Active Learning	20-09-0007	2020-2021	Coaching to support teachers and librarians in virtual instruction.	$1,088,413
2	Accelerate Learning	Curriculum and Instruction	N/A	2020-2021	Provides a curriculum that allows students to complete labs and experiments, do reading assignments, play science games and watch videos for every math and science course in grades K-12. Also provides a subscription in English and Spanish for Pre-K.	465,638
3	Achieve3000	Curriculum and Instruction	N/A	2020-2021	Provides differentiated literacy solutions for grades 6-12 that matches leveled text to each student's Lexile measure. Software also measures students ability to comprehend text for ongoing progress monitoring, adjusts complexity monthly as reading improves, and provides continuing progression of challenge with defined usage targets for acceleration. It also provides instructional strategy-based modules and coaching.	388,070
4	Renaissance Learning (Freckle Math)*	Curriculum and Instruction	N/A	2020-2021	Over 50,000 math questions covering K-9 standards, with an emphasis on the 9th and 10th grade Algebra I. Contracted service offers a diagnostic, which allows students to work on problems at their level and build their math fact fluency. Service also allows for benchmark assessments.	351,000
5	Edgenuity	Curriculum and Instruction	18-04-0017	Both FY included in the same contract.	Districtwide digital libraries for grades 6-12 that provide original credit courses and credit recovery courses in core subjects, foreign languages, career and technical education and test preparation. Contracted service also includes professional development and technology integration.	349,000
6	Eduphoria	Curriculum and Instruction	19-05-0002	2019-2020	This contracted service provides 4 applications. (1) Strive: provides appraisal tools with customizable evaluation template designs and goals integration. (2) Aware: a dynamic data analysis engine that provides local assessment creation with multiple options for student response. (3) Forethought: helps develop curricula, activities and instructional components through its planning tool. (4) Lead4ward: provides data reports using Eduphoria Aware data module to tier struggling students for targeted interventions.	218,370
7	Con Mi Madre	Student and Family Empowerment	20-08-0003	2019-2020	Provides academic and social-emotional education for 270 female Hispanic students and their mothers, with a focus on college preparedness and awareness.	198,830
8	Ellevation	Curriculum and Instruction	20-03-0011	2020-2021	Software that provides a dashboard of comprehensive English-Learner student data, tools to allow educators to review students proficiency level and accommodations, monitor students' academic and language proficiency progress, develop personalized instructional plans and collaborate with other educators. Also, document storage and LPAC compliance forms.	174,000
9	Kids Excel El Paso	21st Century Learning and Well Being	20-09-0002	2019-2020	Dance program to help children develop discipline, a standard of excellence, and a belief in themselves.	164,000
10	Hoonuit	Staff Development	20-08-0010	2019-2020	Online professional development and personalized learning for staff, students and parents, customer support, and implementation.	95,000
	Total					$3,492,321

*Freckle Math was part of our sample and is one of the three Renaissance contracts recommended by administration and approved on June 16, 2020. The three contracts (STAR360, Freckle Math, and Freckle ELA) totaled $1,036,143.50.

Exhibit B – Definitions

Term	Source	Definition
Business Analysis	Business Analysis For Practitioners – A Practice Guide. Project Management Institute (PMI) Global Standard	Business analysis is the application of knowledge, skills, tools, and techniques to identify business needs; recommend relevant solutions; and elicit, document, and manage requirements. The concepts and skills in the business analysis discipline are applicable to all programs and projects, whether they are focused on products or services or process improvements, and can be used to develop manual or automated solutions using any type of project life cycle. The business analysis discipline can be applied to any industry and performed by any individual who is responsible for managing programs and projects.
Business Analysis Plan	Business Analysis For Practitioners – A Practice Guide. Project Management Institute Global Standard	A subplan of the project management plan that defines the business analysis approach, including the tasks that will be performed, the deliverables that will be produced, the roles required to carry out the process, and process decisions regarding how requirement-related decisions will be made; how requirement priorities will be set; how changes to requirements will be proposed, approved, and managed; how requirements will be validated, verified, monitored, and traced; and how business analysis communication will be performed.
Business case (Business justification)	Business Analysis For Practitioners – A Practice Guide. Project Management Institute Global Standard	A documented economic feasibility study used to establish the validity of the benefits of a selected component lacking sufficient definition and used as a basis for the authorization of further project management activities.
Business Value	Business Analysis For Practitioners – A Practice Guide. Project Management Institute Global Standard	A concept that is unique to each organization and includes tangible and intangible elements. In business analysis, business value is considered the return, in the form of time, money, goods, or intangibles in return for something exchanged.
Initiating Stakeholder	Based on information found in the Business Analysis For Practitioners – A Practice Guide. Project Management Institute Global Standard	A stakeholder who is initiating and responsible for the project.
Key Stakeholder	Business Analysis For Practitioners – A Practice Guide. Project Management Institute Global Standard	A stakeholder who is identified as having a significant stake in the project or program and who holds key responsibilities such as approving requirements or approving changes to product scope.

Term	Source	Definition
Needs Assessment	Business Analysis For Practitioners – A Practice Guide. Project Management Institute Global Standard	The domain of business analysis concerned with understanding business goals and objectives, issues, and opportunities, and recommending proposals to address them.
	The PMI Guide to Business Analysis	Needs Assessment includes the processes used to analyze a current business problem or opportunity, analyze current and future states to determine an optimal solution that will provide value and address the business need, and assemble the results of the analysis to provide decision makers with relevant information for determining whether an investment in the proposed solution is viable.
Objective	The PMI Guide to Business Analysis	Something toward which work is to be directed, a strategic position to be attained, a purpose to be achieved, a result to be obtained, a product to be produced, or a service to be performed. In business analysis, objectives are quantifiable outcomes that are desired from a solution.
Solution	The PMI Guide to Business Analysis	Something that is produced to deliver measurable business value to meet the business need and expectations of stakeholders. It defines what a specific portfolio component, program, or project will deliver. A solution could be one or more new products, components of products, or enhancements or corrections to a product.
Sponsor Stakeholder	Business Analysis For Practitioners – A Practice Guide. Project Management Institute Global Standard	A person or group who provides resources and support for the project, program, or portfolio and is accountable for enabling success.
Stakeholder	Business Analysis For Practitioners – A Practice Guide. Project Management Institute Global Standard	An individual, group or organization who may affect, be affected by, or perceive itself to be affected by a decision, activity, or outcome of a project, program, or portfolio.
Stakeholder Analysis	Business Analysis For Practitioners – A Practice Guide. Project Management Institute Global Standard	A technique of systematically gathering and analyzing quantitative and qualitative information to determine whose interests should be taken into account throughout the project.

Exhibit C – Criteria

Criteria No.	Criteria
1	***Association of Certified Fraud Examiners, 2016 Fraud Examiners Manual*** **Section 1.636 Conflicts of Interest** "Often, tips include allegations that raise common red flags of conflicts. Such red flags include: • Unexplained or unusual favoritism of a particular contractor or vendor • Employee lives beyond his means or displays new wealth • Employee fails to file conflict of interest or financial disclosure forms or questionnaires • Employee displays a keen interest in a particular customer, vendor, or supplier • Employee has discussions about employment with a current or prospective vendor • Transactions that are not in the best interest of the corporation • Employee appears to conduct side business • Vendor address, telephone number, or zip code matches those of an employee" **Section 2.216 Breach of Fiduciary Duty** • "The principal fiduciary duties are loyalty and care." • "The duty of loyalty requires that the employee/agent act solely in the best interest of the employer/principal, free of any self-dealing, conflicts of interest, or other abuse of the principal for personal advantage. Employees/agents who owe a duty of loyalty must act solely in the best interest of their principal and may not seek to advance their personal interests to the detriment of their principal. Accordingly, corporate directors, officers, and employees are barred from using corporate property or assets for their personal pursuits or taking corporate opportunities for themselves." • "The duty of care means that people in a fiduciary relationship must act with such care as an ordinarily prudent person would employ in similar positions. Corporate officers, directors, or high-level employees, as well as other people in a fiduciary relationship, must conduct their business affairs prudently with the skill and attention normally exercised by people in similar positions. Fiduciaries who act carelessly or recklessly are responsible for any resulting loss to the corporate shareholders or other principals."
2	***EPISD Budget and External Financial Management Manual (BEFM) (June 2020):*** **11.1 – Budget Amendments** "Amendments that will change the budgeted function totals, as approved by the Board of Trustees, require formal Board approval." **1.4 – Compliance** "It is the policy of the District to conduct all BEFM activities in accordance with applicable Federal, State, and Local laws. Staff responsible for any aspects of BEFM activities shall comply with the rules described in the aforementioned laws and aspire to the highest ethical standards and business practices. BEFM staff is responsible for supporting campuses and departments and ensures that all services and goods procured are allowable, reasonable, and necessary."

3	***EPISD Board Policies***
	CE (Local)
	"The adopted budget provides authority to expend funds for the purposes indicated and in accordance with state law, Board policy, and the District's approved purchasing procedures. The expenditure of funds shall be under the direction of the Superintendent or designee who shall ensure that funds are expended in accordance with the adopted budget."
	CHE (Local)
	"The implication from the appearance of a conflict of interest is just as important as the implication from an actual conflict. If an outside independent party might question the intent of a transaction or relationship, such transaction or relationship is deemed to impact the appearance of a conflict and therefore should be avoided. Circumstances related to an appearance of conflict include those that would cause a reasonable and informed third party, having knowledge of the relevant information, to reasonably conclude that a Board member or employee has compromised objectivity related to a vendor relationship."
4	***EPISD Procurement Manual (August 2019):***
	8.1 – Site-Based Decision Making
	"EPISD utilizes site-based decision making for campuses and departments. From a purchasing perspective this means that schools and departments (the end-users) determine what is needed and when it is needed and determine how to best meet the needs of our students."
	8.3 – Definition of Bid Owner
	"The 'Bid Owner' is the Department Head or Budget Owner…"
	8.4 – Pre-Solicitation Phase
	"The Bid Owner should be a professional knowledgeable in the products or services being sought and shall participate during the needs assessment to ensure all related variables are considered and identify the need and needs for major initiatives. District key stakeholders shall be involved to ensure the needs of the District are clearly recognized and identified..."
	Step 1: Formal Needs Assessment
	"The best practice procurement process begins with the identification of a purchasing need. A Needs Assessment promotes transparency of the procurement process, which leads to improving public confidence that District personnel are good stewards of public funds.
	The purpose of the Formal Needs Assessment: • Identifying the need for the purchase or establishment of a new contract. • Identifying scope, stakeholders and critical business requirements. • Conducting market analysis to identify available goods, services and suppliers. • Estimating expected contract award value or purchases for the fiscal year. • Addressing market and budget constraints. • Evaluates and determines whether the proposed services/goods are aligned with the District's/Board's goals and fits a strategic plan (either financial, instructional, or other)."

5	**Texas Education Agency (2019)**
	Financial Accountability System Resource Guide, Update 16 - Module 5: Purchasing
	"Purchasing in the public sector environment presents numerous challenges including the following:
	…
	• The consistent oversight by interest groups. School district purchasing is scrutinized by diverse groups including the public, the media, state and federal agencies, and auditors. Strict adherence to established guidelines and consistency in record keeping, documentation, and execution of procedures, assists the school district in withstanding this scrutiny. Transparency in all processes should be maintained."
6	**The PMI Guide to Business Analysis (2017):**
	Preface – page XLIV
	"The guide provides guidance on how to effectively apply business analysis processes and practices to drive better business outcomes regardless of industry, project size, or project type. It provides business analysis guidance for any delivery method including predictive (waterfall) and adaptive (agile). The PMI Guide to Business Analysis includes these six Knowledge Areas:
	• Needs Assessment
	• Stakeholder Engagement
	• Elicitation
	• Analysis
	• Traceability and Monitoring
	• Solution Evaluation"
	This guide also "was developed by leading experts for practitioners in the field. As full consensus standards, the guide and standard were subjected to PMI's rigorous development process, including a subject matter expert review and a public exposure review, where practitioners commented and submitted changes for consideration by the core committee."
7	**The Texas Procurement and Contract Management Guide (December 2019)**:
	• "Planning activities, at a minimum, include developing a needs assessment…"
	• The needs assessment "must contain sufficient detail to identify the key business requirements."
	• Entities "should use the business requirements identified in the needs assessment as the starting point for drafting the scope of work. The success or failure of a contract can usually be linked to the adequacy of the planning, analysis, and thoroughness of the scope of work."
	• The Texas Procurement and Contract Management Guide indicates the requirements identified in the needs assessment should be "the starting point for drafting the scope of work. The success or failure of a contract can usually be linked to the adequacy of the planning, analysis, and thoroughness of the scope of work. Time spent planning, analyzing, and drafting the scope of work will result in savings of time, resources and money, and will improve the quality of products and service provided."
	• "The success of the procurement is often dependent upon how well the business requirements are documented during the Procurement Planning phase. The needs assessment, therefore, must contain sufficient detail to identify the key business requirements. As part of the needs assessment, the agency may conduct market research, study historical spend, use benchmarking, and issue a Request for Information (RFI) to the vendor community."
8	**United States Government Accounting Office**
	Government Auditing Standards (2018 Revision – Technical Update April 2021)
	6.21 Waste is defined as "the act of using or expending resources carelessly, extravagantly, or to no purpose. Importantly, waste can include activities that do not include abuse and does not necessarily involve a violation of law. Rather, waste relates primarily to mismanagement, inappropriate actions, and inadequate oversight."