



May 5, 2015

Special Audit

TASER International Body-Worn Camera Procurements

Albuquerque Police Department

Amended Final Report No. 14-107



**CITY OF ALBUQUERQUE
OFFICE OF INTERNAL AUDIT**

SPECIAL AUDIT REPORT
TASER INTERNATIONAL BODY-WORN
CAMERA PROCUREMENTS
ALBUQUERQUE POLICE DEPARTMENT
REPORT NO. 14-107

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EXECUTIVE SUMMARY

Background

Albuquerque City Councilor Ken Sanchez (Councilor Sanchez) requested an audit of the Albuquerque Police Department's (APD) body-worn camera procurement process. Councilor Sanchez stated that it was his understanding that the contract was awarded on a "no-bid" basis and there have been concerns expressed about the relationship between TASER International (TASER) and APD's top management. Based on these concerns, Councilor Sanchez asked the Office of Internal Audit (OIA) to "conduct a thorough and detailed audit of the entirety of the procurement process leading up to the signing of the TASER contract."

APD's direct relationship with TASER began in 2007, when the City contracted directly with TASER for the purchase of electronic control devices and ancillary products. Beginning in October 2012, APD performed testing and evaluation of TASER's camera products and services, including the Axon Flex cameras. The products for that testing were supplied by TASER at no cost to APD.

Findings

APD's initial purchase (Pilot Purchase) from TASER, for the pilot test of 75 Axon Flex body-worn cameras and Evidence.com data storage services, was made on March 27, 2013. This \$106,855 purchase did not comply with the City of Albuquerque's (City) competitive procurement process. APD personnel bypassed purchasing regulations and approvals and compromised the integrity of the procurement process. They neglected their responsibilities as government employees to determine the Department's specific needs and then initiate a competitive procurement process to get the best product at the lowest price.

The Pilot Purchase was then used as the basis for justifying the non-competitive purchase of Evidence.com and associated products on September 30, 2013. The non-competitive procurement was processed as an "Other Exempt Purchase (OEP)" and totaled \$1.9 million. The City signed TASER's standard services contract, with a few modifications, for the OEP purchase. By signing TASER's services contract, five mandated clauses that limit risk to the City and allow independent contract oversight are excluded from the \$1.9 million contract.

APD's Former Chief of Police entered into a contractual relationship with TASER in October 2013, while on early retirement, and still technically employed by the City. The Former Chief continued to serve as a contractor after his official retirement date of December 31, 2013. City employees are prohibited from representing businesses in connection with matters in which they performed official acts, for one year after retirement. The Former Chief's contract with TASER may have violated the Ordinance. In addition, other APD personnel accepted meals, travel, and lodging from TASER. APD personnel also solicited sponsorship donations from TASER. The acceptance of meals and other gratuities, and the solicitation of funds from vendors are not consistent with City conflict of interest regulations.

APD was charged \$25,243 for overlapping Evidence.com services associated with the Pilot Purchase from August 15, 2013 to March 27, 2014 and should request a refund from TASER.

Recommendations and management responses are included within the audit report.



City of Albuquerque

Office of Internal Audit

May 5, 2015

Accountability in Government Oversight Committee
P.O. Box 1293
Albuquerque, New Mexico 87103

Audit: Special
TASER International Body-Worn Camera Procurements
Audit No. 14-107

AMENDED FINAL

INTRODUCTION

The Office of Internal Audit (OIA) conducted a special audit of the Albuquerque Police Department's (APD) body-worn camera procurements with TASER International (TASER). The audit was requested by City Councilor Ken Sanchez (Councilor Sanchez). The audit objectives, scope and methodology can be found in **Appendix A**.

Councilor Sanchez stated that it was his understanding that the contract was awarded on a "no-bid" basis and there were concerns expressed about the relationship between TASER and APD's top management. Based on these concerns, Councilor Sanchez asked the OIA to "conduct a thorough and detailed audit of the entirety of the procurement process leading up to the signing of the TASER contract."

The Office of Inspector General (OIG) and New Mexico Office of the State Auditor (OSA) also received requests from members of the City Council. The requests asked OIG and OSA to investigate the potential conflicts of interest between APD and TASER. In an effort to decrease the burden on APD, personnel from OIA, OIG and OSA shared information throughout the review process. OIG's findings will be published in a separate report numbered 14-207.

The following glossary of terms provides definitions for common terms that are used throughout the report.

Glossary of Terms

Axon Flex Cameras

Body-worn cameras manufactured by TASER and purchased by APD.

Body-Worn Cameras

Video recording systems that are typically utilized by law enforcement to record interactions with the public and gather video evidence at crime scenes.

Contract Release Order (CRO)

Purchase mechanism that allows user Departments to purchase specific products and services from authorized contracts.

Electronic Control Devices

Devices that are used for the non-lethal restraint of individuals. [Commonly referred to as tasers]

Evidence.com

TASER's cloud based digital evidence management system.

Former Chief of Police (Former Chief)

Albuquerque Police Chief who was appointed in 2005 and officially retired on December 31, 2013.

Other Exempt Purchase (OEP Purchase)

Procurement that is exempt from the City's competitive procurement regulations. The term will also be used to identify APD's second purchase of TASER Evidence.com and Axon Flex cameras at a cost of \$1.9 million.

Pilot Purchase

APD's first purchase of 75 TASER Axon Flex cameras and associated services at a cost of \$106,855.

TASER International (TASER)

City vendor that supplies APD with electronic control devices and body-worn camera products and services.

APD made two body-worn camera purchases from TASER. The details for each purchase are outlined in the table below.

APD Purchases Details for TASER Body-Worn Cameras

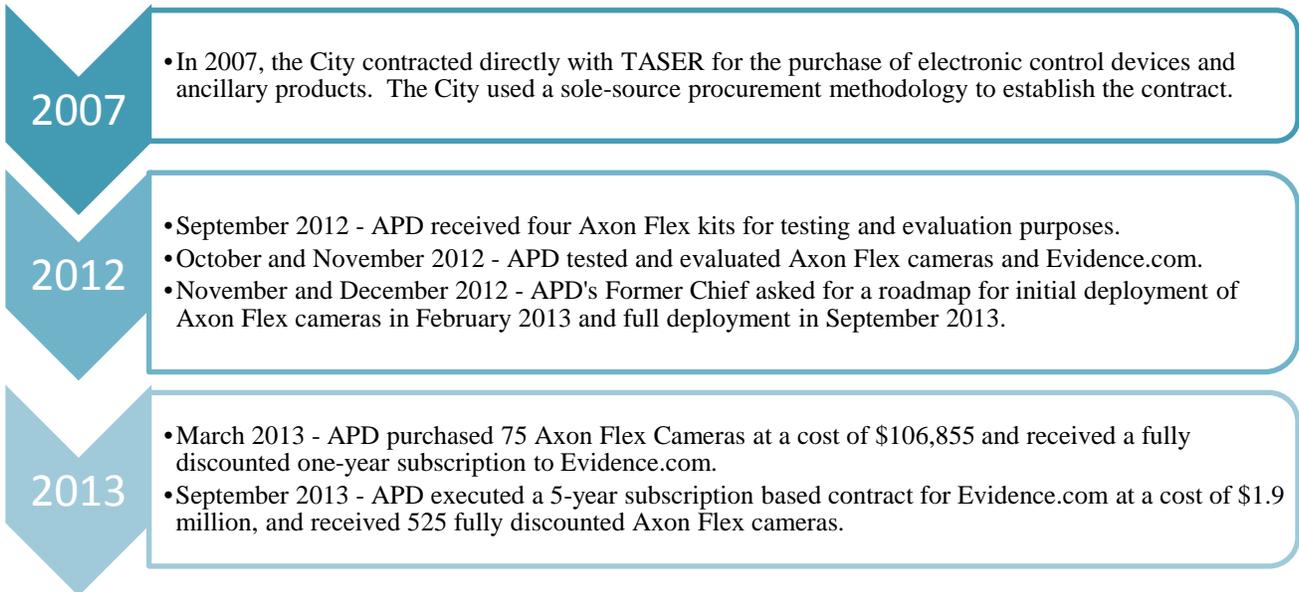
Purchase Detail	Pilot Purchase	OEP Purchase
Number of Cameras	75	525
Product Amount	\$ 106,855	\$ 26, 000
Evidence.com Subscription Amount	-	\$ 1,924,213
Date of Transaction	March 27, 2013	September 30, 2013

Source: City Contracts

History of APD’s use of TASER Products

APD has purchased TASER electronic control devices since 2000. From 2000 to 2006 APD purchased TASER electronic control devices from authorized TASER distributors. The graph below illustrates the history of APD’s direct contracting relationship with TASER from 2007 forward.

Progression of TASER Purchases and Procurements



FINDINGS

The following findings concern areas that OIA believes could be improved by the implementation of the related recommendations.

1. APD SHOULD ENSURE ALL PURCHASES AND PROCUREMENTS COMPLY WITH CITY RULES AND REGULATIONS.

On March 27, 2013, APD purchased 75 Axon Flex cameras and Evidence.com services from TASER for a “pilot test.” The purchase was made by issuing a CRO against a sole-source contract that was specifically designated for TASER’s electronic control devices, and ancillary products and accessories. The Pilot Purchase did not comply with the City’s competitive procurement process, but it was used as the basis for justifying the non-competitive \$1.9 million OEP Purchase of Evidence.com and Axon Flex cameras on September 30, 2013.

The APD Lieutenant who authorized the payment of the Pilot Purchase did not have the delegated authority to approve the purchase. Payments must be authorized by Department Directors unless signature authority has been delegated in compliance with Administrative Instruction 3-1.1A(E).

APD personnel bypassed purchasing regulations and approvals and compromised the integrity of the procurement process. They neglected their responsibilities as government employees to determine the department’s specific needs and then initiate a competitive procurement process to get the best product at the lowest price.

Compliance With Purchasing Regulations

Two required approvals for APD’s Pilot Purchase were not obtained. By issuing a CRO against an existing contract, APD avoided the review and approval by the City’s Chief Procurement Officer and the Office of Management and Budget. According to the Chief Procurement Officer, this method of procurement would not have been approved.

The sole-source contract with TASER for electronic control devices and ancillary products and accessories did not include Axon Flex cameras or Evidence.com. The Axon Flex cameras were not listed in the contract pricing list nor were the cameras ancillary to the products in the contract. According to the City’s Chief Procurement Officer, the Department of Finance and Administrative Services (DFAS) - Purchasing Division staff reviewed the sole-source electronic control procurement file and determined that the Senior Buyer assigned to APD did not follow the procedures for extending the contract

and adding ancillary items. The Chief Procurement Officer should have been notified of and approved the addition. The Chief Procurement Officer stated, “[i]n fact, Purchasing management never saw the unauthorized changes made to the Procurement Contract and did not know the Senior Buyer even signed the [amended electronic control device and ancillary products and accessories] Procurement Contract. In this situation, the Senior Buyer failed to follow standard Purchasing Division Office policies and procedures.”

Impartial Employee Responsibilities

Beginning in January 2012, APD had an embedded Senior Buyer in the Department. In theory, the Senior Buyer was supposed to perform the oversight functions of a DFAS-Purchasing Senior Buyer, and was responsible for ensuring APD complied with City procurement regulations. In practice, the Senior Buyer was an APD staff member who provided procurement services and guidance for the Department.

The Senior Buyer’s annual performance evaluations were completed by APD’s Fiscal Manager. The Senior Buyer performed under an unclear management structure. This structure may have created unnecessary pressure for the Senior Buyer to perform as an employee of APD, rather than enforce City purchasing regulations. APD’s Senior Buyer resigned on November 29, 2014.

Emails show that APD’s Fiscal Manager and Senior Buyer knew they were not complying with the City’s purchasing regulations. Below are excerpts from the APD Fiscal Manager’s and Senior Buyer’s emails related to the Pilot Purchase.

- **Fiscal Manager**

The City has a loophole, in that there are no internal controls for verifying that product purchased from an existing contract instead of a resolution have gone through TRC [the City’s Technical Review Committee].

Get me a quote and I can get you a CRO.

If you read the contract, it is not specific to their TASER products. It is specific to TASER International’s law enforcement pricing schedules which within guidelines, they can amend on request.

In theory, it should probably still go through TRC before we order the product since it is going through our system, but we should be able to bypass the other DFAS processes this time.

- **Senior Buyer**

An email from APD's Senior Buyer to APD's Fiscal Manager stated "*As long as this is covered on the Law Enforcement Pricing Schedule, you can just do a CRO (when, if there's a purchase).*"

APD's Senior Buyer was notified by DFAS-Purchasing staff that products outside the original pricing schedule must be reviewed and approved by DFAS-Purchasing prior to the purchase. APD's Senior Buyer sent an email to APD's Fiscal Manager that stated, DFAS-Purchasing staff "*told me something I didn't know; if TRC approval is required for purchase, you can't do a CRO, it must be sent to Purchasing for a PO.*"

The Chief Procurement Officer stated, that the excerpts of the Fiscal Manager's e-mails "*do suggest that APD was trying to circumvent the Purchasing process.*"

Chapter 22 Section 2.1 of the City's Purchasing Rules and Regulations states:

Public employees must discharge their duties impartially so as to assure fair competitive access to governmental procurement by responsible contractors. Moreover, they should conduct themselves in such a manner as to foster public confidence in the integrity of the City procurement organization.

RECOMMENDATIONS:

The Chief Administrative Officer (CAO) should:

- Direct the Human Resources Department (HRD) to revise the reporting structure for any Senior Buyers currently embedded in departments and have them report exclusively to the Chief Procurement Officer. Also, if other internal service personnel are required to spend the majority of their time in user departments, they should be direct reports to the Director of the internal service department, not the user department.

APD should:

- Inform Administrative staff that as a condition of employment, employees are required to comply with all relevant laws, statutes, ordinances, and regulations and any violations will be grounds for disciplinary action including, but not limited to termination, demotion, suspension or reprimand.
- Review the effectiveness of internal controls for payment authorization and ensure only individuals with proper signature authority approve APD payments.
- Review documentation associated with APD's Pilot Purchase to determine if the staff members' actions warrant disciplinary action.

RESPONSE FROM CAO:

“The CAO agrees with this finding, is disappointed in the process that was utilized to procure the On-Body camera/data storage system and pledges support to insure that future procurements are in compliance with procurement rules. The CAO is directing the Department of Finance Administrative Services (DFAS) to prepare an Administrative Instruction for review by all necessary parties that insures that embedded buyers are supervised and accountable to the Purchasing Department and Chief Procurement Officer under the DFAS as well as City legal and not the user Department. The Administrative Instruction will be presented to the Administration for approval and adoption.

“In addition, the reforms listed below directed to DFAS-Purchasing and APD have and/or are being implemented at the direction and in collaboration with oversight of the CAO.”

ESTIMATED COMPLETION DATE:

“No later than June 30, 2015.”

RESPONSE FROM APD, DFAS AND CAO:

“Agree.

“a). While this is not a recommendation for APD by Internal Audit, it is an action that the CAO, DFAS Purchasing and APD is taking to ensure effective internal controls both at APD and City-wide. As part of the City’s Enterprise Resource Program (ERP) project, an assessment of DFAS Purchasing’s PeopleSoft purchasing software modules was conducted in 2014.

“As a result, DFAS Purchasing is now engaged in an implementation project of its PeopleSoft supply chain software modules to create efficiencies, reduce processing time, enhance security and revise its procurement business practices. This project has many far reaching enhancements on the City’s purchasing process to include eliminating any “loopholes” and establish internal controls for goods/services purchased utilizing the procurement contract, contract release order methodology. These system improvements will include workflow that will insure integrity of the chain of command for necessary approvals and include specific commodity codes that will prevent

future misuse of purchase contracts.

“b). APD, in collaboration with DFAS Purchasing, will design and provide training to administrative staff members regarding the appropriate purchasing procedures with respect to compliance with relevant laws, statutes, etc. Each APD employee who is responsible for any purchases over \$10,000.00 will be required to sign an acknowledgement of recognition of the above referenced Administrative Instruction that will be placed in the employees personnel file.

“c). APD will review the signature authority currently granted to each administrative staff member and make the necessary adjustments to ensure effective controls for payment authorization and determining proper signature authority approval for APD payments. APD has reorganized the fiscal management of their budget program to include additional supervision, reporting, and approval and accountability processes.

“d). The Senior buyer referred to in the audit findings is no longer employed with the City of Albuquerque. APD will consult with HRD regarding whether any disciplinary action is warranted as to staff members’ actions in the APD Pilot Purchase.”

ESTIMATED COMPLETION DATE:

“a). July 2016”

2. APD AND DFAS-PURCHASING SHOULD ENSURE CONTRACT CLAUSES TO LIMIT RISK AND ALLOW INDEPENDENT OVERSIGHT ARE INCLUDED IN ALL CITY CONTRACTS.

By signing TASER International's service contract for the City's \$1.9 million OEP Purchase of Evidence.com and Axon Flex cameras, five standard clauses that limit risk to the City and allow independent contract oversight were excluded. As a result, the City may be exposed to unmitigated vendor risk and may have difficulty exercising the City's contract oversight responsibilities. The five excluded clauses are outlined in the table below.

Excluded Clauses from TASER \$1.9 Million Contract

Clause	Relevance	Mandated Contract Clause
Insurance	Limits risk to the City by ensuring the vendor maintains applicable insurance at specific amounts for the term of the contract. Unforeseen events may limit the ability of the vendor to continue business or adversely affect City operations if the vendor is not able to fulfill its contractual obligations.	The City’s Chief Procurement Officer stated that an Insurance clause should always be included in all City contracts. The City’s DFAS-Risk Management Division stated that the contract should now include Cyber Liability Insurance between \$1 million and \$5 million.
Compliance with Laws	Limits risk to the City by ensuring the vendor is aware that it must comply with applicable Federal, State and City laws and regulations.	The City’s Chief Procurement Officer stated that a Compliance with Laws clause should always be included in all City contracts.
Appropriations	Limits risk to the City by ensuring the contract can be terminated if funding is not available and appropriated by the governing body of the City.	Chapter VII Section 7.1.4 of the Purchasing Rules and Regulations states that the Purchasing Division is responsible for ensuring all contractual agreements which exceed one (1) year will include provisions allowing the City to terminate the contract in the event of non-appropriation of funding.
Office of Internal Audit	Ensures proper oversight and access to vendor information by the Office of Internal Audit, if warranted.	Section 2-10-16(B) of the Accountability in Government Ordinance states that every City contract shall contain a statement that the individual/vendor understands and will abide by all provisions of the Accountability in Government Ordinance.
Office of Inspector General	Ensures proper oversight and access to vendor information by the Office of Inspector General, if warranted.	Section 2-17-12(C) of the Inspector General Ordinance states that every City contract shall contain a statement that the individual/vendor understands and will abide by all provisions of the Inspector General Ordinance.

Although the contract is valid, the above clauses could reduce the City’s risk. The reviews by APD’s Senior Buyer and the City’s previous Assistant City Attorney assigned to DFAS-Purchasing did not detect the absence of the City’s standard contract clauses.

To determine TASER’s standard method of contracting, contract documentation was requested from five other cities that purchased similar products and services from TASER. The general criteria used for the comparison were large camera purchases with associated subscriptions to Evidence.com. Unlike Albuquerque’s contract, all the other cities’ contracts contain insurance clauses that require TASER to maintain specified coverage and amounts throughout the life of the contract. Two of the five cities used internal city contracts and one inserted that city’s standard city language into TASER’s service contract.

In addition, the two cities that used internal city contracts included extensive language to limit risk and improve oversight. For example, the contracts not only contain comprehensive insurance and audit clauses but also include camera and software specifications that must be maintained by the vendor.

RECOMMENDATIONS:

APD should:

- Amend the TASER OEP Purchase contract to include Insurance, Compliance with Laws, Appropriation, Internal Audit, and Inspector General clauses.
- Work with the City's DFAS-Risk Management Division and Legal Department to determine the appropriate types and coverage amounts of insurance that must be maintained by TASER for the duration of the contract term.
- Ensure the City is named as an additional insured on all applicable insurance policies, such as Cyber Insurance.

RESPONSE FROM CAO, CITY ATTORNEY AND APD:

"Agree. APD will pursue discussions with Taser in regards to incorporating the amendments listed above. However, the success of incorporating these clauses in the current contract with Taser will depend on Taser's willingness to amend the contract terms."

ESTIMATED COMPLETION DATE:

"June 30, 2015."

RESPONSE FROM CAO AND DFAS PURCHASING DIVISION

"In addition, on a go forward basis, DFAS Purchasing has modified the standard terms and conditions to its purchase orders, procurement contracts, and professional technical agreements to include all required contract clauses. DFAS Purchasing has established a review process to ensure that all required contractual clauses are included in future contracts. DFAS Purchasing, in collaboration with DFAS Risk is working on establishing criteria to determine when cyber insurance is required in City procurements."

ESTIMATED COMPLETION DATE

“In Progress.”

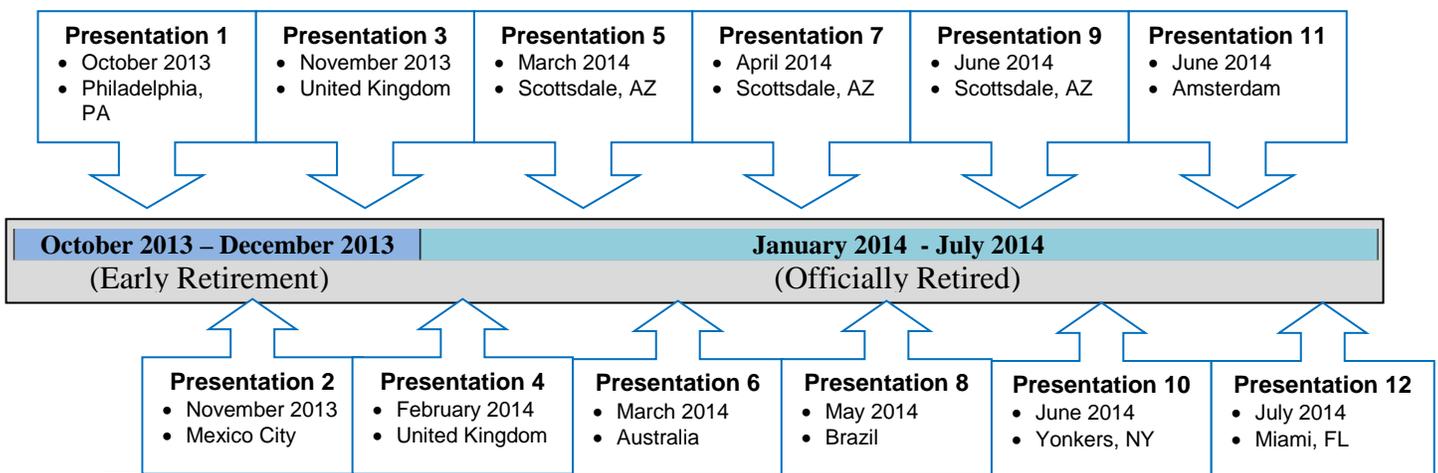
3. THE FORMER POLICE CHIEF’S CONTRACT WITH TASER MAY NOT BE CONSISTENT WITH CITY REGULATIONS.

APD’s Former Chief became a contractor for TASER in October 2013, while still technically employed by the City. According to TASER’s Chief Operating Officer, the Former Chief is paid \$1,000 per day plus expenses as a consultant who attends and presents at events and promotes TASER products. The Former Chief also continued to represent TASER as a contractor for more than a year since his retirement.

APD’s Former Chief entered into early retirement on September 7, 2013. Early retirement allows City employees to use accrued vacation and sick leave to extend their employment with the City for the purpose of additional service credit toward retirement, until the accrued leave balance is zero or until an earlier specified date. During early retirement, the Former Chief retained his title and continued as a participant in the City’s insurance program. His official retirement date/last day of work was December 31, 2013.

The Former Chief began presenting on behalf of TASER in October 2013 and had performed 12 presentations as of July 2014. The Former Chief received payment for the performance of the presentations, and TASER paid for his airfare/travel, food/beverage, and lodging.

The graph below illustrates the Former Chief’s contractual performance from October 2013 to July 2014. TASER’s President and General Counsel provided the information below.



The Former Chief was not available for an interview to confirm the terms of the contract and other information. The Former Chief's attorney stated, "Until the investigation [by the New Mexico Attorney General's Office] is completed, I have directed [the Former Chief] to decline addressing all inquiries about the TASER contract. My advice includes any questions which the Office of Inspector General and Office of Internal Audit seek to ask."

It appears that APD committed to equipping a majority of APD Officers with the Axon Flex cameras from TASER before the pilot test of the 75 cameras, which were purchased March 27, 2013. A history of the implementation of body-worn cameras at APD, which was prepared by one of the officers involved in testing and implementation, includes the statement: "November 19, 2012 the Chief asks for a roadmap to implement TASER Axon Flex by February 15, 2013."

According to APD personnel, the Former Chief wanted to be on top of the "next big thing in law enforcement." He preferred to be on the cutting edge rather than a follower. According to TASER's Chief Operating Officer, "his [the Former Chief's] perspective as a very early adopter and user of many technologies uniquely qualified him to talk to agencies about how to avoid the mistakes he had made in creating the world's largest deployment of on-officer video." There are risks associated with early adoption of new technology, and accepting those risks may not be in the best interest of the City and the taxpayers.

City regulations prohibit former employees from representing any former vendor for one year after their termination date. Section 3-3-7(A) ROA 1994 states "A former employee shall not within one year after the date of termination from employment represent any person or business in connection with a matter in which the former employee has performed an official act, unless the Chief Administrative Officer consents to such representation." Because of the wording of the Ordinance, it is not clear if the Former Chief's contract with TASER violated the Ordinance. The Former Chief directed and authorized APD staff to proceed with the Department's testing and procurement of TASER's Axon Flex cameras and Evidence.com services.

The Former Chief speaks on behalf of TASER about his experiences implementing body-worn cameras and the Axon Flex cameras and Evidence.com at APD. The Former Chief did not request or receive consent from the City's Chief Administrative Officer for his contractual relationship with TASER during his early retirement or after his official retirement date.

Direct or indirect conflicts of interests diminish the perceived integrity of public officials and employees, and do not promote confidence and trust in City operations. This

blemished perception may lead the public and other stakeholders to believe that independent and impartial decisions may not be made in the best interest of the people, community or government as described by Article XII, *Conflict of Interest* Declaration of Policy of the City's Charter.

RECOMMENDATIONS:

The CAO Should:

- Direct HRD to revise retirement documents to include information explaining the prohibition against representing any person or business in connection with a matter in which a former employee performed an official act, unless the Chief Administrative Officer consents to such representation.

RESPONSE FROM CAO, HR, CITY ATTORNEY

“Disagree:

*This finding is based upon an ambiguous interpretation of the term ‘Early Retirement’. The City of Albuquerque offers a “benefit” program known as **Early Retirement**. This benefit is found in the City’s Personnel Rules and Regulations § 403.10; BENEFITS, EARLY RETIREMENT “ Immediately prior to retirement from active service with the City of Albuquerque an employee may take leave with pay equivalent to the amount of sick and vacation leave the City has accumulated....*

*“However, in accordance with the City’s Personnel Rules and Regulations § 807; **CLEARANCE PROCESSING**; ‘On the last day of work employees must process out of City employment by completing and submitting a Clearance Form to the appropriate offices as instructed on the form. During this process the employee must return all pagers, cellular phones, hand held computers, portable computers, equipment, keys supplies, card keys and all other City issued equipment...’(emphasis added)*

“The practical issue these conflicting authorities create is that retiring employees believe that early retirement means just that... ‘Retirement’. In the instant case, the former police chief had no access to City facilities, computers, vehicles, or equipment. He had no authority to issue orders, make management, budget, or personnel decisions. No law enforcement powers were vested in him as his law enforcement commission authority was revoked by operation of law. In actuality the Chief like any employee is entirely relieved of any responsibility, duty, or assignment. Moreover, a new Chief (Acting) was immediately named and to this extent what significance or factual basis is the

finding that the old Chief retained the title predicated upon is unknown.

“CAO will direct Human Resources Department to explicitly clarify the meaning of the term ‘Early Retirement’ with specific definitions within the “City’s HR rules and regulation policy manual. Under the these provisions, it should be set forth that an individual who is on early retirement status, whom no longer attends work, no longer can make management or work decisions, no longer has access to City offices, vehicles, computers, or equipment, and is merely selling back accrued leave balances is not an employee of the City of Albuquerque and his/her separation date is when the aforementioned authority, rights, and privileges were terminated.”

ESTIMATED COMPLETION DATE:

“June 30, 2015.”

4. APD PERSONNEL SHOULD COMPLY WITH CITY CONFLICT OF INTEREST REGULATIONS.

APD personnel accepted various forms of gratuities and solicited sponsorship donations from TASER and TASER’s Lead Sales Executive for APD, both of which conflict with City regulations. Six APD employees and one contracted staff member accepted some form of gratuity(ies) from TASER. APD personnel with direct involvement with the Department’s body-worn camera testing or procurements accepted various forms of gratuities such as airfare/travel, food/beverage, and entertainment.

Specific examples of gratuities accepted by APD employees are outlined below:

- **Albuquerque Dinner** – On October 30, 2013, APD staff and guests attended a dinner with TASER representatives. TASER paid \$1,350 for the dinner at a fine dining restaurant. Records indicate that two Officers, two Evidence Technicians, and one APD Contracted Employee attended the dinner. Some APD employees’ spouses may have also attended.
- **TASER Visits and Lunches** – From September 2012 to September 2013 (Main timeframe for APD’s testing, implementation and contract completion for TASER products) TASER’s Lead Sales Executive visited APD at least two times per month and routinely purchased lunch for two APD Officers. TASER staff stated the typical cost of the lunches were \$20-\$25.
- **All-Expense Paid Training Session** – In January 2013, two APD employees accepted all-expense paid training from TASER. Airfare, food/beverage and lodging were paid by TASER on behalf of the APD employees.

Monetary values for all gratuities could not be determined because extensive research and time would be needed to derive the value and would not offset the benefit of determining the associated value.

Donation Solicitation

APD employees solicited sponsorship donations from TASER in support of APD's Ski Team. Email indicates that TASER's Lead Sales Executive for APD made a personal donation of \$1,000. TASER also donated \$500 to APD's Ski Team.

APD employees stated various reasons for accepting TASER gratuities. When asked about TASER paying for meals, one APD employee described it as "business as usual." Other primary reasons given for accepting gratuities from TASER included:

- Received directive to attend TASER events,
- Thought training was a part of TASER's body-worn camera contract, and
- Do not believe a gratuity was accepted.

APD employees' acceptance of meals, travel/lodging and other paid expenses may diminish the public's trust in government operations and are not consistent with Article XII, Conflict of Interest Declaration of Policy of the City's Charter, which states:

The proper administration of democratic government requires that public officials be independent, impartial, and responsible to the people; that government decisions and policy be made in the best interest of the people, the community and the government; and that the public have confidence in the integrity of its government. In recognition of these goals, the following Code of Ethics shall apply to all officials of the city.

Accepting meals or other gratuities from a current or potential vendor by any employee is not consistent with City of Albuquerque Administrative Instruction No. 3-12, Section 3(B), which states, "It is prohibited to accept at a suppliers expense travel, accommodations, meals and all other gratuities."

RECOMMENDATIONS:

APD should:

- Ensure all Departmental staff is informed of the City's conflict of interest regulations, that:
 - Prohibit the acceptance of any gift (meals, food/beverage, travel/airfare), reward, favor or all other gratuities from any vendor, contractor, individual or firm doing business or planning to do

business with the City.

The CAO should:

- Consider issuing a stand-alone Code of Conduct document to every City employee emphasizing important policies, including unallowable activities such as acceptance of meals and gifts from vendors.
- Create a Citywide conflict of interest reporting form. The form should include all applicable citations from State and City regulations and give clear and understandable examples of each regulation. The form should provide space for reporting potential conflicts of interest and be acknowledged and signed by all City personnel, and retained in each employee's HRD personnel file on an annual basis.
- Work with DFAS-Purchasing to create and distribute a vendor code of conduct to communicate City policies that apply to vendors, including the prohibition against purchasing meals or other items for the benefit of City employees.

RESPONSE FROM CAO, APD, HR, CITY ATTORNEY:

“Agree with findings but disagree with recommendations: Some of the recommendations create an unnecessary and significant administrative burden upon whereas we already have conflict of interest/ethics policies in place and all new employees receive this information at the mandatory orientation meeting. The recommendation concerning the conflict of interest form will be explored more in depth by DFAS, HR, and City Attorney to evaluate the feasibility of such a corrective action

“Although the employee(s) conduct and discretion in these matters was not in accordance with conflict of interest regulations it is also important to consider the responsibility of the vendor. Gratuities are prohibited within the vendor conduct and administrative instruction. To this extent, City legal and Central Purchasing will further explore the vendors conduct, practices, and compliance with the City's purchasing ordinance(s), regulations, and other prohibiting authority.

“DFAS Purchasing will be instructed to update its Vendor Handbook to include the information set forth above and will post the updated Vendor Handbook on the City's external website.”

ESTIMATED COMPLETION DATE:

“No later than July 30, 2015.”

5. APD SHOULD ENSURE PRORATION CHARGES FOR OVERLAPPING PURCHASES ARE PROPERLY APPLIED AND RECEIVED.

APD’s Pilot Purchase agreement on March 27, 2013, included one year of Evidence.com at no charge. However, when APD approved the OEP Purchase of Evidence.com, TASER included charges for Evidence.com for the 75 Axon Flex cameras from the Pilot Purchase. Evidence.com service charges should have been prorated because the dates of the agreements overlapped. The effective date for APD’s annual renewal of Evidence.com began on August 15, 2013 and occurs on August 15 thereafter.

As a result, APD was overcharged \$25,243 for Evidence.com service from August 15, 2013 to March 27, 2014 for the overlap period illustrated below.

Overlapping Evidence.com Services

March 2013	Evidence.com at no charge	March 2014
<hr/>		
August 2013	Evidence.com Paid Subscription	August 2014

Overcharge for Overlapping Evidence.com Services

Purchase Description	Charge Dates	Days of Use	Annual Evidence.com Charges	Prorated Charges	Overcharge
Pilot Purchase	3/27/13 – 3/27/14	365	-	-	-
OEP Purchase	3/28/14 – 8/15/14	140	\$ 40,950	\$15,707	\$ 25,243
Total Overcharge					\$ 25,243

Source: City Contracts

RECOMMENDATIONS:

APD should:

- Request a refund of \$25,243 from TASER.

RESPONSE FROM APD:

“Agree. APD will work with City Legal to reconcile the overcharge and pursue reimbursement.”

ESTIMATED COMPLETION DATE:

“July 30, 2015 (subject to progress).”

6. DFAS-PURCHASING SHOULD DEVELOP POLICIES AND PROCEDURES FOR IDENTIFYING POTENTIAL VENDORS AND CONDUCTING PILOT PROGRAMS.

The City has not developed policies, procedures or retention requirements for testing new products and conducting pilot programs. The City also has no requirements for allowing more than one vendor to provide items for testing, nor are there any documentation requirements for recording the results of pilot programs.

APD staff stated that the Department tested cameras from other vendors such as VieVu, Scorpion, GoPro, and Wolfcom, but determined that TASER was the best fit for APD. APD personnel informed DFAS-Purchasing that TASER’s body-worn camera products and services would benefit the Department and interactions with judicial agencies by allowing timely access to APD evidence recordings. APD personnel also stated that TASER’s Axon Flex camera is superior to the Department’s previous Scorpion cameras. However, APD did not provide DFAS-Purchasing any documents to support the statements. APD maintained minimal documentation to support the conclusions of the Department’s body-worn camera evaluation activities.

Staff responsible for the evaluation and testing of APD’s TASER pilot program stated that program performance feedback was “mostly verbal.” The limited supporting documentation that was retained did not provide comparison or evaluation data between TASER and other body-worn camera vendors. In addition, APD did not develop criteria or standard specifications for the Department’s ideal body-worn camera or video management solution. As a result, OIA could not validate that TASER was the best product for APD.

When asked why APD did not procure the cameras through a competitive procurement process, APD’s Fiscal Manager stated that he wasn’t aware of any other comparable products at the time. However, the Department of Homeland Security (DHS) issued a report titled Wearable Camera Systems in March 2012. The report included ratings of five cameras and their storage and retrieval systems.

The Department of Justice (DOJ) issued A Primer on Body-Worn Cameras For Law Enforcement in September 2012. The report provided information on types of body-worn cameras, recommended product selection criteria, and discussed implementation issues including the need for policies and procedures, and data storage and management considerations. It also included an appendix describing the specifications for seven different body-worn cameras.

Section 5-5-20(CC) ROA 1994, allows departments to purchase “goods or services for a reasonable trial period for testing purposes as approved by the City Purchasing Officer; on the condition that if additional purchases are required after testing, such goods or services shall be subject to the requirements of this article.” After the test phase is complete, the subsequent purchase must comply with the City’s procurement code and be competitively bid if other vendors produce similar products.

City Ordinance § 5-5-30 ROA 1994 COMPETITIVE SEALED PROPOSALS, states:

(A) Competitive sealed proposals may be used for the purchase of goods, services... [when] the use of proposals would promote innovation, state of the art technology and overall efficiencies to the benefit of the city; or the evaluation of responsive offers depends on levels of performance, expertise, financial capability or other criteria and not price alone.

RECOMMENDATIONS:

The CAO should:

- Direct DFAS-Purchasing to develop citywide policies and procedures for testing products and conducting pilot programs to ensure the City is purchasing the best product at the best price. At a minimum the policies and procedures should address equal opportunities for vendor participation, testing timeframes, compliance with applicable procurement regulations, and requirements for documenting and retaining the results and conclusions of pilot programs.
- Remind City department directors that they must comply with City Ordinances when procuring any goods or services, to ensure that the use of taxpayer funds is in the best interest of the City and the taxpayers.

RESPONSE FROM CAO:

“Agree. CAO will direct the Chief Purchasing Officer, and Chief Procurement Attorney to review new and existing policies, regulation, rules that provide financial controls and checks and balances to identify and regulate in the area of pilot programs”

ESTIMATED COMPLETION DATE:

“No later than July 30, 2015”

CONCLUSION

APD’s Pilot Purchase did not comply with the City’s competitive procurement process, and was used as the basis for justifying the \$1.9 million non-competitive OEP Purchase of Evidence.com and Axon Flex cameras. APD personnel bypassed purchasing regulations and approvals and compromised the integrity of the procurement process.

By signing TASER's service contract for the City’s \$1.9 million OEP Purchase, five standard clauses that limit risk to the City and allow independent contract oversight are absent from the contract.

The actions of APD’s Former Chief of Police to engage in a contractual relationship with TASER may not be consistent with City conflict of interest regulations. When APD personnel accepted gratuities from TASER they violated multiple City regulations. Direct or indirect conflicts of interests diminish the perceived integrity of public officials and employees, and do not promote confidence and trust in City operations.

APD was charged \$25,243 for overlapping Evidence.com service associated with the Pilot Purchase from August 15, 2013 to March 27, 2014 and should request a refund from TASER.

The City has an opportunity to strengthen its controls over procurements and educate both City employees and vendors on the City’s purchasing and conflict of interest regulations. Educating employees and vendors should increase awareness and compliance with City regulations.

We greatly appreciate the assistance and cooperation of the personnel in the Albuquerque Police Department, DFAS-Purchasing Division, TASER International, and other cities who took the time to respond to our requests.

Internal Audit Manager

REVIEWED and APPROVED:

APPROVED FOR PUBLICATION:

Debra Yoshimura, CPA, CIA, CGAP, CICA
Director, Office of Internal Audit

Chairperson, Accountability in
Government Oversight Committee

APPENDIX A

OBJECTIVES

The audit objectives are:

- Did the APD use the proper procurement method for the TASER International body-worn contracts?
- Were the TASER International body-worn camera contracts properly authorized and approved?
- Did APD violate ethics or conflict of interest regulations concerning the TASER International body-worn camera contracts?
- What are the risks associated with using TASER International's body-worn camera service contract vs. the City's standard contract?

SCOPE

Our audit did not include an examination of all functions and activities related to the City's procurements of body-worn cameras from TASER International. Our scope was limited to the objectives above.

This report and its conclusions are based on information taken from a sample of transactions and do not represent an examination of all related transactions and activities. The audit report is based on our examination of activities through the completion of fieldwork on March 23, 2015 and does not reflect events or accounting entries after that date.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

METHODOLOGY

Methodologies used to accomplish the audit objectives include but are not limited to the following.

- Gather and review background information, internal control documentation, contracts,

- and APD policies and procedures pertaining to TASER body-worn camera procurements.
- Review City Ordinances, Administrative Instructions, and other regulatory information pertaining to APD's TASER procurements.
 - Interview APD staff and management to gain a better understanding of the Department's operations, procedures and need for TASER's body-worn camera products.
 - Obtain contract documents from other cities that have purchased similar quantities of body-worn cameras and subscription services (Evidence.com) from TASER.
 - Review over 3,000 emails to determine if efforts were made to circumvent the City's competitive procurement process.
 - Review all supporting documentation to verify how APD concluded that TASER's body-worn camera products were the best fit for the Department.