



City of Albuquerque

Office of Internal Audit

FOLLOW-UP

TASER INTERNATIONAL BODY-WORN
CAMERA PROCUREMENTS

Report #18-14-107F

June 27, 2018

INTRODUCTION

The Office of Internal Audit (OIA) performed a follow-up of Audit No. 14-107, Albuquerque Police Department (APD) – TASER International (TASER) Body-Worn Camera Procurements during fiscal year (FY) 2018. The purpose of this follow-up is to report on the progress made by APD in addressing the audit’s findings and recommendations. Our follow-up procedures rely on the department providing the status of the recommendations.

A follow-up is substantially less in scope than an audit. The objective is to report on the status of corrective action regarding the audit’s findings and recommendations.

We limited our scope to actions taken to address our audit recommendations from the final audit report dated May 5, 2015 through the submission of actions and final contact with APD on June 5, 2018.

BACKGROUND

Albuquerque City Councilor Ken Sanchez (Councilor Sanchez) requested an audit of the APD’s 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 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.”

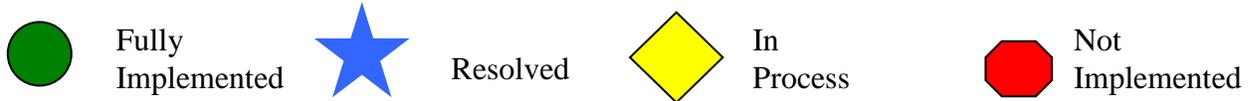
The Office of Inspector General (OIG) and New Mexico Office of the State Auditor (OSA) also received requests from members of the City Council. The requests asked the OIG and OSA to investigate the potential conflicts of interest between APD and TASER. In an effort to decrease the burden on APD, personnel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

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 evaluated 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.

SUMMARY

Of the six recommendations addressed in the original audit report, five have been fully implemented, and one is in process.

The status of the recommendations is identified by the symbols in the following legend:



Recommendation #1

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”

Status Reported by CAO: “DFAS prepared a new Administrative Instruction. Administrative Instruction 3-17 clarifies that, although a Department may decide it needs a dedicated buyer and is willing to fund its own senior level purchasing personnel, all such employees shall be directly supervised by, located in, and held accountable to the Purchasing Division and the Chief Procurement Officer.

“The Administrative Instruction has been signed and placed in each employees file.

“Signature authority is reviewed periodically.”

Status Reported by APD: “APD staff is aware of APD SOPs, City Ordinances, City of Albuquerque Personnel Rules and Regulations, City of Albuquerque Administrative instructions and various union contracts that govern conditions of employment for City and APD employees.

“The City has undergone a significant remediation of its financial system, PeopleSoft. In part, internal controls for payment authorizations have been implemented in the PeopleSoft Software program, ePro, to strengthen internal controls.

“DFAS has updated Administrative Instruction No. 3-7: Payments to Vendors. The AI was strengthened to place an emphasis on the proper approval of a purchase prior to receipt of goods or services and evidence of receipt of the goods or services. APD staff complies with Administrative Instruction No. 3-7.

“DFAS has updated Administrative Instruction 3-6: Comprehensive Purchasing Training Program. City end users are required to attend Purchasing Liaison User Group trainings; failure to attend results in access to PeopleSoft Software program being suspended. APD personnel participate in the DFAS Purchasing training on an ongoing basis.

“DFAS Purchasing has developed strengthened guidelines for pilot projects. End users City-wide are required to justify this type of activity, through a Pilot Project/Trial Testing Procedures justification form.

“DFAS has updated Administrative Instruction 3-10: Procedures for Addressing Purchasing Violations and Completing Purchase Ratification Forms. The AI was strengthened to advise City end users of the consequences of violations of City purchasing laws, including disciplinary action and reporting to the Inspector General.”



Fully Implemented

Administrative Instruction (AI) No. 3-17 has been implemented to clarify the reporting structure for Senior Buyers when they are dedicated to a Department. The AI has been communicated to the Senior Buyers.

According to APD Command staff, APD personnel are aware that they need to comply with all relevant laws, statutes, ordinance, and regulations. APD personnel also comply with AI No. 3-7 and continuously participate in the DFAS Purchasing training program.

In addition, the City has implemented a purchasing remediation, which includes strengthening internal controls for payment authorizations in the PeopleSoft finance system. The senior buyer referred to in the audit is no longer employed by the City.

Recommendation #2

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 (DFAS Risk Management) 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.”*

Status Reported by APD: “The original OEP contract was amended to include the provisions noted in this Recommendation as well as the recommendations from the DFAS Risk Management Division.

“The RFP developed for the On Body Cameras was reviewed extensively by DFAS Purchasing staff, Legal Department staff, the Office of Inspector General and the City of Albuquerque City Council as well as others.

“Risk management concerns were addressed in the RFP and comply with City policies as well.

“The contract awarded under the RFP also included all required provisions and insurance coverage identified in this Recommendation.

“DFAS Purchasing meets with Risk Management routinely to assess insurance requirements for purchases to ensure maximum protection of the City. Risk Management has developed a matrix for guidance in coverages for purchases.”



Fully Implemented

The original TASER OEP Purchase contract was amended to include Insurance, Compliance with Laws, Appropriation, Internal Audit, and Inspector General clauses. DFAS Risk Management developed a matrix for insurance coverage on contracts for goods and services. According to the DFAS Risk Manager, “there are standard insurance requirements and we adjust those requirements for contracts with special circumstances.” The City is named as an additional insured on all applicable insurance policies.

Recommendation #3

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.”

Status Reported by CAO: “The Human Resources Department did revise Administrative Instruction #7-27 Retirement Process to add language regarding Conflict of Interest during the period of early retirement.”



Fully Implemented

Administrative Instruction (AI) No. 7-27 has been revised with additional language regarding Conflict of Interest during the period of early retirement. According to the AI, “Individuals in early retirement and within one (1) year of their official retirement date cannot represent any person or business in connection with matters in which the employee has performed in an official act, unless the Director of Human Resources concurs and the Chief Administrative Officer consents in writing to such representation.”

Recommendation #4

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.”*

Status Reported by APD: “APD staff is aware of APD SOPs, City Ordinances, City of Albuquerque Personnel Rules and Regulations, City of Albuquerque Administrative instructions concerning conflict of interest.”

Status Reported by CAO: “DFAS updated Administrative Instruction 3-4: Vendor City Relations and Responsibilities Related to Vendor Performance. The AI was strengthened to remind vendors of the Ethical Conduct provisions of the City Purchasing Ordinance.

“DFAS has revised its on-line Vendor Handbook to include the Ethical Conduct provisions of the City Purchasing Ordinance.

“The current City of Albuquerque Personnel Rules and Regulations Section 300 Conditions of Employment does state that as a condition of employment, employees are required to comply with the provisions of the City of Albuquerque Merit Systems Ordinance, Labor Relations Ordinance, Conflict of Interest Ordinance, Personnel Rules and Regulations, Executive Orders and Administrative Orders and all relevant laws, statutes, ordinances, regulations and collective bargaining agreements governing employment with the City of Albuquerque. The Human Resources Department has established a plan to conduct Ethics Training for City employees and will conduct a comprehensive review of personnel rules and regulations and Administrative Instructions and that a “Conflict of Interest Acknowledgement Form” be created for all City of Albuquerque employees to sign annually.”



In Process

APD personnel are aware of the City's conflict of interest regulations.

A plan has been established to conduct ethics training for City employees, and a comprehensive review of personnel rules and regulations will be performed. In addition, a Conflict of Interest Acknowledgement Form for City employees to sign annually will be created. AI No. 3-4 was updated to remind vendors of the Ethical Conduct provisions of the City's Purchasing Ordinance. The City's on-line Vendor Handbook has been revised to include the Ethical Conduct provisions of the City's Purchasing Ordinance.

Recommendation #5

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).”*

Status Reported by APD: *“APD will request assistance from the Office of Internal Audit for an explanation of this recommendation.”*



Fully Implemented

APD agrees with and supports the refund request for overpayment indicated by OIA, and will request a refund from TASER.

Recommendation #6

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”*

Status Reported by CAO: “DFAS Purchasing has developed strengthened guidelines for pilot projects. End users City-wide are required to justify this type of activity, through a Pilot Project/Trial Testing Procedures justification form.”



Fully Implemented

DFAS Purchasing has developed citywide Pilot Project/Trial Testing Procedures which meet the minimum requirements of the recommendation. The procedures remind City department directors that they must comply with City Ordinances when procuring goods and services.

Follow-Up
Albuquerque Police Department
TASER Body-Worn Camera Procurements
June 27, 2018

#18-14-107F

SUBMITTED:

Senior Information Systems Auditor

REVIEWED

Contract Auditor

APPROVED:

Lawrence L. Davis, Acting City Auditor
Office of Internal Audit

APPROVED FOR PUBLICATION:

Chairperson, Accountability in
Government Oversight Committee

ACKNOWLEDGED:

Jim Thompson, City Auditor
Office of Internal Audit