



# *City of Albuquerque*

## **Office of Internal Audit**

FOLLOW-UP OF THE  
Allocation & Use of Public, Education, and Government  
Access Funds  
Report 22 19-107F  
Date: June 29, 2022

### **INTRODUCTION**

On December 11, 2019, the Office of Internal Audit (OIA) issued an audit report titled, Allocation & Use of Public, Education, and Government Access Funds (PEG). OIA completed a follow-up to determine the corrective actions that the Department of Arts and Culture (DAC), formerly known as the Cultural Services Department, and the Legal Department have taken in response to the audit report. The audit report contained two recommendations, both of which have been implemented and are now considered closed.

### **BACKGROUND**

Through the franchise agreement with Comcast of New Mexico, LLC. (Comcast), the City of Albuquerque (City) receives \$0.44 per subscriber per month that is dedicated to PEG Access. In the fiscal year 2016, the City contracted with a Certified Public Accounting firm to review the accuracy of the franchise and PEG Access fees paid by Comcast to the City. The review identified the unspecified treatment of bad debts but did not identify any issues or exceptions with the number of subscribers or PEG Access fee calculation.

The Federal Cable Communications Policy Act of 1984 (Cable Act), 47 U.S.C. § 542, restricts the use of PEG fees to capital expenses associated with PEG access facilities when the fee is assessed in addition to a franchise fee but allows paid advertising, underwriting, or sponsorships to fund PEG- related activities.

Prior to the fiscal year 2020, DAC managed the Government Access Channel on behalf of the City. The other PEG Access channels (Public Access, Local Origination, and Education) were administered through a contractor and the contract was managed by the City's Legal Department. In May 2019, the contract and lease ended, and the City requested that the contractor return all equipment and other property purchased with PEG Access funds. The contractor returned the equipment in June 2019 and an asset management company was contracted to conduct a complete inventory. Beginning the fiscal year 2020, DAC assumed complete management and operational oversight of all PEG Access and at the time the audit was conducted, DAC was in the process of reconciling the inventory to the City's fixed asset list.

In the fiscal year 2020 OIA completed a performance audit of the allocation and use of PEG Access funding for the period of July 1, 2016, through June 30, 2019. The original audit was

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included in OIA's fiscal year 2019 audit plan. The audit objectives were to determine whether:

- PEG Access funding was timely and properly recorded into the designated PEG Access project activity within Fund 305;
- PEG Access funding was expended solely to support the capital needs of PEG Access activities; and
- An annual inventory of City-owned PEG Access assets was being performed in accordance with the City's Fixed Asset Policies.

The audit did not review or evaluate the PEG Access fee calculation. Further information pertaining to the audit scope, limitations, and methodology can be found in Appendix A of the original audit report.

The audit found that over the three-year audit period, the City received \$1,245,052 in PEG Access fee revenue, but expended \$1,327,482 in related funds. Further, OIA identified expenses totaling \$72,138 for operating costs not associated with the capital needs of PEG Access.

#### **FOLLOW-UP OBJECTIVE**

The objective of the follow-up was to determine whether the DAC & Legal have taken the corrective actions recommended in OIA's original audit report. Consistent with Government Auditing Standards, Section 9.08, promulgated by the U.S. Government Accountability Office, the purpose of audit reports includes facilitating a follow-up to determine whether appropriate corrective actions have been taken. This field follow-up is a non-audit service. Government Auditing Standards do not cover non-audit services, which are defined as professional services other than audits or attestation engagements. Therefore, DAC and Legal are responsible for the substantive outcomes of the work performed during this follow-up and are responsible to be in a position, in fact, and appearance, to make an informed judgment on the results of the non-audit service. OIA limited our scope to actions taken to address our audit recommendation from the final audit report dated December 11, 2019, through the submission of actions on April 21, 2022.

#### **METHODOLOGY**

To achieve the objective, OIA:

- Obtained documentary evidence from DAC and Legal.
- Corresponded with DAC and Legal to understand and verify the status and nature of the corrective actions taken.
- Verified the status of the recommendation that DAC and Legal have reported as implemented.

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**RESULTS**

Of the two recommendations included in the original audit report, both have been implemented and are now considered closed. Refer to **ATTACHMENT 1** for further details.

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Edmund E. Perea, Esq., Chairperson  
Accountability in Government Oversight  
Committee

ATTACHMENT 1

Recommendations	Department Response	OIA Conclusion	OIA Use Only Status Determination
<p><u>Recommendation 1:</u></p> <p>The Department of Arts and Culture (DAC) should:</p> <p>As no other department shares the responsibility for PEG Access funds in FY2020, DAC should establish formal policies and procedures pertaining to the use of PEG Access funds.</p> <p>In addition, the Legal Department should:</p> <ul style="list-style-type: none"> <li>• Research how to address the erroneous water utility payments made after the City’s contractor had vacated the Bernalillo County Courthouse; and</li> <li>• Research how to address utility payments that exceeded the maximum utility service amount of \$2,700 per month during the contract period.</li> </ul>	<p>The Department of Arts and Culture established a procedure which includes the implementation of the IPEG fund support committee.</p> <p>All requests for use of IPEG funds are to be presented to the committee made up of voting members representing Department of Technology &amp; Innovation (DTI), City Council, Mayors Office and Department of Arts and Culture (DAC). Support staff includes Subject Matter Expert’s from DTI and Media Resources as well as fiscal and legal staff.</p> <p>Approvals of request by the committee are sent to the Chief Operations Officer (COO) for final approval. Legal met with fiscal officers of Department of Municipal Development (DMD) that were responsible for approving the payments and alerted them to the errors so it could be corrected and not repeated in the future. Legal recovered in full the money the City erroneously paid for the water bill at 415 Tijeras NW.</p> <p><b>Documentation:</b> Bernalillo County Warrant #9221518 in the amount of \$138,643.44 and Correspondence with DMD.</p> <p><b>Completion:</b> April 12, 2022</p>	<p>OIA obtained and reviewed <i>I-Net, Public, Educational, and Government (IPEG) Access Support Committee Process</i>. The procedure states that the IPEG Committee, which was formalized in February 2020, has developed a protocol for the distribution of cable-related IPEG funds, to identify studio sites, to make recommendations regarding contractor support, and serve as an advisory panel on issues related to I-Net deployment, PEG support, and related cable franchise issues.</p> <p>The procedure also details how the committee will review requests for IPEG funds to ensure they are appropriate. This calls for an approval process which includes annual reports to the Mayor’s Office and consulting with the various City of Albuquerque (City) departments and/or the Cable Franchise Board prior to approving the amounts on an annual basis.</p> <p>In 2006, the City entered into a contract with a PEG Access contract located at the Courthouse and the City paid water utility costs per the contract. However, the contractor vacated the premises in May 2011 and water utility payments should have ceased yet the audit noted payments were still ongoing during the scope of the audit. As a result of the audit, Legal identified overpayments totaling \$138,643.44. On September 5, 2019, Legal informed DMD of the overpayment and subsequently entered into an intergovernmental</p>	<p><input type="checkbox"/> Open</p> <p><input checked="" type="checkbox"/> Closed</p> <p><input type="checkbox"/> Contested</p>

ATTACHMENT 1

Recommendations	Department Response	OIA Conclusion	OIA Use Only Status Determination
		<p>agreement with Bernalillo County on behalf of the City. The agreement was effective January 21, 2021 and the amount of \$138,643.44 was remitted to the City in two transfer payments made by journal entries (as the Water Authority was part of the City at the time).</p> <p>Per Legal, this agreement addressed the overpayments made by the City and resolved any excess payments over the \$2,700 monthly amounts prior to 2011. Legal now considers this matter closed.</p>	
<p><u>Recommendation 2:</u> DAC should ensure that an annual inventory of PEG Access assets is taken in accordance with City policies.</p>	<p>The Department of Arts and Culture will continue to conduct yearend inventory counts on its fixed assets and report accordingly. DAC fiscal staff had begun to include all IPEG fund assets for us by the Public Access Channels.</p> <p>The annual inventory is conducted in accordance with City Policy as administered through the Financial Reporting Division of DFAS. Attached is the email all City departments receive from DFAS regarding fixed assets. All the instructions are in that attachment.</p> <p>I, as Fiscal Manager, receive the email annually. I sort the asset list provided from DFAS, by the individual divisions in DAC, and send those lists to the Division Managers.</p> <p>They conduct the fixed asset inventory according to the instructions and return the results to me.</p>	<p>DAC performs an annual inventory of PEG assets. OIA obtained and reviewed the email instructions for completing the fiscal year (FY) 2021 fixed asset inventory sent by DFAS. It provides a hyperlink to several documents used during the process as well as instructions on completing the inventory columns and additional supporting documentation needed.</p> <p>OIA also reviewed <i>Administrative Instruction (AI) 6-4: Capitalization of City Assets</i> which provides overarching guidance on asset inventory and provides item inventory categories and their associated threshold amounts.</p> <p>OIA reviewed the provided FY 2021 inventory from DAC and compared it to the instructions provided by DFAS and the AI. OIA found the inventory adhered to both guidance documents.</p>	<p><input type="checkbox"/> Open <input checked="" type="checkbox"/> Closed <input type="checkbox"/> Contested</p>

ATTACHMENT 1

Recommendations	Department Response	OIA Conclusion	<u>OIA Use Only</u> Status Determination
	<p>I combine the division listing into one document, review the list, and submit all the required documents back to Financial Reporting.</p> <p>For IPEG assets, the list is sent to the DAC Media Resources division, to conduct the inventory count.</p>		