



Peter Pacheco  
Acting Inspector General

## OFFICE OF INSPECTOR GENERAL

*City of Albuquerque*

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October 19, 2015

Dan Lewis  
City Councilor, District 5

Subject: Review of fuel contract related to Desert Fuels, Inc.

Dear Councilor Lewis:

The City of Albuquerque Office of Inspector General is in receipt of your formal request to review the procurement contract for Desert Fuels, Inc., your current employer. The Office of Inspector General has concluded its review of documents related to Desert Fuels, Inc. and its contract with the City.

Our review shows that Desert Fuels, Inc. was awarded the contract on February 17, 2012, before your employment date of June 1, 2012. Desert Fuels, Inc. is in a pool of multiple vendors that offer the sale of fuel to the City. According to the City's Purchasing Division, when fuel is needed, quotes for the price of fuel for that day are requested from the vendors. The City then orders fuel from the vendor offering the lowest price.

Our review work included:

- Review of the procurement file including the request for bids (RFB) and award documents;
- Review of the contract and contract extensions with Desert Fuels, Inc.;
- Inquiry regarding the process for selection of vendors from the vendor pool;
- Review of State Government Conduct ACT;
- Review City Conflict of Interest Ordinance;
- Review of City Charter, Article XII, Code of Ethics;
- Review of City Public Purchase Ordinance;
- Consultation with an Assistant City Attorney assigned to OIG; and
- Online search for information regarding Desert Fuels, Inc. and its leadership.

Based on this review and our consultation with OIG's Assistant City Attorney, nothing has come to our attention to indicate improprieties in the award or administration of the current contract.

However, with regard to future rebid, should you still be employed by Desert Fuels, Inc. the OIG recommends that you notify the City Clerk and Department head in writing as stated in § 5-5-22(C)(1) which requires: "Every member of a City Board or commission; every business, the directors, officers, and key employees of that business; and *any individual* who has an existing or potential financial interest in any contract or other matter existing or pending before or within the governmental body of which that person is affiliated with, shall disclose that interest in writing to the City Clerk and Department head with

whom that person is negotiating, immediately upon knowing that a conflict exists or upon having knowledge that a conflict may potentially come into being.”

There are some provisions to note so future violations do not occur. § 5-5-22 (C)(2) prohibits any individual who has a personal or corporate relationship with the City from using confidential or insider information concerning the City for unfair advancement of private interest. This could happen with budgetary information, audit plans, and other information to which the Council has access. You, as a City Councilor would need to recuse yourself from any City decisions involving any contract in which Desert Fuels, Inc. is one of the vendors as you have done in the past.

Regarding the City Charter, Code of Ethics, only the Board of Ethics and Campaign Practices committee can give an advisory opinion concerning the Code of Ethics. However, with the information reviewed, there does not appear to have been any past or running violation of the City’s Code of Ethics.

The Office of Inspector General is obligated to ensure that the citizens of the City of Albuquerque believe and have faith that any review by the Office of Inspector General is conducted in an objective and fair manner. The aforementioned review was conducted without bias, and is independent from any influence from the City Council, the Mayor’s Office or any external entity.

Respectfully,

A handwritten signature in black ink, appearing to read "Peter J. Pacheco". The signature is fluid and cursive, written in a professional style.

Peter Pacheco  
Acting Inspector General  
City of Albuquerque

Cc: Accountability in Government Oversight Committee