



OFFICE OF INSPECTOR GENERAL
City of Albuquerque

Melissa Santistevan, CIG
Inspector General

P.O. Box 1293, Suite 5025
Albuquerque, New Mexico 87103
Telephone: (505) 768-3150
Fax: (505) 768-3158

Investigative Informative Case Synopsis

FILE NO: 22-0207-C

SUBJECT MATTER: Alleged waste of resources related to the City’s purchase and installation of the EAGL shot detection system.

STATUS: Final

INVESTIGATOR: M. Santistevan

DocuSigned by:
Melissa R. Santistevan
303279FCC7574DA...

MELISSA SANTISTEVAN, CIG
INSPECTOR GENERAL
OFFICE OF INSPECTOR GENERAL

June 7, 2023
Date of Completion

DocuSigned by:
Edmund E. Perea
0E28B5BCFA4A43F...

EDMUND E. PEREA, ESQ
ACCOUNTABILITY IN GOVERNMENT
OVERSIGHT COMMITTEE CHAIRPERSON

June 28, 2023
Date of Approval

DISTRIBUTION:

- Honorable Mayor**
- President City Council**
- Chief Administrative Officer**
- City Councilors**
- Director Council Services**
- City Attorney**
- Department Director**
- Members, Accountability and Government Oversight Committee**
- File**

This report is confidential and shall not be released until publication by the Office of the Inspector General. Violations are subject to the provisions of Article 17: Inspector General Ordinance.

EXECUTIVE SUMMARY

According to City Ordinance 2-17-2, the Inspector General's goals are to (1) Conduct investigations in an efficient, impartial, equitable, and objective manner; (2) Prevent and detect fraud, waste, and abuse in city activities including all city contracts and partnerships; (3) Deter criminal activity through independence in fact and appearance, investigation and interdiction; and (4) Propose ways to increase the city's legal, fiscal and ethical accountability to insure that tax payers' dollars are spent in a manner consistent with the highest standards of local governments.

During the course of another investigation, the OIG discovered information regarding the potential waste of resources related to the City's purchase of the EAGL shot detection system. In December 2022, the OIG initiated an investigation to determine whether the City's purchase and installation of the EAGL shot detection system was a waste of resources that could be substantiated. The OIG determined the allegations contained elements of waste and that it was appropriate for the OIG to conduct a fact-finding investigation. The purpose of the investigation was to obtain and review the evidence and determine if the evidence is consistent with concluding whether the allegation of waste could be substantiated or not substantiated.

The evidence obtained by the OIG during the investigation is consistent with concluding there is a sufficient basis to substantiate the allegation of waste of resources related to the City's purchase of the EAGL system, totaling \$80,311.48.

ABBREVIATIONS

City: City of Albuquerque
FD1: Former Director
FD2: Former Director
V1: Vendor
V2: Cooperative Educational Services
V3: Vendor
OIG: Office of Inspector General

INTRODUCTION

The mission of the Office of Inspector General (OIG) is to provide independent and objective insight, oversight, and foresight in promoting integrity, efficiency, overall effectiveness, accountability, and transparency in government to safeguard and preserve public trust.

Complaint

Alleged waste of resources related to the City's purchase of the EAGL system.

Background

In February 2018, V1 approached FD1 for a meeting to discuss the potential purchase and installation of the EAGL Gunshot Detection System at facilities operated by the Aviation Department. The EAGL system is currently advertised as being able to detect gunshots using technology capable of analyzing and validating the threats. Positive results are classified as a gunshot and the server enters an alarm state and an Adaptive Response is initiated where the EAGL system notifies law enforcement dispatch amongst other functions. The EAGL Gunshot Detection System was purchased by the Aviation Department, initially as a pilot project and ultimately installed in the terminal complex, including the Baggage Claim, Ticketing, and Great Hall prior to the secure portion of the concourse. The EAGL system passed confidence testing in July 2020. The EAGL system was reportedly deactivated in April 2021 and there has been no further activity.

INVESTIGATION

Allegation: Alleged waste of resources related to the City's purchase and installation of the EAGL system.

Authority:

Personnel Rules and Regulations § 301.1, Duty to the Public

The City of Albuquerque is a service institution. In carrying out their assigned duties and responsibilities, employees must always remember their first obligation is to the general public. This obligation must be carried out within the framework of federal, state, and local laws.

Personnel Rules and Regulations § 301.9, False Statements/Fraud

No employee shall willfully make any false statement, certificate, mark, rating, or report in regard to any test, certification, appointment, or investigation, or in any manner commit any fraud, conceal any wrongdoing, or knowingly withhold information about wrongdoing in connection with employment with the City or in connection with the work-related conduct of any City employee.

Personnel Rules and Regulations § 301.11, City Funds

Employees are personally accountable for City money over which they have possession or control. All employees who are in control of City funds must maintain accurate and current records of all such funds. Employees must comply with all policies, practices, and procedures promulgated by the Department of Finance and Administrative Services and approved by the Chief Administrative Officer and in accordance with Generally Accepted Accounting Principles regarding the receipt, recording, and disbursement of public monies.

ROA 1994, Chapter 5, Article 5, Public Purchases

ROA 1994, Chapter 2, Article 17, Inspector General

- Evidence:**
- Emails
 - EAGL Quote
 - Agreement
 - Performance Bond
 - Confidence Testing
 - Statement of Position

Analysis: The OIG noted that key individuals were no longer with the City and considered the effects of having limited first-hand testimony in this matter and determined emails would be necessary to document the events. The OIG requested and received hundreds of emails related to the EAGL system from Airport staff. The OIG reviewed the emails pertaining to the purchase and installation of the EAGL system and found the installation and testing of the system occurred between January 2018 and July 2020. The emails obtained show the timeline of events as follows:

The installation of the pilot system in the baggage claim level began on April 23, 2018, and was in burn-in/data collection mode for two weeks. The pilot system was subjected to nuisance testing (false alarm attempts with equipment/loud noises) by EAGL personnel using a clicker that simulated gunshots for testing and calibration, however, no live firing testing was conducted.

On September 12, 2018, Purchasing was advised to process a quote as a Professional/Technical agreement. On November 15, 2018, an agreement initiated between the City and V1 was fully executed initiating the purchase and installation of the EAGL System throughout specified

locations within the Airport facility. On November 24, 2018, an email circulated stating that “downtown denied the agreement and the purchase order was canceled.” In December 2018, V1 delivered a Performance and a Labor and Material Payment bond dated December 11, 2018, to the City. Planning for the installation of the purchased EAGL system occurred on January 8, 2019. The System was installed in the Baggage Claim, Ticketing, and the Great Hall up to the TSA Checkpoint between January 2019 and April 23, 2019. According to the invoice, the project cost totaled \$74,448.65 not including gross receipts tax. The City paid V2 for invoice 24-084504, in full, in the amount of \$80,311.48. On March 13, 2019, V1 requested that the bond for the project be closed out but was denied based on the system not yet being accepted. On March 29, 2019, an email between V1 and the City stated that the City understood that the system included the ballistic module that could detect the caliber of the weapon fired. A responding email stated that the ballistic module could be added for an additional \$12,000. An April 1, 2019 email written by FD1 stated that FD1 spoke to V2 and the City would receive the ballistic module at no additional cost. On July 24, 2019, V1 initiated another request for the City to release the bond. On August 20, 2019, an email between the City and V1 advised V1 that the bond would not be released until the system is fully and satisfactorily tested and accepted. V1 replied stating that the system has been in place for a year and a half and that V1 feels there has been plenty of time and opportunity for the City to complete this performance testing. “V1 will support any performance testing you wish to administer however the bond needs to be released as it is preventing V1 from obtaining other bonds.”

Testing was scheduled for September 21, 2019. The test produced three results: the True detection test results were “Fail”, the False detection test results were “Pass”, and the overall test results indicated “Fail.” On October 1, 2019, an email from V1 to the City stated “As you know there has been no trained personnel on the system prior to the testing. Without proper training on the EAGL system, there is a strong possibility that the data was misinterpreted.” On October 18, 2019, the City notified V1 it would have an attendee at the certification class for the EAGL System from October 22nd through October 24th. On April 22, 2020, V1 sent an email to the City stating that V1’s requests to calibrate and test the system were going unanswered and that V1 had concerns about the delays in City employees getting certified on the system. On April 29, 2020, V1 sent an email to the City stating that the City can’t change the test plan at the last minute. The City responded to this email stating that “the initially attached test plan is the agreed-upon test plan. No changes. What are you referencing to?” On May 1, 2020, a confidence test was conducted with the results being a Fail. An email from V1, dated May 5, 2020, stated that EAGL has never seen this before and they want to take the sensors to the lab to get an understanding as to why it failed before they replace it. An email from City Legal, dated May 6, 2020, indicated the City’s Legal Department was being brought in on the matter. Another email dated May 6, 2020, between City personnel, revealed zero confidence in the system and expressed the need “to pursue other avenues (legal or otherwise) to remove them from our airport”. On May 13, 2020, emails between City employees confirm a decision to move forward with breach procedures and collecting the bond. On May 20, 2020, City Legal sent a Position Statement to V2 regarding the Mediation of Dispute with V1 with multiple attachments, including training certifications, correspondence

regarding virtual private network (VPN) accessibility, kick-off meeting, installation and completion emails, and the Statement of Position. On May 20, 2020, the City issued a letter requesting that V2 call the performance bond held for the benefit of the City of Albuquerque to remedy this matter. As a result of the mediation, a final test was conducted on July 8, 2020, and the system passed. On July 17, 2020, emails between the City and V1 indicated that V1 removed steel plates without notice to the City causing concern about the sensor thresholds. A response to this email stated that V1 did not remove anything from the test plan and insisted the accusation be taken back. An email dated July 20, 2020, indicates that another City employee earned the EAGL Integrator Certification. On July 21, 2020, an email from the City to V1 indicated that information was needed from V1 in order for the City to release the Performance Bond. On May 6, 2021, an email stated that a decision was made by FD2 to not pursue legal action.

The OIG was able to locate multiple emails indicating attempts by V1 to test and calibrate the system that had not been responded to in a timely manner by the City. However, in this same time frame, the OIG also located multiple emails between the City and V1 where the sensors were not operating correctly and, required adjustment.

The OIG reviewed the quote provided by V1 to the City, noting that the ballistics module was not included in the original quotation.

The OIG reviewed an agreement signed in November 2018 between V3 and the City but noted that there was no mention of V1 or V2. Our review of the emails shows that the original agreement and purchase order was denied by the City's Central Purchasing Department. According to the email evidence, the November 2018 agreement was denied and therefore not considered valid. A purchase order was subsequently issued to V2 and payment was made to V2 in full prior to the receipt of goods and there was no documentation to support the deviation from the procurement code or purchasing policies. Mediation was initiated through V2. All of these factors indicate that V2 was the vendor of record for this purchase.

The OIG reviewed the funding source to determine whether there were any federal funds used which would require repayment. The OIG, with the assistance of Airport staff, found that the source of funding was general funds.

The OIG's review of the performance bond shows in the event of a non-performance, the City would be entitled to receive \$74,766.25. The OIG reached out to the City's legal department for support that the performance bond was called in and paid to the City but was referred back to Airport staff. The City personnel could not provide evidence for the release of the bond. Further inquiry by the OIG revealed that no receipt of monies was ever documented for the performance bond. The OIG reached out to V1 and V2 to obtain a copy of the release of the bond but did not receive a response. The OIG requested a copy of the mediation agreement but one could not be located by City personnel and V2 did not respond to our request. The production and review of

the approved mediation agreement may have provided additional information that could have had an effect on the conclusion.

The OIG contacted the bonding company to verify the bond and was told that the bond was canceled effective December 6, 2020. Further inquiry with Worldwide Insurance Co. revealed that the agent CCI stopped doing business with Worldwide Insurance Company thus the bond was not renewed due to non-payment.

The OIG reviewed the reports of the three confidence tests conducted noting that both the September 2019 and May 2020 tests failed. A final test conducted in July 2020 passed.

Discussions with Airport staff having knowledge of this matter, corroborate the timeline of events above and revealed concerns over issues encountered throughout implementation.

The OIG did reach out to V1 and V2 but did not receive a response. V2 was responsive to Airport staff.

The evidence reviewed shows that the City purchased the EAGL system, paid for the system prior to installation and testing, and subsequently abandoned the system prior to use which resulted in a waste of City resources totaling \$80,311.48 plus personnel costs for implementation. The OIG's investigation was limited to the allegation of a waste of resources and therefore does not include any analysis of whether there was sufficient evidence to suggest there was a breach of contract sufficient to warrant legal action.

Finding regarding Allegation: The evidence obtained is consistent with concluding there is a sufficient basis to substantiate the allegation of waste of resources related to the City's purchase of the EAGL system.

Recommendations: City Officials should assess the status of the EAGL system and determine whether it could be implemented using other vendors and what the associated cost of implementation would be. IF full implementation is not possible with another vendor, City Officials should consider whether pursuit of a legal remedy is viable. All considerations and reasonings should be documented and maintained in accordance with the City's records retention policy.

The current Aviation Director should review the Airport purchasing processes to ensure that goods or services are rendered prior to payment in accordance with the procurement code and purchasing policies.

The Aviation Department should review the matter further and decide whether it wishes to seek a legal remedy due to the allegation by the Airport project team, that the system has never functioned

as advertised, and that the parameters for the test conducted in July 2020 were manipulated to ensure the system passed.

Management's response: Current Aviation Department leadership has made numerous efforts to contact the EAGL Technologies, Inc., to determine what would be required to put the system into operation. EAGL has not returned the Aviation Department's phone calls or emails, resulting in a certified letter being sent to the company. The Department is awaiting a response to the certified letter.

As this system is proprietary to EAGL, it is unlikely that alternative vendors would be able to put the system into operation.

Under the current Aviation Department administration, it is the normal course of business to strictly adhere to the City's procurement policies, including a multi-office review that ensures all terms and conditions are in compliance with the City of Albuquerque's procurement code.

The Aviation Department is seeking information from EAGL to determine whether the system can be activated and used in a reduced capacity that will recover at least some, if not all, of the value of the system.