



December 11, 2019

Performance Audit

**Allocation & Use of Public, Education,
and Government Access Funds**

Cultural Services & Legal Departments

Report No. 19-107



**CITY OF ALBUQUERQUE
OFFICE OF INTERNAL AUDIT**

PERFORMANCE AUDIT REPORT
ALLOCATION & USE OF PUBLIC, EDUCATION
AND GOVERNMENT ACCESS FUNDS
CULTURAL SERVICES & LEGAL DEPARTMENTS
REPORT NO. 19-107

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City of Albuquerque - Office of Internal Audit
Allocation & Use of PEG Access Funding

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The purpose of this audit was to determine, for the period July 1, 2016 through June 30, 2019, if PEG Access funding was timely and properly recorded into the designated PEG Access project activity within Fund 305; whether PEG Access funding was expended solely to support the capital needs of PEG Access activities; and to determine if an annual inventory of City owned PEG Access assets was being performed in accordance with the City's Fixed Asset Policies.

Executive Summary

Through its franchise agreement with Comcast of New Mexico, LLC (Comcast), the City of Albuquerque receives \$0.44 per subscriber per month as Public, Education, and Government Access (PEG Access) funds.

The audit found that:

- Overall, PEG Access funding is timely and properly recorded into the designated PEG Access project activity within Fund 305.
- PEG Access funding of \$72,138 was spent for operating costs not associated with the capital needs of PEG Access and included:
 - Payments for water utility costs totaling \$71,982; and
 - One transaction totaling \$156 for labor costs for troubleshooting HVAC units.
- Annual inventory of PEG Access assets in the possession of a City contractor was not performed.

Prior to fiscal year (FY) 2020, the Cultural Services Department (CSD) managed the Government Access Channel. 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 FY2019, the City initiated a plan for CSD to manage all PEG Access channels.

Beginning in FY2020, CSD assumed complete management and operational oversight of all PEG Access.

CSD and the City's Legal Department agree with the recommendations and will take corrective action in FY2020.

Recommendations

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The Cultural Services Department should:

- Establish formal policies and procedures to ensure that PEG Access funding is used for the capital needs of PEG Access.
- Ensure that an annual inventory of PEG Access assets in the possession of a contractor is taken in accordance with City policies.

The Legal Department should:

- Research how to address the erroneous water utility payments made after the City's contractor had vacated the Bernalillo County Courthouse; and
- Research how to address any utility payments that exceeded the maximum utility service amount of \$2,700 per month during the contract period.



City of Albuquerque

Office of Internal Audit

December 11, 2019

Accountability in Government Oversight Committee
P.O. Box 1293
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Audit: Allocation & Use of PEG Access Funding
Cultural Services & Legal Departments
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FINAL

INTRODUCTION

The Office of Internal Audit (OIA) completed a performance audit of the allocation and use of Public, Education, and Government Access (PEG Access) funding for the period July 1, 2016 through June 30, 2019. Information pertaining to the audit objectives, scope, limitations and methodology can be found in **Appendix A**.

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 FY2016, the City contracted with a Certified Public Accounting firm to review 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. This audit did not review or evaluate the PEG Access fee calculation.

Comcast submits PEG Access fee payments to the City's Department of Finance & Administrative Services – Treasury Division (Treasury). Treasury employees log the checks, prepare a transmittal sheet that identifies the accounting string to which the funds will be posted, and transports the documentation for deposit processing.

Over the three-year audit period, the City received \$1,245,052 in PEG Access fee revenue. OIA performed audit procedures and traced the PEG Access fees received to the City's general ledger. All amounts were accurate, timely, and properly recorded. No exceptions were noted.

For the audit period, the City expended \$1,327,482 in PEG Access funds. OIA performed audit procedures and identified expenses totaling \$72,138 for operating costs not associated with the capital needs of PEG Access.

Internal Controls

Audits performed by OIA often involve a review of an entity's internal controls. The Committee of Sponsoring Organizations of the Treadway Commission (COSO) developed the Internal Control Framework (COSO Framework) to assist organizations in "designing, implementing, and conducting internal control and assessing its effectiveness." The COSO Framework has gained global acceptance as the standard by which to compare internal controls, and OIA uses it to evaluate the design and effectiveness of an entity's internal controls.

Administrative Change for PEG Access

Prior to FY2020, the Cultural Services Department (CSD) managed the Government Access Channel. 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 FY2019, the City initiated a plan for CSD to manage all PEG Access channels.

In April 2019, the City gave notice of its intent to end the contract for services with the contractor. The City also ended the lease with the contractor for the use of a City facility to support the PEG Access channel activities. 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 with to conduct a complete inventory. CSD is in the process of reconciling the inventory to the City's fixed asset list.

Beginning in FY2020, CSD assumed complete management and operational oversight of all PEG Access.

FINDINGS

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

1. CSD SHOULD ESTABLISH FORMAL POLICIES AND PROCEDURES TO ENSURE THAT PEG ACCESS FUNDING IS USED FOR CAPITAL COSTS ONLY.

During the three-year audit period, PEG Access funds were not solely used for capital costs associated with PEG Access activities. According to the Legal Department, although the term

“capital costs” has not been defined by Federal law, the Federal Communications Commission has issued orders interpreting capital costs to “include costs incurred in the construction of PEG [Access] and I-Net facilities; as well as the equipment needed to operate those facilities.” Additionally, the City has interpreted the term “equipment” to mean that equipment needed to produce and broadcast PEG Access programs or to operate the City’s broadband network.

Of the \$1,327,482 of PEG Access expenses, \$1,295,163 were processed through the City’s accounts payable process and \$32,319 were processed through journal entries. Various samples of PEG Access accounts payable expense transactions were selected and tested. The sampled transactions included:

- High dollar transactions – All transactions over \$50,000 (5 transactions);
- Utility transactions – First and last water utility bill during the audit period – (2 transactions);
- A statistical random sample of all remaining Accounts Payable transactions (excluding the 5 high dollar transactions already selected and all water utility transactions) – 20 transactions).

From the sample of 27 total transactions, the following issues were noted:

- One transaction totaling \$156 was for labor costs for troubleshooting HVAC units; and
- The two water utility transactions pertained to the Bernalillo County Courthouse located on Tijeras Avenue. The City’s contractor relocated from the Bernalillo County Courthouse in May 2011 and the City’s utility payments for the property should have ceased. Total water utility charges paid during the three-year audit period amount to \$71,982.

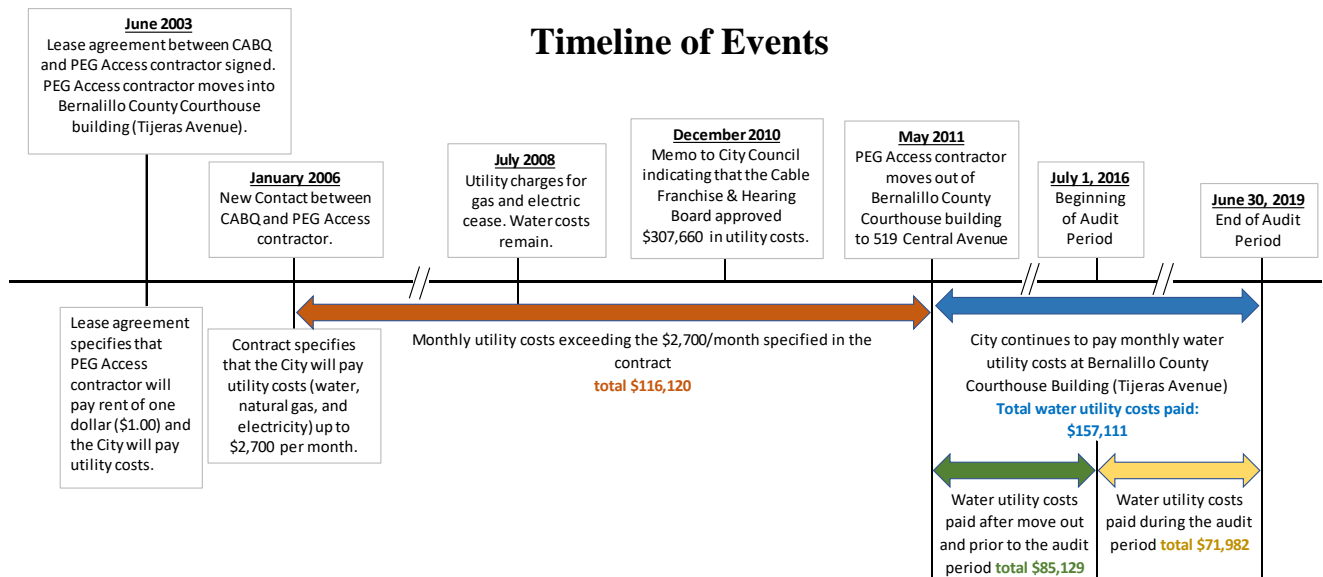
If the 0.06% error rate (error/sample value = $\$156/258,214 = .06\%$) is extrapolated across the population, the likely error totals \$462 and is immaterial.

Of the \$32,319 of journal entries, \$23,038 were processed to allocate the City’s indirect overhead (IDOH) rate to the PEG Access activity. The indirect allocation rate recovered was reasonable to the City’s approved IDOH cost recovery rate. No further audit procedures were performed on the remaining journal entries.

During the audit OIA noted that utility costs were incurred prior to the audit scope period. Though not within the audit’s scope, the utility cost data is included for information purposes only. No additional audit procedures were performed on this data.

- Total water utility charges paid since the contractor vacated the Bernalillo County Courthouse, up to the audit scope period, amount to \$85,129 (May 2011 through FY2016).
- In January 2006, the City entered into a new contract with the PEG Access contractor. The contract specified that the City would pay utility costs (water, natural gas, and electricity) up to \$2,700 per month. Though not within the audit’s scope, during testwork, it was

identified that total utility costs paid exceeded the contract’s \$2,700 per month ceiling by a total of \$116,120 for the period January 2006 through May 2011. Any utility costs above \$2,700 a month were to be paid by the City’s contractor. A timeline of events is shown below.



Sources: City contracts, lease agreements, and financial data

COSO Principle 12 encourages organizations to deploy control activities through policies that establish what is expected and procedures that put policies into action.

Various departments were involved and formal policies and procedures regarding the use of PEG Access funds were never established. Up until September 2017, the Committee that oversaw PEG Access held the responsibility for reviewing and approving capital expenditures of PEG Access funds. The Committee is defunct and has not met since September 2017. Beginning in FY2020, CSD will be fully responsible for all components of PEG.

Without formal policies and procedures that are aligned with the overarching and approved uses of PEG Access funds, PEG Access funding has been used for non-capital expenditures totaling \$72,138.

RECOMMENDATION

As no other department shares the responsibility for PEG Access funds in FY2020, CSD should establish formal policies and procedures pertaining to the use of PEG Access funds.

In addition, the Legal Department should:

- Research how to address the erroneous water utility payments made after the City's contractor had vacated the Bernalillo County Courthouse; and
- Research how to address utility payments that exceeded the maximum utility service amount of \$2,700 per month during the contract period.

RESPONSE FROM CSD

“CSD agrees that formal policies and procedures should be established pertaining to the use of IPEG funds. To clarify, as of FY2020, CSD is responsible for IPEG funds used for Public Access Channels. The Department of Technology and Innovation (DTI) also has access to the use of these funds for I-Net facilities and equipment.”

“CSD, in conjunction with DTI, will develop formal policies and procedures for IPEG funding and will present these documents to the Administration for approval.”

RESPONSE FROM THE LEGAL DEPARTMENT

“Legal agrees with the recommendation and is currently researching how to address the erroneous water utility payments made after the City's contractor had vacated the Bernalillo County Courthouse. Legal is also researching how to address utility payments that exceeded the maximum utility service amount of \$2,700 per month during the contract period.”

ESTIMATED COMPLETION DATES

“CSD is currently in the process of developing draft policies and procedures for the use of IPEG funding. As soon as it is reviewed and updated with DTI input, it will be submitted to the Administration for approval no later than January 31, 2020.”

“Legal has determined the amount paid after 2011 by the City to the water utility after the water utility separated from the City. Legal is still trying to determine the amount the City absorbed when the water utility was still part of the City. Legal will send a demand letter to Bernalillo County Sheriff's Office once all supporting documentation is obtained. Legal estimates this will be completed by January 31, 2020.”

2. CSD SHOULD ENSURE THAT A PHYSICAL INVENTORY OF PEG ACCESS ASSETS IS TAKEN ANNUALLY.

The Legal Department did not take annual inventories of City-owned PEG Access assets in the possession of a City contractor during the audit period.

The City's Fixed Asset Guidelines indicate that each City department is to take inventory annually at year-end. Without a completed inventory, PEG Access assets may be unaccounted for.

According to an Assistant City Attorney, the Legal Department relied on its Fiscal Manager at the time to conduct the department's annual inventory, but the inventory was never taken. As previously noted, beginning in FY2020, the responsibility has been moved from the Legal Department to CSD.

RECOMMENDATION

CSD should ensure that an annual inventory, of PEG Access assets is taken in accordance with City policies.

RESPONSE FROM CSD

“CSD has always conducted yearend inventory counts on its fixed assets and reported accordingly to DFAS as required by City policy. CSD will continue to take annual inventory of its fixed assets and beginning FY2020, will include all IPEG funded assets used for the Public Access Channels.”

“CSD will not conduct fixed asset inventories on DTI assets that were funded with IPEG sources, as these are not assets that are under CSD’s umbrella.”

ESTIMATED COMPLETION DATE

“Yearend fixed asset inventory is required to be conducted and reported shortly after fiscal year end. CSD will complete the inventory according to the deadline set by DFAS.”

CONCLUSION

Compliance with external guidelines and restrictions regarding the use of PEG Access funding is key. Although the approved uses of the funds may have certain grey areas that remain open to interpretation, by establishing formal policies and procedures the City can help ensure that all expenses using PEG Access funds are properly used for PEG Access capital needs.

Compliance with internal, city-wide, policies and procedures are also essential. Purchase made with PEG Access funds are City property and must follow the City's inventory policies and procedures.

We greatly appreciate the assistance, involvement, and cooperation of the various City departments and staff during the audit.

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APPENDIX A

OBJECTIVES

The audit objectives were to determine:

1. Is PEG Access funding timely and properly recorded into the designated PEG project activity within Fund 305?
2. Is PEG Access funding expended solely to support the capital needs of PEG Access activities as well as the City's institutional networks?
3. Is an annual physical inventory of City owned PEG Access assets being performed in accordance with the City's Fixed Asset Policies?

SCOPE AND LIMITATIONS

Our audit did not include an examination of all functions and activities related to the allocation and use of PEG Access funding. 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.

City management is responsible for establishing and maintaining effective internal control and complying with laws, regulations, contracts, and agreements.

In performance audits, a deficiency in internal control exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct (1) impairments of effectiveness or efficiency of operations, (2) misstatements in financial or performance information, or (3) noncompliance with provisions of laws, regulations, contracts, or grant agreements on a timely basis. A deficiency in design exists when (a) a control necessary to meet the control objective is missing or (b) an existing control is not properly designed so that, even if the control operates as designed, the control objective is not met. In the performance audit requirements, the term significant is comparable to the term material as used in the context of financial statement engagements. A deficiency in operation exists when a properly designed control does not operate as designed, or when the person performing the control does not possess the necessary authority or qualifications to perform the control effectively.

Our consideration of internal control was for the limited purpose described in our audit objectives and was not designed to identify all deficiencies in internal control. Therefore, unidentified deficiencies may exist. Accordingly, we do not express an opinion on the effectiveness of internal controls.

As part of the performance audit, we tested compliance with certain provisions of laws, regulations, contracts, and agreements and noncompliance with which could directly and significantly affect the objectives of the audit. However, opining on compliance with those provisions was not an objective of the performance audit and accordingly, we do not express an opinion.

We conducted this performance audit in accordance with generally accepted government auditing standards for performance audits, as prescribed in *Government Auditing Standards*, revision 2011, issued by the Controller General of the United States. 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:

- Gathered and reviewed legislative documents pertaining to the history of PEG Access funding;
- Documented how PEG Access funding is received and expended;
- Obtained a copy of the City's PEG Access fee receipt reconciliation, agreed balances to the general ledger, and tested all receipts during the audit period for proper and timely recording to the PEG Access activity;
- Selected and tested various samples of PEG Access-related expenditures and determined compliance with approved uses;
 - Sampling involved:
 - High dollar transactions: Tested all transactions over \$50,000;
 - Utilities: Tested the first and last water utility bill during the audit period;
 - Remaining Accounts Payable transactions: Selected a statistical random sample at a 90 percent confidence level to test remaining transactions; and
 - IDOH: Calculated overall IDOH charged as a percentage and verified that the percentage allocated to the PEG Access activity is reasonable (e.g., less than 2 percent).
- Assessed whether PEG Access funds were used in accordance with the City's legal interpretation;
- Evaluated the results of testing to determine and document if sufficient, appropriate evidence has been obtained to address audit objectives and reduce audit risk to an acceptable level and that evidence is sufficient and appropriate to support findings and conclusion; and
- Performed other methodologies as needed.