



**OFFICE OF INSPECTOR GENERAL**  
*City of Albuquerque*

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**Report of Investigation**

**FILE NO:** 19-0003 C

**DATE:** July 29, 2020

**SUBJECT:** The Office of the Inspector General was provided with information regarding allegations with City of Albuquerque (COA) and possible fraud as it relates to the public access TV contract. This information was provided to us from an Albuquerque resident who expressed concerns over the use of COA funds and the importance of the public access television access.

**STATUS:** Final

**INVESTIGATOR:** J. S.

DocuSigned by:

*Ken Bramlett*

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KENNETH BRAMLETT, INSPECTOR GENERAL  
OFFICE OF THE INSPECTOR GENERAL

DocuSigned by:

*Edmund E. Perea*

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

**DISTRIBUTION:**

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

## Executive Summary

The Office of the Inspector General was provided with information regarding allegations of the City of Albuquerque (COA) and possible contract fraud as it relates to the public access TV. This information was provided to us from a COA resident who expressed concerns over the use of COA funds and the importance of the public access television access.

The main concerns brought forth included:

1. The operator is required to be a non-profit but operator had his 501 (c)(3) status revoked by IRS;
2. The operator is not a non-profit but a for-profit in violation of contract;
3. The operator denies access to some minority groups unless they have a sponsor;
4. The operator moved from a City owned office to his privately owned building;
5. COA made improvements to operator's privately owned property to include constructing a façade and running a feed line;
6. The operator does not produce local educational programs but uses network programming;
7. The operator leases City owned equipment to non-City producers;
8. The operator obtained a warehouse of movie props as a result of his 501(c)(3) and Public Access contract and rents them to non-City entities;
9. The operator has numerous IRS liens against him; and
10. The operator uses fictitious/ghost employees on his Form 990.

The OIG investigation focused on the allegations asserted by the citizen against the COA and contract fraud as it related to the fulfillment of the contract for public access television. The allegations involved the eligibility of the contractor to obtain the initial contract, property obtained and purchased with COA funds as well as property being retained by the contractor, and the office/location used by the contractor. The scope of the investigation addressed only the allegations. The methodology consisted of reviewing relevant documents and interviewing witnesses that could provide information regarding the allegations. The following activities were conducted as part of the investigative process:

- Review of pertinent documents as they relate to the history of the public access television programming and contracts for the COA.
- Interviews of relevant staff members

- Review of relevant City Ordinances, SOP's and COA's policies and procedures
- Review of previous investigative reports relating to public access television for the COA
- Review of previous audit reports relating to public access television for the COA.

### **Abbreviations**

A list of abbreviations should be included if the report is lengthy or there are numerous abbreviations.

COA – City of Albuquerque  
IG – Inspector General  
OIG – Office of the Inspector General  
UCC - Uniform Commercial Code  
CSD – Cultural Services Division  
COO – Chief Operations Officer

### **Introduction, History and Background**

Complainant stated OPERATOR was contracted with the COA to operate the COA's public access television station. The OIG will review and investigate in response to each allegation listed above.

**1. Allegation: Operator is required to be a non-profit but operator had his 501 (c)(3) status revoked by IRS**

Tax-exempt organizations, nonexempt charitable trusts, and section 527 political organizations file a Form 990 to provide the IRS with the information required by 26 U.S. Code § 6033.

The OIG researched and found a Form 990 for tax years 2015, 2016 and 2017, in which the OPERATOR was listed as the principal officer. The organization name listed on these forms is Greater Communities, which is “doing business as” uPublic. The street address is listed as 907 3<sup>rd</sup> St. NW, Albuquerque, NM 87102. The OIG did not find a Form 990 for any tax year after 2017.

Per the IRS website ([www.irs.gov](http://www.irs.gov)), by law, organizations that do not file required Form 990-series returns or notices annually for three consecutive years automatically lose their tax-exempt status. An automatic revocation is effective on the original

filing due date of the third annual return or notice (Section 6033(j) of the Internal Revenue Code). If an organization's tax-exempt status is automatically revoked, it is no longer exempt from federal income tax. An automatically revoked organization is not eligible to receive tax-deductible contributions and will be removed from the cumulative list of tax-exempt organizations, [Publication 78](#).

A UCC search on the New Mexico Secretary of State website currently shows Greater Communities' status as "Active" and as being in "Good Standing". Though the "Filing History" section also shows the following:

- Filing Date: 6/15/2018
- Filing Type: Notice Prior to Revocation
- Fiscal Year End Date: 12/31/2017
- Instrument Text: Failure to file annual report
- Processed Date: 6/15/2018

Information found on GuideStar ([www.guidestar.org](http://www.guidestar.org)) shows that GCMA (dba uPublic), which is a domestic non-profit corporation in which OPERATOR was listed as the registered agent, president and a director, had its exempt status automatically revoked by the IRS for failure to file a Form 990, 990\_EZ, 990-N, or 990-PF for 3 consecutive years. The ruling year was listed as 2007.

In addition, a Uniform Commercial Code (UCC) search on the New Mexico Secretary of State website shows that GCMA's or uPublic's status was "Revoked Final" and it's standing as "Not in Good Standing". The UCC information also showed 1/13/2005 as the date of incorporation/certificate of incorporation, and 10/25/2007 as certificate of revocation.

## **2. Allegation: Operator is not a non-profit but a for-profit in violation of contract**

The allegation is that the OPERATOR has had his 501 (c) (3) status revoked by IRS. Tax-exempt organizations, nonexempt charitable trusts, and section 527 political organizations file a Form 990 to provide the IRS with the information required by 26 U.S. Code § 6033.

The OIG researched and found a Form 990 for tax years 2015, 2016 and 2017, in which OPERATOR was listed as the principal officer. The organization name listed on these forms is Greater Communities, which is "Doing business as" uPublic. The street address is listed as 907 3<sup>rd</sup> St. NW, Albuquerque, NM 87102. The OIG did not find a Form 990 for any tax year later than 2017.

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### **3. Allegation: Operator denies access to some minority groups unless they have a sponsor**

The OIG reached out to the complainant for follow up and clarification regarding this matter. The complainant stated that this did not occur directly with her, but that she had heard of instances with others. Complainant provided a name to the OIG to obtain further information about this allegation.

The OIG conducted an interview with the individual who was said to have information on this allegation. This individual detailed various workings and instances with the OPERATOR in which they and others felt discriminated against due to comments made by OPERATOR, unfair treatment regarding training and classes and opportunities that were presented. No documentation was provided to substantiate these instances nor could it be obtained due to the fact that these entities are not COA employees. However, these instances did coincide with numerous other details and facts learned throughout this investigation.

**4. Allegation: Operator moved from city owned office to his privately-owned building.**

Emails and invoices were found by the OIG detailing improvements and construction on privately owned property by the CONTRACTOR located at 912 3<sup>rd</sup> Street N.W. and not the property purchased by the COA.

An email from the OPERATOR to a then COA City Attorney states “I also think that the concept of making tenant improvements into a building that they don’t own is something that will have to be justified internally....the fact that they do not own the building is an issue”. The then COA City Attorney stated “thanks, I will circulate this to the IPEG committee for its review”. A construction cost proposal for the amount of \$ 142,171.97 was submitted that included but is not limited to the following items:

- Labor and material for general cleaning;
- Provide labor and material to demolish existing concrete and prep for new structural footing, demolition of exterior wall and prep for new 3x7’ door;
- New concrete footing per plan;
- 4” wall using heavy gauge structural steel on perimeter of existing building;
- Tempered glass; and
- New carpet in mezzanine areas with 4” base toe.

Emails from the COA City Attorney dated December 22, 2010 indicate that this was approve by the IPEG committee for the ‘\$143,000 based on an email vote’. However, a review of the emails showed in the thread that the COA appears to have mislead the IPEG members in here request for said funds by listing the address as the 519 Central address, which is City owned. The email dated December 20, 2010 states:

*Hello IPEG members,*

*Funding is necessary for certain renovations to the building at 519 Central that we just acquired for Pubic Access. We expended \$866,000 for the purchase. It has been suggested that \$413,000 would cover those renovation while keeping the total at slightly over \$1 million. I am moving approval of expenditures up to \$143,000 for these renovations. Please respond or disapproval. Thank you.*

The COA has made no demands for the items located at the 912 3<sup>rd</sup> Street N.W. Property.

**5. COA made improvements to operator's privately owned property to include constructing a façade and running a feed line.**

Emails and invoices were found by the OIG detailing improvements and construction on privately owned property by the CONTRACTOR located at 912 3<sup>rd</sup> Street N.W. and not the property purchased by the COA.

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- New carpet in mezzanine areas with 4” base toe.

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The COA has made no demands for the items located at the 912 3<sup>rd</sup> Street N.W. Property.

**6. Operator does not produce local educational programs but uses network programming.**

Due to the length of time that has passed since the initial allegation was reported, this allegation was addressed, corrective action initiated and has been rectified. The COA currently has multiple contracts from programming which is locally produced by each contractor. The four largest contracts are listed below, however, there are additional smaller contracts in place.

These contracts include the following excerpts:

1. Proview: the contractor Proview will render services to include producing local and original programming for the LO Channel, channel 26. More specifically this will include a minimum of 84 hours per week of broadcast ready programming; contractor will follow the PBS model for sponsors; the programming shall include both entertainment and informative programming; and the programming shall be non-commercial and focused on cultural, educational, civic, ethnic, recreational, health related, philosophical and other interests and activities of the City's residents, their neighborhoods, schools and associations.

Eighty percent (80%) of all programming shall be produced locally.

2. Quote Unquote: the contractor Quote Unquote will render services to include producing local and original programming for the EA Channel, channel 96. More specifically this will include a minimum of 84 hours per week of broadcast ready programming; contractor will follow the PBS model for sponsors; the programming shall include both entertainment and informative programming; and the programming shall be non-commercial and focused on cultural, educational, civic, ethnic, recreational, health related, philosophical and other interests and activities of the City's residents, their neighborhoods, schools and associations.
3. The Colt Matthew Balok, LLC.: the contractor shall provide the COA a minimum of one to five (1-5) hours per week, four to ten (4-10) hours per month of broadcast ready programming for the LO Channel in accordance with the schedule established by the COA in consultation with the Contractor. The programming shall include both entertainment and informative programming and shall be non-commercial and focused on cultural, education, civic, ethnic, recreational, health related, philosophical, and other interests and activities of the City's residents, their neighborhoods, schools and associations.
4. Windfire Production Services: the contractor will provide and assist in providing finalized cable-cast-ready programs for playback/cablecasting on the Public Access Channel; design and implement a daily public access channel cablecast program schedule; promote a wide variety of regularly scheduled Public Access Channel programming in coordination with the COA, ensure that program playback occurs as scheduled; assist in ensuring a minimum of 120 hours per week of non-commercial, cablecast ready programming and that at least 38 hours per week is original programming and provide live/live to 'tape' cablecast read quality coverage of community events predetermined by the Cultural Services Department.



**7. Operator leases City owned equipment to non-City producers.**

The OIG cannot substantiate if OPERATOR rents movie props to non-City entities as after requests, documentation regarding rentals was unable to be provided. The documents either do not exist or are maintained solely by the OPERATOR.

**8. Allegation: operator obtained a warehouse of movie props as a result of his 501(c) (3) and Public Access contract and rents them to non-City entities.**

The allegation is that OPERATOR obtained a warehouse of movie props as a result of his 501(c) (3) and Public Access contract and rents them to non-City entities. Results of a Uniform Commercial Code (UCC) search on the New Mexico Secretary of State Website shows that OPERATOR is the “registered agent” of The Prop House, LLC. According to the “Formation Dates” section, the “Date of Organization in NM” is 2/20/2020. “Date of Appointment” shows the same date of 2/20/2020, as does the filing date under the “Filing History” section. The “Entity Details” sections lists The Prop House status as “Active” and in “Good Standing”.

The OIG cannot substantiate if OPERATOR rents movie props to non-City entities.

**9. Allegation: Operator has numerous IRS liens against him.**

One of the allegations brought forth by the complainant was that OPERATOR has numerous IRS liens against him. The OIG found a lien against OPERATOR and his spouse dated 3/29/2001 and another lien dated 3/30/2009. However, these liens were brought against OPERATOR by the homeowners association for the subdivision where OPERATOR lives.

The OIG also found a lis pendens, which is a written notice that a lawsuit has been filed concerning real estate, against OPERATOR and his spouse dated 3/4/2009. The lis pendens was brought forth by Indymac Federal Bank.

These liens look to be assessment liens. An assessment lien is an automatic lien that attaches to a homeowner's property for the benefit of a homeowners' association (the ‘HOA’) once any HOA member becomes delinquent on HOA assessments. An assessment lien allows the HOA to sell the homeowner's property to repay assessments owed to the HOA. The assessment lien also operates as a cloud on title, essentially prohibiting a homeowner from selling or refinancing the property that is subject to an assessment lien until the lien is satisfied.

The OIG researched through New Mexico Courts and did not find any lien information related to OPERATOR, other than the aforementioned assessment lien from the homeowners association.

Research conducted with New Mexico Taxation and Revenue Department did not result in any liens being found based on OPERATOR's personal information.

The OIG has not found IRS liens against OPERATOR as alleged.

### **10. Operator uses fictitious/ghost employees on his Form 990.**

The allegation is that the OPERATOR has had his 501 (c)(3) status revoked by IRS. Tax-exempt organizations, nonexempt charitable trusts, and section 527 political organizations file a Form 990 to provide the IRS with the information required by 26 U.S. Code § 6033.

The OIG researched and found a Form 990 for tax years 2015, 2016 and 2017, in which OPERATOR was listed as the principal officer. The organization name listed on these forms is Greater Communities, which is "Doing business as" uPublic. The street address is listed as 907 3<sup>rd</sup> St. NW, Albuquerque, NM 87102. The OIG did not find a Form 990 for any tax year later than 2017.

This review did not uncover or result in any data or information regarding employees that were listed on these Form 990's therefore this allegation could not be substantiated at this time.

### **Current Operations and Processes of Public Access Television**

CSD began oversight of the Public Access Channel at the beginning of this current fiscal year (FY2020) which began on July 1, 2019. One of the first tasks that CSD began was to hire an outside consultant to complete an inventory of all studio equipment purchased by the COA and utilized for the public access channels. The final inventory list is attached hereto as Exhibit One.

The COA currently uses the Albuquerque Cable Franchise and Hearing Board, in lieu of the previous committee. The Ordinance is currently outdated and the cable board is currently in the process of discussing amendments that it would recommend.

The current ordinance states:

*(A) Board Established.* There hereby is established the Albuquerque Cable Franchise and Hearing Board which shall consist of five members to be appointed by the Mayor with the advice and consent of the City Council. The provisions of §§ [2-6-1-1](#) et seq. apply.

- (1) Board members shall be persons of diverse backgrounds; they should have experience in mass media, communications, information technology, consumer advocacy, business, or government service, especially serving on

or as staff to government boards and commissions which hold hearings and mediations.

(2) No current employee or board member of any television or telecommunications provider shall be a member of the Board; the term "television provider" shall be broadly construed.

(3) All members must sign a Conflict of Interest statement prior to appointment.

(B) *Legal Authority.* The Cable Television Consumer Protection and Competition Act of 1992 requires the local regulator to provide community participation in rate and service-quality issues in conformity with federal laws and regulations. This Board will fulfill that duty.

(C) *Duties of the Board.* The Board shall act as the city's administrative hearing authority on cable television (or wireless cable) matters, primarily issues regarding regulation within the local franchise area as allowed by federal, state and local laws. The Board will represent consumers and allow for local cable television providers' input on rates, service quality and equipment issues. The Board shall hear consumer complaints regarding the performance of the local cable company, investigate those complaints, and make recommendations to the Mayor and City Council concerning those complaints not resolved to the satisfaction of the subscriber or potential subscriber. The Board shall serve in an advisory position only, and all pertinent decisions, rules and guidelines adopted concerning local cable television and the city shall be made by the Mayor and City Council. More particularly, the Board's duties include but are not limited to the following:

(1) Advise the Mayor and Council on matters which might constitute grounds for revocation of right-of-way usage, franchise or FCC violations that may require appropriate sanctions of a cable television franchise or permit in accordance with the terms of the §§[13-5-3-1](#) et seq. and/or the Cable Television Consumer Protection and Competition Act of 1992.

(2) Attempt to resolve complaints and disagreements on matters covered by regulations between the holder of a cable television franchise or permit and the users of the system that cannot be resolved administratively. Complaint and review procedures shall be consistent with the customer service standards attached to the cable company's franchise ordinance as follows.

- a) Any person who has a complaint or problem with cable television service shall notify the cable company first according to the procedures set out in the company's procedures which shall be filed with the City and posted on the City's webpages.
- b) If the problem is not adequately resolved within the company's procedures, the complainant may file a request for a review of the company's decision with the Cable Board through the City's cable compliance office.

- c) No later than the next regularly scheduled meeting of the Board, the Board will consider the consumer's complaint.
- d) Notice of the meeting will be mailed to the address of the consumer and the cable company.
- e) At the Cable Board meeting, the consumer will have the opportunity to present the nature of his or her complaint and the type of relief sought. After the complainant, a representative of the cable company may present its evidence, including what, if anything, has been or will be done to resolve the complaint.
- f) If the Cable Board decides that it needs further evidence, it may require the cable company and/or the consumer to submit additional evidence. The Cable Board may also require the parties to submit written statements of their positions, including summaries of the evidence and legal arguments. If ordered to do so, the parties will submit their additional evidence and/or written statements within 10 days of the hearing.
- g) The Cable Board will encourage the consumer and company to reach mutually agreeable resolution, but if it is unable do so, the Cable Board shall provide an advisory report to the Mayor that will include the Cable Board's conclusions as to whether the cable company's actions were in compliance or violation of federal law and/or local law and its recommendation as to the disposition of the complaint, including penalties for any violations.

(3) Review and make recommendations to the Mayor and Council regarding various agreements, contracts, procedures, and processes to ensure proper distribution of resources (personnel, equipment, and finances) among each of the public, education, and government access channels of the cable television system;

(4) Review and decide appeals of the City's denial of access to the resources that the City has allocated for the use of public, local origination, or educational access television or video streaming according to the procedures established by the City administration;

(5) Provide a forum for public participation in the event the City decides to pursue the franchise renewal process outlined under the Cable Television Consumer Protection and Competition Act of 1992;

(6) Review the cable provider's performance under applicable adopted laws, rules and regulations and recommend that the City administration undertake performance evaluations, financial audits, ascertainments of programming and customer satisfaction, and technical engineering audits as provided in the company's franchise ordinance and as needed.

(7) Provide technology updates to the Mayor and City Council upon request;

(8) Review and make recommendations on the level of service in the franchise area, including channel capacity of the system and how that meets the community needs;

(9) Recommend to the Mayor and City Council regulations and procedures regarding rates, service quality and equipment cases consistent with Ch. 13, Art. 5, Part 1; any information will be provided in accordance with applicable federal law and, if necessary, pursuant to appropriate confidentiality agreements; and

(10) Act as hearing examiner for all public hearings required pursuant to the Cable Television Consumer Protection and Competition Act of 1992 on rate, service quality, equipment and other appropriate issues.

(11) Provide public education and information on matters affected by the cable television, telecommunications, communications, and information industry.

(D) *Public Availability of Documents.* To better accomplish the purposes of the Board, the Mayor shall arrange for the televising of public forum cable television rate and service quality cases and make available at city libraries those public documents used for rate and service decisions.

(E) *Board Recommendations and Time Considerations.* In cases not involving cost-of-service showings, the Board shall have 60 days after submission of a cable operator's existing or proposed rates to consider such proposal, take any necessary additional information, hear comments, and forward its hearing transcript, findings and written recommended decision to the Mayor. The Board shall have 120 days in cases involving cost-of-service showings. The Mayor shall in turn submit such hearing transcript, findings and recommended decision to the Council along with the Mayor's recommendation within 15 days of receipt of the same from the Mayor. The Council shall consider such transcripts, findings, and recommendations within 45 days of receipt of the same from the Mayor. The City Council may restrict its consideration to the record received, or it may elect to accept additional testimony so long as such testimony is made a part of the record for purposes of an appeal. The Council shall adopt its written decision within the allotted time constraints required by the FCC regulations. For purposes of appeal to the FCC of the decision of the franchising authority, the date of the final Council action shall control.

On February 6, 2020, the Cultural Services Division (CSD) sent a memo to the Chief Operations Officer (COO) for the COA which sought to establish an IPEG support committee. The letter stated:

*For your consideration, I share with you a proposal to establish the IPEG support Committee. The committee will develop protocol for distribution of cable related IPEG funds, identification of studio sites, 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.*

*In the attached document is a more comprehensive, efficient process for approving the use of IPEG funds.*

*The committee shall be comprised of a four-panel board, consisting of leadership from the following:*

*Cultural Services Department (Director or Designee)*

*Department of Technology and Innovation (Director or Designee)*

*Mayor's Office (Designated by COO)*

*At a support level, the committee will have two sub-level committee members who will provide recommendations and requests from the following department/divisions and one financial professional:*

*Media Resources (CSD)*

*Networking (DTI)*

*Fiscal oversight (DMD/CIP)*

Documentation as to whether or not this has yet to be adopted or approved was not provided.

On April 19, 2019, the newly appointed (as of that date) and current Director of the Cultural Affairs Department served the Executive Director of uPublic a letter and notice stating:

*The COA is launching a new system for the management of its public access and local origination channels. Under this system, the COA will contract with video producers for the provision of public access and local origination programs.*

*However, the COA will no longer contract for certain administrative services needed for the broadcast of these programs. We are excited that our bold, innovative approach to public access television will open the doors wide to as broad a spectrum of producers as can be brought together in our creative community.*

*The City has already laid important groundwork for this new management system. In the next steps, the City must terminate existing contracts and take possession of all City-owned assets to ensure a smooth and complete transition.*

This notice served as written notice of the termination of the *COA and the GCMA Contract for Public and Local Origination Television Services* dated July 1, 2012, Contract ID No. 703776 and all contract supplements. In addition, this served as a written notice of the termination of the agreement for the occupancy of the building at 519 Central NW, Albuquerque New Mexico 87102.

The termination of the contracts and supplements for the televisions services date was May 16, 2019 and the termination of the lease agreement for the occupancy lease agreement was June 30, 2019.

Under this Notice of Termination, uPublic was to:

1. Provide the COA with an inventory list of all City owned equipment in uPublics actual and constructive possession by May 1, 2019; and
2. Meet with COA at 519 Central NW beginning no later than on May 15, 2019 to inspect the City-owned equipment and the real property at 519 Central NW.

COA Engineers visited the property on June 1 and June 6, 2019 and confirmed that *Adtec encoders and a Maxcom Box* were missing and the COA sent a demand for the return of these items.

When asked about the demand letter and follow up to all equipment that still needed to be returned, the Director of Cultural Services stated:

*CSD did not make any additional demands beyond the first letter. We did arrange for a time and a truck to go to uPublic to pick up all City equipment. Only a few items were handed over at that visit. The equipment that was returned to CSD staff is reflected on the reconciled inventory.*

*We did meet with Legal to review the reconciled inventory.*

*I do not know if the City Legal Department decided to make additional demands regarding construction or improvements as they managed the uPublic contract and purchases.*

*This clarifies CSD actions after Legal terminated the contract and lease with uPublic, and after CSD with City Legal sent a letter requesting the return of all equipment*

*CSD staff turned over the reconciled inventory to Legal. CSD did not have additional communications with uPublic as CSD was never the contract manager for uPublic contracts.*

When asked about the demand letters and reconciliation of all remaining COA purchased property, the Deputy Director of Cultural Services stated:

*Upon the termination of the Public Access Agreement Contract with uPublic in April of 2019, in coordination with the City Legal Dept. who previously administered the contract, operations of the PEG Channel studios at 519 Central Ave. NE and the task of collecting all City-purchased field equipment was undertaken by CSD. In May, in partnership with City Legal, CSD sent an official demand letter for the return of all City-owned field equipment and in the first week of June 2019 sent a moving truck to uPublic in an effort to collect the equipment. In the weeks that followed, CSD secured the services of the same company that provided City Legal with a certified inventory in 2016. Before turning the inventory findings over to City*

*Legal at meeting at the City Attorney's Office on November 25<sup>th</sup> at 2:30 pm, CSD reconciled the 2016 and the 2019 inventories and cross-referenced them with the City's record of IPEG equipment purchased from 2016 to present. The record of purchases, originally kept by City Legal, was turned over to CSD in April 2019 as well. CSD prepared and delivered the final inventory report to Legal for possible action to recover equipment that was not accounted for in the inventory haul. No further action was taken by CSD on this front, we continued to push forward implementing our directive to assume operational duties of the PEG Channels.*

Currently, the COA through the CSD has multiple contracts for services as they relate to programming on the public service channels. These contracts include the following excerpts:

5. Proview: the contractor Proview will render services to include producing local and original programming for the LO Channel, channel 26. More specifically this will include a minimum of 84 hours per week of broadcast ready programming; contractor will follow the PBS model for sponsors; the programming shall include both entertainment and informative programming; and the programming shall be non-commercial and focused on cultural, educational, civic, ethnic, recreational, health related, philosophical and other interests and activities of the City's residents, their neighborhoods, schools and associations.

Eighty percent (80%) of all programming shall be produced locally.

6. Quote Unquote: the contractor Proview will render services to include producing local and original programming for the EA Channel, channel 96. More specifically this will include a minimum of 84 hours per week of broadcast ready programming; contractor will follow the PBS model for sponsors; the programming shall include both entertainment and informative programming; and the programming shall be non-commercial and focused on cultural, educational, civic, ethnic, recreational, health related, philosophical and other interests and activities of the City's residents, their neighborhoods, schools and associations.
7. The Colt Matthew Balok, LLC.: the contractor shall provide the COA a minimum of one to five (1-5) hours per week, four to ten (4-10) hours per month of broadcast ready programming for the LO Channel in accordance with the schedule established by the COA in consultation with the Contractor. The programming shall include both entertainment and informative programming and shall be non-commercial and focused on cultural, education, civic, ethnic, recreational, health related, philosophical, and other interests and activities of the City's residents, their neighborhoods, schools and associations.



8. Windfire Production Services: the contractor will provide and assist in providing finalized cable-cast-ready programs for playback/cablecasting on the Public Access Channel; design and implement a daily public access channel cablecast program schedule; promote a wide variety of regularly scheduled Public Access Channel programming in coordination with the COA, ensure that program playback occurs as scheduled; assist in ensuring a minimum of 120 hours per week of non-commercial, cablecast ready programming and that at least 38 hours per week is original programming and provide live/live to 'tape' cablecast read quality coverage of community events predetermined by the Cultural Services Department.

The OIG contacted Old Republic Title and requested a copy of all disbursements from the trust account utilized for this project. The Vice President of the title company forwarded a copy demonstrating all disbursements made and indicating that the account which was opened with a total of \$ 133,000 has been utilized and now has a zero balance.

### **Conclusion**

Many of the allegations brought forth could not be substantiated due to the lack of information available, the time that has passed and the availability of documents that have not been destroyed with the records retention requirements. The Cultural Services Department provided the responses, in red below, to the recommendations.

In conclusion, the OIG recommends that:

1. The COA follow up with the demand letter when COA Engineers visited the property on June 1 and June 6, 2019 and confirmed that *Adtec encoders and a Maxcom Box* were missing and the COA sent a demand for the return of these items was made. The demand letter was sent on June 7, 2019 but no follow-up documentation could be located by legal nor the Department;

*The Adtec encoders and a Maxcom Box were returned to CSD in June 2019. The City of Albuquerque Legal Department will send a follow up demand letter detailing items that were not delivered back to the City according to our 2019 inventory analysis.*

2. The outdated codified version of the Cable Franchise and Hearing Board Ordinance be reviewed and updated. In April 2020, the OIG was advised that the Cable Board was in the process of discussing amendments;

*Over the past year the Cable Franchise and Hearing Board has been researching appropriate amendments to its ordinance and will be proposing these amendments once recommendations are finalized.*

3. A plan for the IPEG Support Committee was forwarded to the OIG to review. It is recommended that this be reviewed and be finalized. This plan should include procedures for all purchases made with COA and IPEG funds to ensure that all purchases are necessary, in the best interest of the citizens of the COA and all property is maintained;

CSD worked with the COA Operating Officer to reestablish the IPEG Support Committee, clarify procedures, and resume meetings. The IPEG Support Committee provides recommendations and oversight of IPEG Purchases. The new make-up of the IPEG Support Committee includes representation from Mayor's Communications Office, Department of Technology & Innovation, Council Services, Department of Municipal Development and Cultural Services.

4. The property inventory list be maintained and reviewed on a semi-annual basis to ensure COA funds are utilized properly and all property purchased with COA funds is maintained; and

Now that all equipment is manager by the COA staff at a City facility, CSD has inventory control and a staff person dedicated t tracking equipment and verifying an annual inventory at the end of each fiscal year which is part of annual operations for all COA Departments.

5. A review of all construction be conducted at the personal property of uPublic located and all City owned and purchased materials be returned.

Cultural Services leadership will consult with the City Attorney to determine what appropriate action is available to the City.