



OFFICE OF INSPECTOR GENERAL
City of Albuquerque

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Inspector General

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DATE: February 7, 2022

SUBJECT: APD Procurement Process

FILE NO: 21-0091-C

INVESTIGATOR: P.P. *PP*

INSPECTOR GENERAL: Melissa Santistevan *MS*

STATUS: Closed and Referred to CPOA

Informative Case Synopsis

Pursuant 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. However, City Ordinance 2-17-6-(G) states: The Inspector General shall not investigate complaints that are under the jurisdiction of the Police Oversight Commission or the Internal Affairs Division of the Albuquerque Police Department nor shall he access any Internal Affairs files.

The Office of Inspector General (OIG) received a complaint on December 1, 2021 through a referral from the Civilian Police Oversight Agency (CPOA). The complainant stated that Published City records show Albuquerque Police Department's (APD) Gunshot Detection System (\$1.2M three-year contract) did not go through the "public processes" at either the Technical Review Committee or the Information Services Committee for initial review and approval during public "committed to transparency" meetings. The complaint goes on to state, "APD personnel violated "public processes" policies, commitment to public "transparency" policies, and APD Chief individually violated, but not limited to, APD policies concerning untruthfulness and conduct unbecoming".

Consultation with legal counsel validated that the procurement of the Gunshot Detection System does fall under the OIG purview, while the other allegations related to violation of public processes, transparency and untruthfulness and conduct unbecoming are solely under the purview of the CPOA.

While conducting our fact-finding investigation on whether the procurement of the Gunshot Detection System was within the procurement code and City Procurement Ordinance, the OIG investigator obtained and reviewed the government entity contract the City “piggy-backed” off of, the City of Albuquerque (City) contract, City Purchasing Ordinances and New Mexico State Statutes along with communication with the City’s Department of Technical Innovation and Purchasing Division personnel.

NMSA 1978, 13-1-129 Procurement under existing contracts states:

A. Notwithstanding the requirements of Sections 13-1-102 through 13-1-118 NMSA 1978, the state purchasing agent or a central purchasing office may contract for services, construction or items of tangible personal property without the use of competitive sealed bids or competitive sealed proposals as follows:

(1) at a price equal to or less than the contractor's current federal supply contract price (GSA), providing the contractor has indicated in writing a willingness to extend such contractor pricing, terms and conditions to the state agency or local public body and the purchase order adequately identifies the contract relied upon; or

(2) with a business which has a current exclusive or nonexclusive price agreement with the state purchasing agent or a central purchasing office for the item, services or construction meeting the same standards and specifications as the items to be procured if the following conditions are met:

(a) the quantity purchased does not exceed the quantity which may be purchased under the applicable price agreement; and

(b) the purchase order adequately identifies the price agreement relied upon.

B. The central purchasing office shall retain for public inspection and for the use of auditors a copy of each federal supply contractor state purchasing agent price agreement relied upon to make purchases without seeking competitive bids or proposals.

§ 5-5-33 PURCHASING FROM GOVERNMENT CONTRACTS.

Goods, services, including professional or technical services, or construction may be purchased from a business, or its authorized representative, under contract with a public agency or cooperative procurement agency at prices which are equal to or less than the prices of goods, services or construction meeting the same specifications or standards of those purchases.

In review of the City’s Procurement Ordinance, piggybacking off of another government entity is allowed as long as the terms are equal or less than those stated in the piggybacked government entity contract. The OIG reviewed the contract terms and conditions and the procurement was done within the terms of the Procurement Code and the City’s Procurement Ordinance. Given the facts and circumstances of this procurement, the purchase of services for the Gunshot Detection System was permissible as “piggy-backing” on another governmental entities existing contract and was not subject to governance of the Technical Review Committee or the Information Services Committee.

Based on the information obtained during our fact-finding investigation, the allegation regarding procurement in the complaint was not substantiated. This case will be closed and this report will be remanded to the Civilian Police Oversight Agency so that they may continue their investigation into the other allegations that are within their purview.