

**Timothy M. Keller**  
State Auditor



**Sanjay Bhakta**, CPA, CGFM, CFE, CGMA  
Deputy State Auditor

**State of New Mexico**  
**OFFICE OF THE STATE AUDITOR**

April 30, 2015

*Via Email and U.S. Mail*

Ken Sanchez, City Councilor, District 1  
Klarissa J. Pena, City Councilor, District 3  
Albuquerque City Council  
P.O. Box 1293  
Albuquerque, NM 87103

**Re: Risk Review – City of Albuquerque’s Purchases of Body-Worn Cameras from TASER International, Inc.**

Dear Councilors Sanchez and Pena:

On April 28, 2014, the Office of the State Auditor (OSA) received a letter from you in which you requested that the Office of the State Auditor “conduct an independent review of the procurement process regarding the City of Albuquerque’s contract with TASER for lapel cameras and related equipment to determine whether the procurement comports with the relevant law related to procurements as well as with the provisions of the Governmental Conduct Act.” The purpose of this letter is to notify you of the results of the OSA Risk Review. As explained in detail below, the OSA’s concerns relate to three major issues:

(A) The formal employment with the City of former Police Chief Raymond Schultz (the “Chief”) (ending with his retirement date of January 1, 2014) overlapped with his contract work with TASER International, Inc. (“TASER”) (beginning in October 2013), resulting in the probable violation of City Conflict of Interest and Public Purchase ordinances and the Governmental Conduct Act.

(B) The OSA observed a close correlation among the Albuquerque Police Department (APD) dealings with TASER, influence over the procurement process of which the Chief boasted and various personal benefits the Chief and other APD employees received from TASER. This indicates additional violations of the City’s Conflict of Interest and Public Purchase ordinances and the Governmental Conduct Act.

(C) Weaknesses in the procurement process cast further doubt on the legitimacy of the TASER procurement. These weaknesses include a vulnerability to non-competitive procurement that is based on connected exemptions and a lack of documentation of testing to support TASER’s no-bid contract.

**2540 Camino Edward Ortiz, Suite A, Santa Fe, New Mexico 87507**  
**Phone (505) 476-3800 \* Fax (505) 827-3512**  
**www.osanm.org \* 1-866-OSA-FRAUD**

The City Council should be actively involved in the procurement process and should ensure that management is taking prompt corrective action to remedy all issues. Management should act quickly to establish adequate internal controls over procurement and conflict of interest, and to implement measures to prevent the issues raised in this Risk Review from arising again in the future.

The OSA notes that the Chief has retained counsel to defend a pending investigation by the Attorney General. Further investigation and interview with the Chief would be necessary to confirm that no mitigating factors exist with respect to these possible conflicts and violations. The Chief's legal counsel did not return calls from the OSA.

## **I. Factual Background**

Our Risk Review focused on the City's 2013 \$1.95 million contract with TASER for AXON-Flex body worn cameras, an Evidence.com cloud subscription (software license), other related equipment such as "Train the Trainer" video support system and parts and labor to maintain the product to a "like new" status.

The APD has a long history of purchasing TASER products from third-party vendors, and began purchasing directly from TASER in 2007. In 2007, the APD contracted directly with TASER for the purchase of X26 integrated laser sight, low-intensity lights, digital power magazines with data download capability and related equipment. The justification for making this a sole-source procurement was that TASER was the sole manufacturer, distributor and repair facility for the TASER X26. The 2007 contract did not encompass TASER AXON-Flex body worn cameras or the Evidence.com service.

In 2011, the APD began widespread use of body-worn cameras. After a competitive bidding process, the APD contracted with Law Enforcement Associates (later known as LEA AID Acquisition Company) for Scorpion micro digital video recorders. The APD was not satisfied with the performance of the Scorpion cameras.

Also in 2011, the APD made another sole-source procurement of weapons from TASER. The master resolution inter-office correspondence between the City's Purchasing Manager and the City's Purchasing Programs Specialist of March 4, 2011, takes the position that the purchase was authorized under Albuquerque Ordinances Section 5-5-32, Sole-Source Purchases, as follows:

The Albuquerque Police Department is requesting a contract for TASER products only as there are no other equals due to potential liabilities issues for APD or the City of Albuquerque. TASER is the sole manufacturer and patent holder of all TASER equipment and supplies. TASER International is also the only authorized repair facility for TASER products.

The exhibits to the master resolution include a statement that, "TASER International is also the sole source manufacturer of the patented TASER Cam..." The pricing list also references the TASER Cam. The 2011 contract did not reference the AXON-Flex camera or Evidence.com.

The momentum to move forward with TASER AXON-Flex cameras increased throughout 2012. On May 4, 2012, the Chief ordered that “all sworn department personnel will record each and every contact with a citizen during their shift that is the result of a dispatched call for service, arrest warrant, search warrant or traffic stop.” In August 2012, APD Technology Services began to inquire about testing TASER body-worn cameras. In September 2012, the APD began to order AXON-Flex test kits, for which the APD was to be billed only upon purchase or failure to return the kit at the end of the trial period. Testing, including the acquisition of additional test kits, continued through September, October and November 2012. On November 19, 2012, the Chief asked for a roadmap to implement TASER AXON-Flex by February 15, 2013. By December 2012, the APD had created a strategic plan that included an objective to “Expand TASER/Evidence.com services.” Although the APD appears to have tested other body-worn camera systems at this time, the documentation of such testing is very sparse, especially in comparison to the thorough documentation of TASER testing.

During that same period in 2012 and into 2013, APD officials received certain benefits from TASER. For example, the OSA reviewed documentation that included two tickets to an October 1, 2012, TASER International & SunGard IACP Party at Stingaree Night Club in San Diego, California. The Chief and the then-Deputy Chief of Police were identified as a guests of TASER. On October 10, 2012, APD employees attended an “ALL-EXPENSE PAID” training certification program in Scottsdale, related to Evidence.com. On May 28, 2013, the Chief spoke at a Major Cities Chiefs conference sponsored by TASER, in Grapevine, Texas, on the topic of “Improving Effectiveness, Efficiency While Building Public Trust Through the Use of Technology and the Cloud.”

The first significant purchase of AXON-Flex products occurred on March 27, 2013. An invoice for \$106,854.61 shows that APD ordered 75 cameras that were shipped with supporting equipment, with a one-year Evidence.com subscription included at no extra charge. Despite the fact that the 2011 sole-source contract with TASER did not cover AXON-Flex items, the APD impermissibly based its purchases on that contract through contract release orders. During the approval process for the March 2013 contract, one member of the Technical Review Committee questioned the use of sole-source procurement, but his concerns did not stop the process. Testing continued through July 2013.

The next set of events illustrates the overlapping timelines of the next procurement that was exempt from competitive bidding and the APD change in administration:

- On July 18, 2013, TASER submitted to the Chief an initial quote for the next large purchase of AXON-Flex cameras and Evidence.com subscription.
- On August 8, 2013, the City announced a new Interim Chief of Police.
- On August 23, 2013, the City’s Technical Review Committee (TRC) received the AXON-Flex order request form for approval.
- On September 5, 2013, the TRC approved the request and determined that the Information Service Committee did not need to approve the form.
- On September 7, 2013, the Chief began what the City calls “early retirement,” which allows an individual to use earned time while remaining an employee and earning credit with the Public Employees Retirement Association (PERA).
- On September 17, 2013, TASER offered the Chief a consulting contract.

- On September 24, 2013, the Interim Police Chief signed the final TASER quotation contract for the City of Albuquerque.
- On September 30, 2013, the acting Chief Procurement Officer also signed the quotation contract.
- In October 2013, the Chief began consulting for TASER.
- On January 1, 2014, the Chief's actual retirement occurred.

During this period, the Chief was in direct communication with TASER on the subject of the AXON-Flex procurement and other topics. Several communications in August 2013 between the Chief and TASER representatives provided "guidance" on presenting the cameras to the City. For example, an email dated August 28, 2013, from the Chief to a representative of TASER assured TASER that "everything has been greased so it should go without any issues." Also on August 28, 2013, the Chief wrote to the TASER representative, "My last day with Albuquerque PD is September 6<sup>th</sup> as I will be retiring. I will however, still have the ear of the Mayor and CAO on department issues (at least through the election), so if you run into any problems give me a shout." That same day, the TASER representative responded to the Chief, "Thanks for all the support and vision pushing PVRs [lapel cameras] – it is the future of LE [law enforcement]."

In addition, the emails between the Chief and TASER suggest that both were actively engaged in discussing prospective work during this time. On August 28, 2013, the Chief wrote to the TASER representative, "If there is anything I can do for you or Taser, especially to talk about my-our experiences please let me know." The TASER representative replied, "As for Taser, we are always in need of progressive thinkers and great presenters (and you fit the bill!). I would like to discuss more about using your success stories and PVRs to present to other agencies around the country."

The City ultimately procured the next batch of cameras and Evidence.com services as an "other exempt" procurement. The total value of the contract was \$1,950,213.06, and the term was five years. The contract provided for the APD to receive 525 AXON-Flex body-worn cameras and mounts at no cost and 12 camera bays at a cost of \$26,000, with the remainder of the contract price going toward the Evidence.com subscription and related storage.

Furthermore, despite the Chief's "early retirement," he was still an employee of the APD through December 31, 2013. Despite this fact, TASER retained the Chief as a contractor in October of 2013. As recently as March 2015, the Chief confirmed to the media that he continues to teach for TASER.

## II. Analysis

**(A) The Chief's formal employment with the City (ending with his retirement date of January 1, 2014) overlapped with his contract work with TASER (beginning in October 2013), resulting in the probable violation of City Conflict of Interest and Public Purchase ordinances and the Governmental Conduct Act.**

The overlap of the Chief's employment with the City and his contract with TASER appear to violate the City's Conflict of Interest ordinances. Section 3-3-5(A) of the City's Conflict of Interest ordinances states, "An employee shall disqualify himself or herself from participating in any official act directly affecting a business in which he or she has a financial

interest.” The Conflict of Interest ordinances define “financial interest” broadly as, “Any interest which shall yield, directly or indirectly, any monetary or other material benefit to a city employee or to the city employee's spouse or minor children.” Section 3-3-5 goes on to require disclosure by “any employee who has a financial interest which he or she believes or has reason to believe may be affected by an official act taken within the scope of his or her employment.” Our review did not reveal that the Chief availed himself of the consent, screening or notification provisions of the Conflict of Interest ordinances.

Furthermore, Article XII, Section 4(a)(iv) of the City Charter states that no official of the City shall:

Accept any valuable gift, whether in the form of service, loan, thing or promise, from any employee of or applicant for employment with the City of Albuquerque or from any person, firm or corporation which to the official's knowledge is interested directly or indirectly in any manner whatsoever, in business dealings with the governmental body by which the official is employed or of which the official is a member, including donors who are unidentified....

The trips, trainings and contracts that APD officials, including the Chief, received from TASER violate this prohibition.

In addition, Section 5-5-22 of the City’s Public Purchase ordinances states, in pertinent part:

In the procurement of goods, services and construction for the city, all City employees shall comply with the rules of ethical conduct set out in §§ 3-3-1 et seq., Conflict of Interest. In addition, the following ethical provisions shall also apply to all city procurements:

(A) Employee conflict of interest. It shall be unlawful for any city employee to participate directly or indirectly in a procurement when the employee knows that:

...

(2) Any other person, business, or organization with whom the employee or any member of an employee's immediate family is negotiating or has an arrangement concerning prospective employment is involved in the procurement.

(F) Contemporaneous employment prohibited. It shall be unlawful for any employee who is participating directly or indirectly in the procurement process to become or to be, while such an employee, the employee of any person contracting with the governmental body by whom the employee is employed.

As the September 2013 contract was being processed, the Chief and TASER were engaged in discussions of whether there was anything the Chief could “do for [the TASER representative] or Taser, especially to talk about my-our experiences.” TASER was courting “progressive thinkers and great presenters,” in which category it included the Chief. In addition, the Chief was engaged as a TASER consultant while employed by the APD. Whether this rises

to the level of a violation of the above-cited provisions would depend, at least in part, on whether “employment” includes consulting under a contract.

Although transactions subsequent to the 2013 TASER procurements are outside the scope of our Risk Review, we also note that the Chief’s continued employment with TASER left the door open for further violations of City ordinances. Section 3-3-7 of the City’s Conflict of Interest ordinances regarding Former City Employees states:

(A) A former employee shall not within one year after the date of termination from employment represent any person or business in connection with a matter in which the former employee has performed an official act, unless the Chief Administrative Officer consents to such representation. No person or business with which a former employee is associated may knowingly undertake or continue a private representation in such a matter unless: (1) the disqualified former employee is screened from participation in the matter and is apportioned no part of the compensation therefrom; and (2) Written notice is promptly given to the Chief Administrative Officer.

The Chief made presentations while under contract with TASER, in locations ranging from Australia to Amsterdam to Miami, within one year of his APD retirement date. In addition, the Chief authored an article for the FBI LEEDA “Insighter” publication in March 2014, entitled “Must-Have Equipment for Today’s Police Officer,” and prominently featuring the TASER logo. This article drew on his experiences with the APD. However, we did not have adequate information to determine whether these presentations constituted “representation” under the City’s ordinances. We note that the City’s general penalty ordinances, at City Code Section 1-1-99, provide for a criminal penalty of a fine not to exceed \$500 or imprisonment not to exceed 90 days.

Potential violations of the Governmental Conduct Act also may have occurred after the period covered by this review. The Governmental Conduct Act states:

**10-16-8. Contracts involving former public officers or employees; representation of clients after government service.**

C. A local government agency shall not enter into a contract with, or take any action favorably affecting, any person or business that is:

(1) represented personally in the matter by a person who has been a public officer or employee of that local government agency within the preceding year if the value of the contract or action is in excess of one thousand dollars (\$1,000) and the contract is a direct result of an official act by the public officer or employee; or

(2) assisted in the transaction by a former public officer or employee of that political subdivision of the state whose official act, while in employment with that political subdivision of the state, directly resulted in the agency's making that contract or taking that action.

D. For a period of one year after leaving government service or employment, a former public officer or employee shall not represent for pay a person before the state agency or local government agency at which the former public officer or employee served or worked.

Whether the Chief violated these provisions also depends on whether the Chief's work for TASER constituted "representation."

**(B) The OSA observed a close correlation among the City's dealing with TASER, influence over the procurement process of which The Chief boasted, and various personal benefits the Chief received from TASER. This may indicate additional violations of the City's Conflict of Interest and Public Purchase ordinances and the Governmental Conduct Act.**

OSA is concerned that the Chief may have asserted improper influence over the TASER procurement process. By virtue of his position, former the Chief had ultimate approval on all purchases for the APD. The emails between the Chief and TASER representatives and the benefits he received from TASER could be construed to mean that TASER had a calculated advantage in determining what specifications were needed for the APD to award TASER the contract.

First, Section 5-5-22(B) of the City's Public Purchase ordinances states:

In the procurement of goods, services and construction for the city, all City employees shall comply with the rules of ethical conduct set out in §§ 3-3-1 et seq., Conflict of Interest. In addition, the following ethical provisions shall also apply to all city procurements:

(B) Business conflict of interest. It shall be unlawful for any business which knowingly has a conflict of interest or an employee with a conflict of interest, which conflict of interest would allow it an unfair advantage in a competitive process, or would prevent its being able to perform fully and objectively under a contract with the city, to make an offer to the city or enter into a contract with the city.

The Chief's use of language such as "everything has been greased so it should go without any issues" and "if you run into any problems give me a shout" strongly suggests that such an advantage existed.

Second, by accepting from TASER meals, trips and, in the case of the Chief, contract work, APD employees appear to have violated Section 3-3-4(A) of the City's Conflict of Interest ordinances, which states:

No reward, favor, gift, emolument, or other form of remuneration in addition to regular compensation and employee benefits shall be received by any employee for the performance or non-performance of his or her duties from any vendor, contractor, individual or firm doing business with the city or who can be

reasonably anticipated to do business with the city in the future, or from any other source having or proposing to have any relationship with the city.

OSA also has significant concerns regarding violations of the Governmental Conduct Act, which states, in pertinent part:

**10-16-3. Ethical principles of public service; certain official acts prohibited; penalty.**

A. A legislator or public officer or employee shall treat the legislator's or public officer's or employee's government position as a public trust. The legislator or public officer or employee shall use the powers and resources of public office only to advance the public interest and not to obtain personal benefits or pursue private interests.

B. Legislators and public officers and employees shall conduct themselves in a manner that justifies the confidence placed in them by the people, at all times maintaining the integrity and discharging ethically the high responsibilities of public service.

C. Full disclosure of real or potential conflicts of interest shall be a guiding principle for determining appropriate conduct. At all times, reasonable efforts shall be made to avoid undue influence and abuse of office in public service.

D. No legislator or public officer or employee may request or receive, and no person may offer a legislator or public officer or employee, any money, thing of value or promise thereof that is conditioned upon or given in exchange for promised performance of an official act. Any person who knowingly and willfully violates the provisions of this subsection is guilty of a fourth degree felony and shall be sentenced pursuant to the provisions of Section 31-18-15, NMSA 1978.

Furthermore, Section 10-16-4 of the Governmental Conduct Act states, "It is unlawful for a public officer or employee to take an official act for the primary purpose of directly enhancing the public officer's or employee's financial interest or financial position."

The Chief and other APD employees did not fully disclose the real or potential conflicts of interest in the TASER negotiations. In addition, the chain of events shows a close correlation between the City's dealing with TASER and various personal benefits the Chief received. The emails between the Chief and TASER representatives, in which the Chief boasts to TASER about his influence over the procurement process, also fall short of the high responsibilities of public service.

In summary, the benefits from TASER, the sequence of events and the emails between the Chief and TASER representatives illustrate the very risks that gave rise to the City's Conflict of Interest ordinances and the Governmental Conduct Act. These acts and communications suggest that TASER had an unfair advantage and "inside track" to City approval, arising from prohibited conduct on the part of the Chief and other APD employees.

**(C) Weaknesses in the procurement process cast further doubt on the legitimacy of the TASER procurement. These weaknesses include a vulnerability to non-competitive procurement that is based on prior year contracts and a lack of documentation of testing to support TASER's no-bid contract.**

The timing of the Chief's employment and work with TASER and the emails suggesting undue influence over the procurement process are exacerbated by weaknesses in the City's procurement of TASER. It appears that the City based its decision to make its 2013 no-bid purchases from TASER on three points: the March 2013 purchase was requested under the 2011 sole-source contract, the September 2013 "other exemptions" procurement was based on various exemptions for products that are related to each other, and both 2013 procurements were related to product testing. The OSA is concerned about all of these approaches.

First, as discussed above, the 2011 sole-source contract with TASER did not cover AXON-Flex items. Nevertheless, the APD impermissibly based its March 2013 purchases on that contract through contract release orders. The APD extended the term of the 2011 contract, set to expire on March 3, 2013, for an additional two years. Even after the September 2013 contract was in place, the APD continued to issue contract release orders for AXON-Flex products under the 2011 contract.

Second, the APD relied on "other exemptions" from the general rule that procurements above a certain threshold require the APD to request and receive competitive sealed proposals. The APD justified the "other exemptions" procurement of AXON-FLEX equipment, training and Evidence.com because of their connection to the TASER AXON-Flex Cameras. Evidence.com is a registered trademark of TASER. Specifically, the justification was made pursuant to the authority contained in the City Public Purchase ordinances sections 5-5-20 Exemptions (E) (online information/subscription services), (K) (parts and labor), (N) (equipment required to match and work in a complementary fashion), and (BB) (training and unique or novel applications available from a single provider). In other words, these justifications all presuppose that procurement of the TASER AXON-Flex Camera purchase was appropriate.

The APD's approach to the September 2013 contract suggests an intentional attempt to subvert exactly these questions about the procurement of the cameras. Although the March 23, 2013, purchase documents stated that the APD had paid for cameras and received the Evidence.com subscription for free, the September 30, 2013, contract stated the reverse: 525 cameras were free while the APD paid \$1.95 million for related equipment and the Evidence.com subscription. Unlike the cameras, the subscription to Evidence.com is more clearly exempt as a software license under Section 5-5-20(E).

Furthermore, testing under the March 2013 purchase could not be a basis for an exempt purchase of the cameras in the September 2013 contract. Section 5-5-20(CC) of the City's Public Purchases ordinances allows purchases "for a reasonable trial period for testing purposes" without competitive proposals, but only "on the condition that if additional purchases are required after testing, such goods or services shall be subject to the requirements of [the Public Purchases ordinances]."

The OSA views this approach as a potential threat to transparency and accountability. Competitive proposal requirements cannot be subverted simply by calling part of the order free

and then justifying the remainder of the order using exemptions for items that are related to the free items.

Further calling into question the 2013 procurements is the fact that they were based on testing for which the City does not have adequate documentation. The City stated that it conducted a good-faith review of available sources to make a determination that there was only one source for the required goods and services. An interoffice memorandum dated September 25, 2013, from the City's Fiscal Manager to the Chief Procurement Officer stated:

The City of Albuquerque Police Department in order protect itself against potential liability, provide evidence in criminal cases, and to document the actions taken by the public and APD officers required the ability to record the interactions of the Police. In this effort APD has utilized various types of equipment and has identified a solution to its needs. The TASER Axon Flex body worn camera will enhance and support equipment already utilized by APD.

...

APD has thoroughly evaluated different camera equipment in order to locate equipment which would meet requirements necessary to protect both the City and public. The Taser cameras were the only equipment found which meet durability standards, satisfactory images take, and reliability.

An interoffice memo between the same individuals, dated September 26, 2013, stated:

APD determined that the product offered by Taser International is unique in that it is durable, functional, and met the high standards required for the item. Other equipment tested by APD was found to have a high failure rate, fragile and broke often, and took poor images. With the cameras provided by TASER, APD is also able to utilize an additional 'total solution' in that TASER offers a software license which allows APD to upload images and retrieve as necessary.

Although the APD stated that it performed pilot testing for a variety of body-worn camera systems on which the City relied in its final decision, APD provided minimal monitoring documentation to support the APD's testing of other, non-TASER systems. Because the APD failed to maintain transparent and adequate records during the pilot program testing phase of the TASER lapel cameras, the reason for awarding the no-bid 2013 contract for the lapel cameras to TASER is unclear and leads to a public perception that the contract was unfairly awarded to TASER.

The OSA views as a lack of internal controls the fact that the APD did not maintain consistent records of the pilot testing of systems other than TASER's. We recommend that the City consider whether to implement adequate policies and procedures for future pilot testing to ensure accountability and to avoid the troubling questions surrounding these transactions that arise in the absence of such policies.

### **III. Considerations for the City Council**

Although the OSA does not provide advisement on internal controls, we note the following other issues that may affect the City's public purchases:

- Are the prohibitions on working for a vendor after City employment strong enough? Currently Section 3-3-7(A) of the Conflict of Interest ordinances states that a former employee “shall not within one year after the date of termination from employment *represent* any person or business *in connection with a matter in which the former employee has performed an official act*” without consent. This provision may not cover actions, like those identified in this Risk Review, in which an employee or public official is engaged with a vendor for unrelated business after taking favorable action as a City employee on behalf of that vendor.
- Are the provisions regarding outside employment strong enough? Section 3-3-10 of the City Conflict of Interest ordinances prohibits “outside employment” while working for the City, without appropriate consent. The ordinances do not define “outside employment,” and a plain-language reading of that term may exclude work as an independent contractor.
- Similarly, the bans on seeking prospective employment from a vendor or engaging in contemporaneous employment with a vendor in Section 5-5-22 of the City Conflict of Interest ordinances may not cover non-employment arrangements like consulting contracts. Should those provisions be clarified or strengthened?
- Does the City have adequate tools for disclosing and reporting conflict of interest issues? Some entities require annual employee disclosures. Some entities use a confidential tip or support hotline to which employees may anonymously report conflict of interest violations.
- Does the Purchasing Department retain all written documentation to support justification for a sole-source or other exempt determination?
- Might the City consider adopting a process for posting notice of intention to award a sole-source or other exempt contract and a process to address protest of such notifications, similar to the state’s process (see NMAC 13.1.126.1)?
- Does the City require its departments to describe procedures used in conducting a good-faith review of available sources? This might include narrative descriptions of all steps taken to research and interact with all businesses contacted and the requirement of a reasonable explanation as to why the City has determined that no other business other than the prospective contractor exists.
- Might the City of Albuquerque establish a separate independent committee to review documentation of sole-source and other exempt procurement requests and other exceptions to the general public purchase rules?
- Does the City require an appropriate retention schedule for records of sole-source and other exempt procurement, and require such documents to be public record?

#### **IV. Methodology**

Our risk review consisted of fact-finding procedures conducted pursuant to the Audit Act and the Audit Rule, specifically Section 2.2.2.15 NMAC. Among our procedures, the OSA observed interviews of key City personnel and requested and evaluated documentation related to the City’s contract with TASER. The OSA also reviewed certain laws and regulations as they

relate to compliance with the Governmental Conduct Act. In addition, our Office reviewed the City's Public Purchase ordinances and the City's Conflict of Interest ordinances.

We note that the state Procurement Code does not apply to the City of Albuquerque's actions. Under Article X, Section 6 of the New Mexico Constitution, any incorporated municipality within the State of New Mexico may adopt a charter form of government that is consistent with state law. In 1974, the City of Albuquerque City Council declared that, pursuant to Article 1 of the Charter of the City, the City would adopt its own rules regarding public purchases and would be exempt from the state Procurement Code.

This Risk Review is separate from any investigation or audit conducted by the City's Office of Inspector General or Office of Internal Audit. This Office's April 30, 2014, response letter notified you that, as part of our active review of allegations related to the TASER contract, the Office had established a cooperative line of communication with the Office of Inspector General and Office of Internal Audit. In conjunction with the Office of Inspector General and Office of Internal Audit, the OSA participated in interviews of City staff and was able to obtain documentation that was critical to this Risk Review. We wish to express our gratitude to the City's Office of Inspector General and Office of Internal Audit for their cooperation and professionalism.

## **V. Conclusion**

As State Auditor, it is my duty to remind you of the respective roles of those charged with governance and management in ensuring financial accountability. The City Council should be actively involved in the procurement process and should ensure that management is taking prompt corrective action to remedy all issues. Management should act quickly to enhance internal controls over procurement and conflict of interest, and to implement measures to prevent the issues raised in this Risk Review from arising again in the future.

I appreciate your consideration of this Risk Review and my office stands ready to assist you in your efforts to address the matters detailed above. Please do not hesitate to contact my office should you have any questions.

Sincerely,

A handwritten signature in cursive script that reads "Timothy M. Keller". The signature is written in black ink and includes a long horizontal flourish at the end.

Timothy M. Keller  
State Auditor