May 2013

Special Request Results

Why We Did This Report

This memo responds to a request from Mayor Pro Tem Cole regarding the City transactions with Office Depot.

What We Did

To complete this special request we:

- Reviewed documentation relating to transactions between the City of Austin and Office Depot
- Reviewed prior analysis done by City staff
- Examined related audit reports from other cities
- Interviewed key City staff responsible for monitoring the City of Austin transactions with Office Depot

For more information on this or any of our reports, email oca_auditor@austintexas.gov

Special Request Report on City Transactions with Office Depot

Mayor and Council,

I am pleased to present this report on the City of Austin's (City) transactions with Office Depot.

BACKGROUND

During fiscal years 2008 through 2011, the City utilized an existing agreement between the Los Angeles (LA) County and Office Depot to purchase office supplies and equipment from Office Depot through the U.S. Communities Government Purchasing Alliance. According to the City Purchasing Office (Purchasing), Austin paid Office Depot $5.6 million under the agreement.

OBJECTIVE AND SCOPE

Our objective was to determine whether sufficient risk exists to support conducting an audit of the City's payments to Office Depot given related legal action in other cities that have contracted with Office Depot. The scope included City's transactions with Office Depot and related documents.

WHAT WE FOUND

We found that sufficient risks exist to support conducting an audit of the City's payments to Office Depot. However, the City may not be able to recover potential prior overcharges due to the lack of a formal signed agreement between the City and Office Depot.

Purchasing adopted and relied on an existing cooperative contract between LA County and Office Depot without any additional terms specific to the City, such as a list of restricted items and the pricing option that would apply to the City. In addition, the City was not a signatory to this agreement. The Law Department expressed concern that without clearly stating the contractual terms applicable to the City, it would be difficult to determine Office Depot's contractual obligations.

In response to allegations of overcharging, Purchasing took some steps to review Office Depot charges. However, we found those steps were not sufficient to provide reasonable assurance that Office Depot did not overcharge the City. Purchasing indicated they took the following steps:

- Compared prices paid to Office Depot for select months against price lists that were a part of the U.S. Communities agreement
- Requested Office Depot to perform a self-audit of payments
- Instituted a monitoring system to spot-check for variances

Purchasing was unable to provide documentation of its verification of Office Depot's self-audit. In addition, Purchasing did not employ methodologies other cities used which could have provided additional assurance regarding possible overcharges. For example, other cities tested compliance with a clause requiring Office Depot to charge customers the same prices for the same or substantially similar items or services. This led to the discovery of overcharges by Office Depot. Purchasing indicated they did not consider applying this methodology in their price analysis.

Exhibit 1, below, shows alleged overcharges for two cities with similar Office Depot contracts.

EXHIBIT 1
Cities' Payments to Office Depot and Overcharges

City	Amount Paid	Overcharges	Overcharges as Percent of Payments
Houston	$ 19.2 million	$ 1.7 – 6.6 million (alleged)	9% – 34%
San Francisco	$ 18.2 million	$ 4.25 million (final settlement)	23%

SOURCE: Audit Report of the City of Houston dated December 2012, Audit Report of the City of San Francisco dated December 2009, and San Francisco Mayor's press release dated March 2011

We appreciate the cooperation and assistance we received from Purchasing Office staff during this work.

Kenneth J. Mory, City Auditor