



CITY OF ATLANTA


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TO: Honorable Mayor and Members of the City Council

FROM: Leslie Ward 

DATE: February 24, 2014

SUBJECT: Implementation of Audit Recommendations: Department of Law

We follow up on previous audits to assess the extent to which responsible officials have taken timely, appropriate corrective action in response to audit findings and recommendations. The city charter requires my office to report on completed audits, major findings, management's corrective actions, and significant findings that have not been fully addressed.

We followed up on four recommendations issued to the Department of Law from three audits: *Aviation Grants Management- Federal Recovery Act* (June 2010), *Department of Watershed Management- Claims Review* (March 2011), and *Implementation of Audit Recommendations: Department of Information Technology* (May 2012). The recommendations range in age from 19 to 42 months old. Management agreed with all four recommendations and planned to implement most within a few months. We conducted this follow-up in accordance with generally accepted government auditing standards. Our follow-up methods included:

- obtaining management's assessment of whether each recommendation has been implemented, partially implemented, or not implemented,
- reviewing departments' responses and data submissions to understand how management addressed each audit recommendation, and
- reviewing prior follow-up work related to recommendations.

The Department of Law implemented all of the recommendations we assessed in this report. Appendix A summarizes our assessment of each recommendation.

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The Department of Law has developed a standard contract provision for contracts funded under the American Recovery and Reinvestment Act of 2009. In *Aviation Grants Management- Federal Recovery Act* we found that although the city operated a telephone hotline for the reporting of fraudulent activity, few calls were made by vendors. In order to expand vendor awareness of fraud reporting avenues, we recommended that procurement and law develop a standard provision in contracts informing contractors of the effect of fraud and mechanisms available to report suspected fraud. The law department provided a contract provision for Recovery Act funded projects requiring the city's contractors and subcontractors to report fraud, waste, or abuse of Recovery Act funds. The provision includes examples of fraud, waste, and abuse and provides contractors with five avenues for reporting suspected activity. The department also provided an email showing that the provision was communicated to all of the aviation lawyers as well as the procurement department. The city's Recovery Act projects are complete, but the language is available for inclusion in contracts for future projects.

The Department of Law compiles claims and litigation data electronically. In *Department of Watershed Management- Claims Review* we recommended that the city attorney compile comprehensive claims and litigation data electronically, including, at a minimum, loss date, type of claim, cause of claim, disposition, and settlement amount. The department provided 17 spreadsheet reports containing tort claims and settlements covering fiscal years 2008 to 2014 (current through September 2013). The report titles are: (1) Claim Settlement Report, (2) Tort Claims Settlements Report, (3) Settled Claims Report, (4) Claim Settlements and Denials, (5) Resolved Claims, and (6) Litigation and Claims Settlement Summary Report. The reports include the following fields: department, bureau, type of claim, number settled, amount of demand, amount of settlement, claim number, claimant, date settled, fund account, quarter, date denied, days to decision, council district, loss date, and type of damage. Although the 2012 and 2013 reports lack the recommended loss date field, the Department of Law records and can provide this information from its case management system, and will be adding this information to future reports.

The Department of Law shares claims and litigation data electronically with risk management. In *Department of Watershed Management- Claims Review* we recommended that the city attorney regularly provide relevant claims and litigation data to risk management. The law department provided four emails that it sent to risk management between May 2011 and December 2013. The emails included reports for liability claims, motor vehicle accident claims by department, and claim settlements. Also, the Director of Risk Management confirmed he has received claims and litigation data from the law department.

The Department of Law has identified laws and regulations governing city data. We recommended in our *Information Technology General Controls* audit (November 2010) that the chief information officer work with the city attorney to identify laws and regulations that apply to city data and develop procedures to classify and protect data commensurate with

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requirements. In that audit we identified, under the COBIT framework, that organizations should implement key controls for monitoring and evaluating system design and continuously identify laws, regulations, and other external compliance requirements for incorporation into the organization's policies, standards, procedures, and methodologies. During our follow-up audit, *Implementation of Audit Recommendations: Department of Information Technology* (May 2012), we found that the city had not identified laws and regulations for city data. We reassigned the recommendation to the Department of Law and recommended that the city attorney identify laws and regulations that apply to city data. We recommended that the review cover Payment Card Industry Standards (PCI), Health Insurance Portability and Accountability (HIPPA), and the Federal Information Security Management Act (FISMA).

The department of law issued a memorandum in October 2012 identifying and outlining laws and regulations that apply to city data. Law concluded HIPPA (Health Insurance Portability and Accountability Act) privacy rules may have limited applicability to the city in cases where the city acts as the administrator of a health plan. Additionally, the Department of Law identified four state privacy laws that cover city data: the Open Records Exemption (O.C.G.A. § 50-18-72(13.1), the Georgia Fair Business Practices Act or GFBPA (O.C.G.A. § 10-1-393.8), Data Destruction (O.C.G.A. § 10-15-2), and Security Breach of Computerized Personal Information (O.C.G.A. § 10-1-910, et seq.). Law concluded that the PCI (Payment Card Industry) Standards and FISMA (Federal Information Security Management Act) do not impose legal requirements on the city. The department's memorandum noted that the PCI Standards are not law and thus are not binding on the city, and FISMA does not apply to the city because it only applies to federal agencies.

Generally accepted government auditing 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.

We appreciate the courtesy and cooperation of city staff throughout the audit. The team for this project was Damien Berahzer and Rhonda Sadler.

Cc: Cathy Hampton, City Attorney
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David Bennett, Senior Policy Advisor, Mayor's Office
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Rhonda Johnson, Municipal Clerk
Nina Hickson, Ethics Officer
Tangela Williams, Council Director
Dexter Chambers, Director, City Council Office of Communications
Reggie Grant, Legislative Analyst, Finance Committee
Bernard Thomas, Legislative Analyst, Public Safety Committee
Audit Committee Members

Attachment A: Audit Recommendations Closed

	Report Title and Date	Recommendation	City Auditor Analysis	Implementation Status
1	<p>Aviation Grants Management- Federal Recovery Act June 2010</p> <p>Management Agreed</p> <p>Expected Implementation Date: July 2010</p>	<p>The city attorney should develop a standard provision in contracts informing contractors of the effect of fraud and mechanisms available to report suspected fraud.</p>	<p>The law department provided a contract provision for Recovery Act funded projects requiring the city's contractors and subcontractors to report fraud, waste, or abuse of Recovery Act funds. The provision includes examples of fraud, waste, and abuse and provides contractors with five avenues for reporting suspected activity.</p>	Implemented
2	<p>Department of Watershed Management- Claims Review March 2011</p> <p>Management Agreed</p> <p>Expected Implementation Date: October 2011</p>	<p>The city attorney should compile comprehensive claims and litigation data electronically, including, at a minimum, loss date, type of claim, cause of claim, disposition, and settlement amount.</p>	<p>The law department compiles claims and litigation data electronically. We received spreadsheet print-outs containing tort claims and claim settlement reports covering fiscal years 2008 to 2014. The reports include fields such as: type of claim, number settled, amount of demand, amount of settlement, claim number, claimant, date settled, date denied, days to decision, loss date, and type of damage, etc.</p>	Implemented
3	<p>Department of Watershed Management- Claims Review March 2011</p> <p>Management Agreed</p> <p>Expected Implementation Date: July 2011</p>	<p>The city attorney should regularly provide relevant claims and litigation data to risk management.</p>	<p>The law department provided four emails that it sent to risk management between May 2011 and December 2013. The emails included reports for liability claims, motor vehicle accident claims by department, and claim settlements. Also, the Director of Risk Management confirmed he has received claims and litigation data from the law department.</p>	Implemented

	Report Title and Date	Recommendation	City Auditor Analysis	Implementation Status
4	<p>Implementation of Audit Recommendations: Department of Information Technology May 2012</p> <p>Management Agreed</p> <p>Expected Implementation Date: August 2012</p>	<p>The city attorney should identify laws and regulations that apply to city data. The review of laws and regulations performed should include:</p> <ol style="list-style-type: none"> 1. PCI (Payment Card Industry) Standards 2. HIPPA (Health Insurance Portability and Accountability Act) 3. FISMA (Federal Information Security Management Act) 	<p>The department of law issued a memorandum in October 2012 identifying and outlining laws and regulations that apply to city data.</p>	<p>Implemented</p>