
CITY OF SAN ANTONIO

OFFICE OF THE CITY AUDITOR



Follow-Up Audit of City Attorney's Office

Outside Legal Counsel Billings

Project No. AU19-F04

April 5, 2021

Kevin W. Barthold, CPA, CIA, CISA
City Auditor

Executive Summary

As part of our annual Audit Plan approved by City Council, we conducted a follow-up audit of the recommendations made in the City Attorney's Office Outside Legal Counsel dated November 9, 2017. The objective for this follow-up audit is:

Determine if prior audit of Outside Legal Counsel Billings recommendations have been effectively implemented.

We determined that the City Attorney's Office (CAO) has made significant progress in addressing the two prior audit recommendations; however, both action plans were partially implemented.

The CAO's Office implemented procedures to ensure engagement letters from outside legal counsel were obtained and included the required information. However, controls can be strengthened surrounding the invoice review process specifically related to allowable costs and duplicate payments. Additionally, the CAO has not updated their invoice review policies and procedures to reflect actual business practices.

While the City Attorney's Office is monitoring cases on a case by case basis, they have not updated their Outside Legal Counsel Guidelines to reflect the actual current case monitoring procedures.

City Attorney's Office Management agreed with the audit findings and has developed positive action plans to address them. Management's verbatim response is in Appendix B on page 7.

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Background

On November 9, 2017, the Office of the City Auditor completed an audit of the City Attorney's Office (CAO) outside Legal Counsel Billings. The objective of the audit was as follows:

Determine if outside legal expenditures are properly authorized and properly supported.

The Office of the City Auditor (OCA) concluded that expenditures for outside legal counsel are not properly authorized or properly supported. OCA identified overpayment of hourly rates and payment for unauthorized personnel assigned to cases. In addition, OCA was unable to determine the accuracy of invoice payments due to lack of engagement letters on file. Finally, a lack of periodic monitoring of cases activities from the inception to conclusion of cases was identified. The following recommendations were made:

- Ensure that outside legal firms are providing completed engagement letters detailing the personnel assigned to the case along with their hourly rate. In addition, establish controls to ensure invoices are reviewed for personnel assigned and accurate hourly rates.
- Require firms to provide monthly case status reports timely. Additionally, implement a periodic monitoring program to adequately track case activities throughout the life of the case and require firms to obtain approval prior to exceeding established thresholds.

City Attorney's Office management agreed with the conclusions and developed action plans to address the audit recommendations.

Audit Scope and Methodology

The audit scope was limited to the recommendations and corrective action plans made in the original report for the time frame from October 2017 to September 2019.

We interviewed CAO personnel to obtain an understanding of newly implemented controls and processes related to outside legal counsel billings and case monitoring. We reviewed source documents such as updated policies and procedures, legal case/matter documentation, correspondence memorandums, engagement letters, invoices, and financial data from ProLaw and SAP.

We determined that the following internal control components were significant to the audit objective. Significant internal control components and principles include the following:

| Control Component | Control Principle |
|---------------------|--|
| Control Environment | Assignment of Authority and Responsibility |
| Control Activities | Authorizations and Approvals Verifications Policies and Procedures |
| Monitoring | Ongoing Monitoring |

As part of our testing procedures we examined the following areas: invoicing and payment processes, City Attorney files which included engagement letters, invoices received from outside legal counsel, case logs, ProLaw data of invoices paid to outside legal counsel and payment data from SAP.

We selected a random sample of cases to determine if reporting requirements, invoice review and approval, and charges were compliant to Outside Legal Counsel Guidelines. Finally, we performed data analysis on payment data to identify anomalies such as duplicate payments.

We relied on computer-processed data in the ProLaw system and SAP to validate the outside legal counsel engagement letters and invoices. Our reliance was based on performing direct tests on the data rather than evaluating the system's general and application controls. We do not believe that the absence of testing general and application controls had an effect on the results of our audit.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those 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.

Prior Audit Recommendations and Status

A. Invoice Validation

Prior Recommendation(s):

Ensure that outside legal firms are providing completed engagement letters detailing the personnel assigned to the case along with their hourly rate. In addition, establish controls to ensure invoices are reviewed for personnel assigned and accurate hourly rates.

Status: Partially Implemented

Engagement Letters

We tested a total of 57 transactional matters and litigation cases and determined overall engagement letters from outside legal counsel were obtained and included the required information.

Per Outside Legal Counsel Guidelines, COSA must approve the attorneys and paralegals within a firm who will represent the City in any engagement. The agreed-upon staffing complement will be reflected on the Legal Matter Transmittal Form which accompanies the Engagement Letter.

The City Attorney's Office (CAO) has implemented procedures that ensure outside legal firms are providing the initial completed engagement letter detailing the personnel assigned to the case along with their hourly rate.

Invoice Testing

In the previous audit, we were unable to determine the accuracy of invoice payments due to a lack of engagement letters on file. However, the CAO have improved their process and completed engagement letters from outside legal firms were available for review.

We reviewed 20 litigation cases which included 146 invoices. Fourteen of 146 invoices either did not have sufficient documentation and also included charges for clerical, secretarial, administrative activities, travel time, and overhead costs which are not allowed according to the Outside Legal Counsel Guidelines. Although continued improvement is needed, the CAO demonstrated significant improvement from the prior audit.

Per Outside Legal Counsel guidelines, outside legal counsel will not be compensated unless specifically authorized in writing by the Deputy City Attorney.

Additionally, the OCA have not updated their engagement guidelines related to invoicing.

The City Attorney's Office is not consistent in executing guidelines related to the disallowance of non-compensable fees. Additionally, the CAO was going to research whether to obtain an electronic invoicing system which would significantly enhance billing information consistency. However, the CAO has not yet obtained an electronic invoicing system.

Duplicate Payment Testing

We reviewed for potential duplicate payments and identified three duplicate payments had been made to vendors for a total amount of \$5,877.50.

According to Account Payables best practices, routines to identify duplicates should be established. The City Attorney's Office lacks adequate controls to identify and correct duplicate payments after it has been sent out for payment.

Through discussion with the City's Attorney's Office, the \$5,877.50 was recuperated from the vendors via a check reimbursement and a credit in the following invoice cycle for the case identified.

Recommendations

The City Attorney's Office should update policies and procedures to reflect actual business practices, to include what activities are allowable and authorization requirements for making exceptions to the process. In addition, implement a process to identify and correct duplicate payments. Finally, continue to research the potential for an electronic invoicing system.

B. Case Monitoring

Prior Recommendation(s):

Require firms to provide monthly case status reports timely. Additionally, implement a periodic monitoring program to adequately track case activities throughout the life of the case and require firms to obtain approval prior to exceeding established thresholds.

Status: Partially Implemented

The CAO initially required outside legal counsel to submit a monthly Case Summary Report. However due to cost concerns, the CAO discontinued the practice. Current cases are being monitored on a case by case basis. However,

the City Attorney's Office has not updated their Outside Legal Counsel Guidelines to reflect current monitoring practices.

Recommendations

The City Attorney's Office should review current case monitoring policies and procedures and revise them to reflect the actual current case monitoring process.

Appendix A – Staff Acknowledgement

Buddy Vargas, CIA, CFE, Audit Manager
Hedei L. Newcomb, CFE, Auditor in Charge

Appendix B – Management Response



CITY OF SAN ANTONIO

SAN ANTONIO TEXAS 78203-3966

February 23, 2021

Kevin W. Barthold, CPA, CIA, CISA
City Auditor
San Antonio, Texas

RE: Management's Corrective Action Plan for Follow-Up Audit of City Attorney's Office Outside Legal Counsel Billings

- ☐ The City Attorney's Office has reviewed the audit report and has developed the Corrective Action Plans below for the Invoice Validation and Case Monitoring recommendations.

| Recommendation | | | | | |
|----------------|---|-------------------|-----------------|---|---|
| # | Description | Audit Report Page | Accept, Decline | Responsible Person's Name/Title | Completion Date |
| 1 | <p>Invoice Validation</p> <p>The City Attorney's Office should update policies and procedures to reflect actual business practices, to include what activities are allowable and authorization requirements for making exceptions to the process. In addition, implement a process to identify and correct duplicate payments. Finally, continue to research the potential for an electronic invoicing system.</p> | 3-4 | Accept | Deborah Klein Deputy City Attorney Litigation | <p>Updates to OC Guidelines – 3/30/21</p> <p>Implementation of Electronic Invoicing System- 9/30/21</p> |
| | <p>Action plan:</p> <p>The Outside Counsel Guidelines have been updated to reflect the actual business practices of the office, clarifying what activities are allowable and which require specific authorization. With respect to the electronic invoicing system, the CAO has contracted with a consultant group to provide customization of the ProLaw Application, Outside Counsel Invoice Tracking Tab; and is working with them to finalize the product.</p> | | | | |

| Recommendation | | | | | |
|--|---|-------------------|-----------------|---|-----------------|
| # | Description | Audit Report Page | Accept, Decline | Responsible Person's Name/Title | Completion Date |
| 2 | Case Monitoring The City Attorney's Office should review current case monitoring policies and procedures and revise them to reflect the actual current case monitoring process. | 4-5 | Accept | Deborah Klein Deputy City Attorney Litigation | 3/30/21 |
| Action plan: The Outside Counsel Guidelines have been updated to reflect the actual business practices for case monitoring procedures. | | | | | |

We are committed to addressing the recommendations in the audit report and the plan of actions presented above.

Sincerely, 

Deborah Klein
Deputy City Attorney
City Attorney's Office

3/24/21
Date

Elizabeth Provencio

Elizabeth Provencio
First Assistant City Attorney
City Attorney's Office

March 24, 2021
Date

Andrew Segovia

Andrew Segovia
City Attorney

03/24/2021
Date