



October 8, 2014

To: Finance and Administration Committee

From: Darrell Johnson, Chief Executive Officer
Janet Sutter, Executive Director
Internal Audit Department

Subject: Review of the Administration of Public Records Requests

Overview

The Internal Audit Department of the Orange County Transportation Authority has completed a review of the administration of public records requests. Based on the review, the Orange County Transportation Authority operated in compliance with the California Public Records Act; however, recommendations were made to improve controls over cash receipts and maintenance of records, and to update policies and procedures to reflect actual practices.

Recommendation

Direct staff to implement two recommendations offered in the Review of the Administration of Public Records Requests, Internal Audit Report No. 15-503.

Background

All state and local government agencies are covered by the California Public Records Act (CPRA). The fundamental precept of the CPRA is that governmental records shall be disclosed to the public, upon request, unless there is a specific reason not to do so. When a copy of a record is requested, the agency shall determine within ten days whether to comply with the request, and shall promptly inform the requester of its decision and the reasons.

Public records requests are typically made through the Orange County Transportation Authority (OCTA) website. For typical requests, Clerk of the Board (COB) staff logs and routes the request to the appropriate department. For requests of sensitive public records, COB staff forwards the request to legal counsel. If a 14-day extension is required and/or the request will be denied, legal counsel prepares the communication to the requestor.

Once the requested records are received, COB staff prepares an invoice cost sheet reflecting the fee and notifies the requestor that the records are available. The requestor remits the payment to COB staff, who notes the amount paid, date of payment, and method of payment on the invoice cost sheet. One copy of the invoice cost sheet is provided to the requestor as a receipt, one copy is filed in the COB files, and one copy is placed with the payment that is dropped in a vault for Accounting Section staff to process with the daily deposit.

Discussion

During the review, the Internal Audit Department (Internal Audit) noted that cash receipts for CPRA requests are stored in an unlocked desk drawer, are not properly accounted for, and are not deposited in a timely manner. One receipt for \$37.20 was never deposited, and there were nine instances, ranging from \$2.40 to \$13.80, of two deposits being made for the same request. In addition, Internal Audit identified several instances where information recorded on the monthly log of CPRA requests did not agree to receipts and deposits made. While the cash receipts are generally nominal amounts, controls should be improved. Internal Audit recommended that controls over the handling, recording, and deposit of cash receipts be improved, and that management consider transferring the processing of cash receipts to the OCTA Store. Management agreed and has created procedures to transfer the handling and deposit of all forms of payment over to the OCTA Store for better control, accuracy, and accountability.

Internal Audit noted some practices that are not discussed and/or conflict with policies and procedures. Internal Audit recommended that management revise policies, procedures, and practices to: provide clarification for handling of CPRA requests from the media; ensure that the recorded date of a CPRA request is the date of submission of the request, within standard business hours; ensure retention of emails and/or mail records supporting notification to requestors that a time extension is required and/or records are available; and include guidelines and authorities for the waiving of fees. Management responded that policies and procedures will be revised to reflect consistency with the handling of all public records requests and to address guidelines and authorities for waiving fees as appropriate. Management also agreed to implement the other parts of the recommendation.

Summary

Based on the review, OCTA operated in compliance with the CPRA; however, Internal Audit made recommendations to improve controls over cash receipts

and maintenance of records and to update policies and procedures to reflect actual practices.

Attachment

- A. Review of the Administration of Public Records Requests, Internal Audit Report No. 15-503

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ORANGE COUNTY TRANSPORTATION AUTHORITY INTERNAL AUDIT DEPARTMENT



Review of the Administration of Public Records Requests

Internal Audit Report No. 15-503

September 26, 2014



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Conclusion

The Internal Audit Department (Internal Audit) has completed a review of the administration of public records requests. Based on the review, the Orange County Transportation Authority (OCTA) operated in compliance with the California Public Records Act (CPRA); however, Internal Audit made recommendations to improve controls over cash receipts and maintenance of records, and to update policies and procedures to reflect actual practices.

Background

California Public Records Act

All state and local government agencies are covered by the CPRA. The fundamental precept of the CPRA is that governmental records shall be disclosed to the public, upon request, unless there is a specific reason not to do so. Most of the reasons for withholding disclosure of a record are set forth in specific exemptions contained in the CPRA. However, some confidentiality provisions are incorporated by reference to other laws. Also, the CPRA provides for a general balancing test by which an agency may withhold records from disclosure, if it can establish that the public interest in nondisclosure clearly outweighs the public interest in disclosure.

Records may be inspected at an agency during its regular office hours. Copies of records may be obtained for the direct cost of duplication. The direct cost of duplication includes the pro rata expense of the duplicating equipment utilized in making a copy of a record and, conceivably, the pro rata expense in terms of staff time (salary/benefits) required to produce the copy. A staff person's time in researching, retrieving, and mailing the record is not included in the direct cost of duplication.

When a copy of a record is requested, the agency shall determine within ten days whether to comply with the request, and shall promptly inform the requester of its decision and the reasons. Where necessary, because either the records or the personnel that need to be consulted regarding the records are not readily available, the initial ten-day period to make a determination may be extended for up to fourteen days. If possible, records deemed subject to disclosure should be provided at the time the determination is made. If immediate disclosure is not possible, the agency must provide the records within a reasonable period of time, along with an estimate of the date that the records will be available. When a written request is denied, it must be denied in writing.

Procedures Over Public Records Request

Public records requests are typically made through the OCTA website. An automatic confirmation is provided for all public records requests made through the website. Requests made through the website go to a Public Records Request folder in Microsoft

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Outlook accessible by Clerk of the Board (COB) staff. The media also makes public records requests. These requests often go directly to Media Relations, who typically provides the requested records and copies COB as notification.

COB staff checks the Public Records Request folder constantly throughout the day. For typical requests, COB staff prints and logs the request in a monthly log and then routes the request to the appropriate department. The department is asked to provide the requested records within seven days. For requests of sensitive public records, COB staff forwards the request to legal counsel. If a 14-day extension is required and/or the request will be denied, legal counsel prepares the communication to the requestor.

Once the requested records are received, COB staff prepares an invoice cost sheet reflecting the fee, per the Public Access to Records Policy and Procedure. COB staff then notifies the requestor that the records are available and the related fee. The requestor remits the payment to COB staff, who notes the amount paid, date of payment, and method of payment (i.e. cash or check) on the invoice cost sheet. One copy of the invoice cost sheet is provided to the requestor as a receipt, one copy is filed in the COB files, and one copy is placed with the payment that is dropped in a vault for processing by Accounting Section staff to process with the daily deposit.

All public records request packages are filed by year. There were 298 requests logged in fiscal year (FY) 2012-13 and 346 requests logged in FY 2013-14.

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Objectives, Scope, and Methodology

The objectives were to review the adequacy and effectiveness of controls to ensure compliance with the CPRA and OCTA policies and procedures.

The methodology consisted of review of controls over processing and tracking of public records requests and review of a sample of public records act requests for evidence of controls and compliance with CPRA, as well as proof and deposit of fees.

The scope is limited to compliance with CPRA and OCTA policies and procedures. The scope included a judgmental sample of 25 public records requests made from July 1, 2012 through June 30, 2014. The scope also included tracing a judgmental sample of 25 records from raw data collected in the online forms to the COB public records request logs to determine the completeness of logs.

This review was conducted 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 the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

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Audit Comments, Recommendations and Management Responses

Cash Receipts and Recordkeeping

Cash receipts for CPRA requests are stored in an unlocked desk drawer, are not properly accounted for, and are not deposited in a timely manner.

Internal Audit identified several discrepancies between the records of payments collected and deposits made. One receipt on file indicated a check payment of \$37.20 was received on May 14, 2014; however, the payment was actually made in cash on May 12, 2014. This payment was never deposited. Nine other cash payments, ranging from \$2.40 to \$13.80, were deposited twice, with the deposits being accompanied by different written receipts for the same CPRA request.

In addition, Internal Audit identified several instances where information recorded on the monthly log of CPRA requests did not agree to receipts and deposits made. Two CPRA request entries indicated that no fee was charged; however cash payments with receipts referencing these requests were deposited. For another CPRA request, the information on the log did not agree with the receipt. In another instance, the monthly log indicated that request number 2014-123 was voided and skipped; however, receipts referencing request number 2014-123 and 2014-123A were deposited.

Review found that cash receipts collected during the second half of FY 2013-14 were not deposited for several months. While the cash receipts are generally nominal amounts, controls should be improved.

Recommendation 1:

Internal Audit recommends that controls over the handling, recording, and deposit of cash receipts be improved. Management should consider transferring the processing of cash receipts to the OCTA Store and should ensure that information recorded for each CPRA request is maintained accurately and up-to-date.

Management Response (COB):

Management agrees that the controls in place for payments and deposit were inadequate, and accountability was not efficient or reliable. The Clerk's office has worked with those managing the OCTA Store and together have created procedures to transfer the handling and deposit of all forms of payment (cash, check, credit/debit card) over to the OCTA Store for better control, accuracy, and accountability.

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Updates to Policies and Procedures

Internal Audit noted some practices that are not discussed and/or conflict with policies and procedures:

- Media requests are often processed by Media Relations; however, the Public Access to Records Policy and Procedure indicates that the COB is responsible for registering and processing requests by members of the public, including members of the media. Also, records requested by the media are typically sent electronically, resulting in no fee charges; whereas, other public records requests are provided in paper format and assessed a fee.
- COB staff responsible for recording the date a request is received use the date that the email request is opened and/or forwarded to them rather than the actual date of the request. To help ensure compliance with the regulatory requirements for response, the date of the request, within standard business hours, should be used.
- While key dates are recorded on a log, the files do not consistently include evidence that the requestor was notified that the records were available.
- Occasionally, fees may be waived; however, the policy and procedures do not provide guidance on this practice or assign authority to waive fees.

Recommendation 2:

Internal Audit recommends that management revise policies, procedures, and practices as follows:

- Ensure that policies and procedures provide guidance for handling of public records requests from the media.
- Ensure that the recorded date of a public records request is the date of submission if received within standard business hours.
- Retain evidence of emails and/or mail records supporting notification to requestors that a time extension is required and/or records are available.
- Include guidelines and authorities for the waiving of fees related to public records requests.

Management Response (COB):

- Management agrees with this recommendation and will revise the policies and procedures to reflect consistency with the handling of public records requests. These revisions will address guidelines and authorities for waiving fees, as appropriate.
- Management agrees to ensure that the recorded date of a public records request is the date of receipt by OCTA, within standard business hours.

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- Management agrees that the Clerk's office will retain evidence of e-mails/mail records to support notification to requestors that a time extension is available or that records are available.
- A "Month-End Review" procedure has been implemented, which will help to reconcile the documentation of emails and/or mail records which support notification to requestors for all completed requests on the log for that month. Additionally, internal department procedures have been developed to outline this process.