

Audit Report

Interlocal Agreements Audit

August 2021



The City uses a specialized type of contract called an interlocal agreement to exchange goods and services with other government agencies. The City's interlocal agreements are collectively worth millions of dollars in authorized funding and are executed by at least 25 departments. Departments have not fully implemented the City's processes to maintain the interlocal agreements in the City's systems. In addition, the City has not identified a standardized information system to manage interlocal agreements. As a result, City systems do not have comprehensive information about interlocal agreements, and departments do not use a consistent approach to manage interlocal agreements. Comprehensive information on interlocal agreements could help the City know what interlocal agreements it has, improve coordination between City departments, and avoid duplication of agreements.

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Cover: Austin City Hall, <https://www.austintexas.gov/government/city-hall>

Objective

Does the City effectively manage interlocal agreements?

Background

Interlocal agreements are specialized contracts that allow governments to exchange goods and services. They must comply with requirements outlined in the Texas Government Code. The purpose of interlocal agreements is to increase the efficiency and effectiveness of local governments by authorizing them to contract with other government agencies. The City of Austin uses interlocal agreements to contract with counties, states, universities, school districts, and others.

The City uses four types of interlocal agreements as illustrated in the table below:

Exhibit 1: Types of interlocal agreements

Type of Interlocal Agreement	Definition	Example
Provider interlocal agreement	City performs work and another government agency pays for it.	Travis County pays the City to provide animal services on unincorporated County land.
Receiver interlocal agreement	Another government agency performs work and the City pays for it.	The City pays Travis County to jail people arrested by the Austin Police Department.
Non-Financial interlocal agreement	Agreements between government agencies to exchange services without paying each other.	The City provides veterinary students at Austin Community College with internships at the Austin Animal Center.
Cooperative Procurement agreement ¹	Government agencies use each other's competitively bid contracts.	The City can purchase FedEx services through a contract that the State of Texas already negotiated.

Source: Office of the City Auditor interviews with Purchasing Office staff and contract managers of City departments, April 2021; contract manager survey conducted in September 2020.

The management of interlocal agreements is decentralized, and no department oversees the entire process. Unlike other contracts, the Purchasing Office is not involved in most of the interlocal agreement

¹ Cooperative Procurement agreements do not involve an exchange of funds between governments.

contracting process. Instead, the Law Department works closely with individual departments to write the interlocal agreements and assists with negotiations. The City Council approves all four types of interlocal agreements except for Austin Energy's interlocal agreements under \$100,000. The Purchasing Office's role is to maintain records of approved interlocal agreements in the City's systems. The individual City departments perform all monitoring activities for interlocal agreements.

Individual City departments are responsible for managing provider, receiver, and non-financial interlocal agreements. The Purchasing Office is responsible for overseeing cooperative procurement agreements. Based on the information we received from 25 City departments,² the City has about 260 interlocal agreements. See Appendix for details. In addition, based on information we received from the Purchasing Office, the City has about 26 cooperative procurement agreements.

² During the course of the audit, 2 of the 25 departments (Planning and Zoning, Neighborhood Housing and Community Development) combined into one department now called Housing and Planning.

What We Found

Summary

The City uses a specialized type of contract called an interlocal agreement to exchange goods and services with other government agencies. The City's interlocal agreements are collectively worth millions of dollars in authorized funding and are executed by at least 25 departments. Departments have not fully implemented the City's processes to maintain the interlocal agreements in the City's systems. In addition, the City has not identified a standardized information system to manage interlocal agreements. As a result, City systems do not have comprehensive information about interlocal agreements, and departments do not use a consistent approach to manage interlocal agreements. Comprehensive information on interlocal agreements could help the City know what interlocal agreements it has, improve coordination between City departments, and avoid duplication of agreements.

Finding

The City does not know what interlocal agreements it has and departments use different approaches to manage them. As a result, the City does not have comprehensive information about interlocal agreements.

The management of interlocal agreements is decentralized across various departments, and each department has a unique process for storing their agreements. Our review of Citywide practices identified issues that prevent the City from having comprehensive information about interlocal agreements such as the amount of authorized funds, interlocal partners, and number of agreements. With multiple departments involved in managing interlocal agreements that the City Council approved for millions of dollars in authorized funding, the City should establish and implement an effective management process.

City departments have not fully implemented processes for managing interlocal agreements.

There are multiple parties involved in the interlocal agreement process. For most interlocal agreements, individual departments work with the Law Department to purchase goods and services through these agreements. The Purchasing Office is responsible for maintaining records of interlocal agreements in the City's systems.

The City's Procurement Manual outlines the roles and responsibilities for managing interlocal agreements. The manual says that once City Council approves an agreement, the individual department must send it to the Purchasing Office. The Purchasing Office should then record the interlocal agreement in the City financial and document storage systems.

Based on our review we noted that this process has not been fully implemented. Exhibit 2 shows the implementation status of processes for interlocal agreements.

Exhibit 2: Implementation of the Interlocal Agreements Process

Type of Interlocal Agreement	Implementation of process
Provider and Receiver interlocal agreement	Not fully implemented
Non-Financial interlocal agreements	Not fully implemented
Cooperative Procurement agreements	Implemented

Source: Office of City Auditor analysis of interlocal agreements procedures in the Procurement Manual and interviews with staff responsible for interlocal agreements management, June 2021.

Purchasing Office staff said they have developed procedures for recording non-financial interlocal agreements but have not yet formalized them. The Purchasing Office has trained a small number of departments on these procedures.

For cooperative agreements only, the Purchasing Office is responsible for executing and recording them into the City’s document storage system. It appears that the Purchasing Office has fully implemented processes for recording cooperative agreements.

We noted from our survey and interviews that departments did not consistently provide the Purchasing Office with the required information about interlocal agreements. As a result, not all interlocal agreements are recorded and uploaded to City systems. We selected a sample of 25 interlocal agreements and found that 6 of 25 (24%) were recorded in the City’s systems and 19 of 25 (76%) were not recorded in the City’s systems.

Purchasing Office staff said that although they are responsible for recording interlocal agreements in the City’s systems, their authority over the interlocal agreement process is not clearly defined. They said that without authority over the process, they cannot introduce a mechanism requiring departments to provide them with interlocal agreement documentation and follow Citywide procedures. Purchasing Office staff noted that it may be possible to track interlocal agreements by determining if any interlocal agreements were included on City Council agendas. However, staff said the Purchasing Office does not have enough resources to do this efficiently.

Compliance with established procedures would provide information about interlocal agreements such as the amount of authorized funds, interlocal partners, and number of agreements. During this audit, we noted that the City removed the list of interlocal agreements on the City website as the list was not reliable. A complete Citywide list of interlocal agreements could improve coordination among departments, avoid duplication of agreements, and help the City know which interlocal agreements it has and how much it spends on them. Further, publicizing this list would allow potential interlocal partners to find complete and accurate information about the City’s interlocal agreements.

The City has not identified a standardized information system for managing interlocal agreements.

Best practices for contract management³ state that a contract management system should be standardized and allow for uploading, tracking, and monitoring contracts. This system should be accessible to all parties involved in the interlocal contracting process.

In response to recommendations from a 2010 audit on contract management, the City identified its project management system as the centralized system to manage contract information. However, the City did not select this system or any other system as the designated location for storing interlocal agreement information.

As mentioned above, the Purchasing Office established procedures to maintain a record of interlocal agreements. However, these procedures do not align with best practice recommendations for having a standardized contract management system. Instead of one standardized system, the interlocal agreements are recorded in two different systems as shown in the table below:

Exhibit 3: City Systems for Interlocal Agreement Record Keeping

Type of Interlocal Agreement	City Systems
Provider and Receiver interlocal agreements	City's financial system and City's document storage system
Non-Financial interlocal agreements	City's financial system
Cooperative Procurement agreements	City's document storage system

Source: Office of City Auditor analysis of interlocal agreements procedures in the procurement manual and interviews with staff responsible for interlocal agreements management, June 2021.

Each department is responsible for monitoring their own interlocal agreements. We surveyed staff responsible for managing interlocal agreements and noted that they use different management methods. The contract managers indicated that they keep records in various locations including their department shared drive, paper copy, department database, the City's document storage system, the City's contract management system, and the City's project management system. We found that:

- 11 of 25 (44%) departments store their interlocal agreement information in one location.
- 14 of 25 (56%) departments store their interlocal agreement information in two or more locations.

Without a standardized information system for managing interlocal

³ We collected best practices from various state government agencies.

agreements, department contract managers create their own ways to manage them. Many contract managers do this manually. These practices may result in inefficiencies and incomplete information for interlocal agreements. For example, two departments we interviewed reported that they missed the renewal dates for their interlocal agreements.

The interlocal agreements we reviewed included all required clauses. They also contained most recommended clauses, but we noted some exceptions.

Interlocal agreements are governed by the Texas Government Code, which requires an interlocal agreement to:

1. Be authorized by the governing body
2. State the purpose, terms, rights, and duties of the contracting parties
3. Specify that any payments are made from currently available revenues⁴
4. Fairly compensate the performing party⁵

Law Department management said that, to protect the City interests, they maintain a contract standards manual that provides a list of terms that must be included in interlocal agreements. This manual also includes other contract terms that individual attorneys can review to determine if the terms are needed in a specific interlocal agreement.

We reviewed nine agreements, and all of them contained the required clauses listed above. While each agreement included a fair compensation clause, we did not verify whether compensation was fair.

The sampled agreements contained most of the recommended clauses identified by best practices.⁶ While the City is not required to comply with these best practices, we noted that some recommended clauses were not included in some of the agreements we sampled. For example, the force majeure clause, which allows the contracted parties to stop services due to uncontrollable events such as flood or pandemic, was not found in six agreements. The audit clause was also not included in one of the agreements we reviewed.

⁴ Not including cooperative procurement agreements, which do not involve governments exchanging payments.

⁵ Ibid

⁶ State of Texas Procurement and Contract Management Guide aids public procurement professionals in development of public procurement processes and best practices.

Recommendations and Management Response

1

To ensure the City has comprehensive information about interlocal agreements and that interlocal agreements are consistently managed across departments, the Chief Financial Officer in coordination with the City Manager should clearly define and communicate City departments' roles and responsibilities for managing of interlocal agreements.

Management Response: Agree

Proposed Implementation Plan: The Chief Financial Officer (CFO) intends to take short-term and longer-term actions in addressing this audit.

Initially, the CFO will issue a memorandum to City department directors, notifying them of this audit and its findings. The CFO will remind the directors of their role in signing Interlocal Agreements (ILA) in accordance with Administrative Bulletin 03-01, as well as their responsibility for appropriately managing their ILAs in accordance with the procedures set forth in the Purchasing Office's City Procurement Manual.

Later, to ensure departments continue to comply with the ILA procedures in the City Procurement Manual, the CFO will initiate discussions with the City Manager's Office to determine which City department and/or program-owner will assume long-term responsibility for overseeing ILA creation and management. Once established this new role will ensure that all ILA are created using approved templates and procedures; that ILAs are input into the required information system(s); and as needed the City can produce reports regarding current and past ILAs by counts, by expenditures and by performance.

Proposed Implementation Date: The CFO will issue the initial notice to the department directors in this regard by December 1, 2021. The CFO will work with the City Manager's Office regarding the longer-term appointment over the next few months but intends to have this role identified by April 1, 2022.

2

To ensure the City has comprehensive information about interlocal agreements and that interlocal agreements are consistently managed across departments, the City's Purchasing Officer should review current processes and ensure that processes for interlocal agreements are communicated to and followed by City departments.

Management Response: Agree

Proposed Implementation Plan: The Purchasing Officer will review the City's Procurement Manual for those procedures concerning the formation and management of ILAs. The Purchasing Officer will update existing procedures and add any additional procedures to ensure the manual addresses, at a minimum, the four (4) types of ILAs identified in this audit. Once the Procurement Manual is updated, the Purchasing Office will notify the CFO.

Proposed Implementation Date: The Purchasing Officer will update the City Procurement Manual and notify the CFO prior to the CFO's notice to the department directors by December 1, 2021.

3

To ensure the City knows the number of interlocal agreements it has and how much is spent on each interlocal agreement, the Purchasing Officer should identify a standardized information system that allows uploading, tracking, monitoring, and generating reports for interlocal agreements and is accessible to City staff involved in the management of interlocal agreements.

Management Response: Agree

Proposed Implementation Plan: When updating the City Procurement Manual, the Purchasing Officer will identify the information technology system(s) that departments must use when establishing and managing their ILAs.

Proposed Implementation Date: The identification of the IT systems the departments must use will be included in the procedural revisions the Purchasing Officer will be making to the City Procurement Manual. As these revisions must be made prior to the CFO's notice to the department directors, this identification will be completed by the same date as the revisions, prior to December 1, 2021.

4

To protect the interest of the City and ensure best practice clauses are included in interlocal agreements, the City Attorney should ensure the contract standards manual is referenced by individual attorneys when developing or revising agreements.

Management Response: Agree

Proposed Implementation Plan: The City Attorney will continue to ensure the contract standards manual is referenced by individual attorneys when developing or revising agreements.

Proposed Implementation Date: This plan has been implemented.

Appendix

Appendix: Total number of interlocal agreement contracts by department

Department Name	Number of Interlocal Agreements
Animal Services	3
Austin Convention Center	3
Austin Energy	9
Austin Police	19
Austin Public Health	26
Austin Resource Recovery	1
Austin Transportation	15
Austin Water	30
Communications & Public Information Office	1
Communications & Technology Management	61
Development Services	3
Economic Development	5
Emergency Medical Services	7
Financial Services	7
Fire	10
Fleet Mobility Services	9
Human Resources	1
Library	1
Management Services	4
Municipal Court	8
Neighborhood Housing & Community Development	2
Parks & Recreation Department	21
Planning & Zoning	2
Public Works	7
Watershed Protection	5
Total	260

Source: Office of City Auditor analysis of results from contract managers' survey conducted in September 2020.

Scope

The audit scope included the City's processes for managing interlocal agreements as of September 30, 2020.

Methodology

To complete this audit, we performed the following steps:

- Interviewed key personnel in Financial Services and the Law Department
- Reviewed policies and procedures relevant to the City's contract management
- Identified and reviewed best practices applicable to contract management
- Surveyed department contract managers to gather information on interlocal agreements and related record keeping
- Tested recording of interlocal agreements in the City system by judgmentally selecting one interlocal agreement for each department with multiple interlocal agreements
- Selected departments with multiple interlocal agreements and judgmentally selected one interlocal agreement for each department to test compliance with the Texas Government Code, Chapter 791 required clauses as well as reviewed recommended clauses per best practices
- Evaluated internal controls related to the City's management of interlocal agreements
- Evaluated the risk of fraud, waste, and abuse with regards to the City's management of the interlocal agreements

Audit Standards

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.

The Office of the City Auditor was created by the Austin City Charter as an independent office reporting to City Council to help establish accountability and improve City services. We conduct performance audits to review aspects of a City service or program and provide recommendations for improvement.

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