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1 Internal Audit and the Office of the Inspector General were operationally
2 separated; and

3 WHEREAS, the Internal Audit Compensation Study published by the
4 Institute of Internal Auditors shows that although the demands on today’s
5 internal auditors are increasing, the salaries offered are not keeping pace; and

6 WHEREAS, the Accountability in Government Oversight Committee should
7 have the ability to ensure salaries for the City Auditor and Inspector General
8 are maintained at a level commensurate with their responsibilities and at a
9 level consistent with other city departments with comparably skilled
10 professionals; and

11 WHEREAS, the ability of the Office of Internal Audit to obtain independent
12 legal counsel prevents potential, perceived, or actual conflicts of interest that
13 may arise due to the City Attorney’s client relationship with the City or in the
14 event that the Office of the City Attorney is the subject of an audit; and

15 WHEREAS, last fiscal year the Office of Internal Audit identified over \$1.4
16 million in reduced or avoided costs, recoveries, and increased revenues –
17 representing a 61 percent return on every dollar spent on internal audit
18 operations, not including the deterrence, compliance, and increased
19 efficiencies resulting from its audit services; and

20 WHEREAS, the Institute of Internal Auditors and the Association of Local
21 Government Auditors – two international authorities on the auditing
22 profession – and the City’s Accountability in Government Oversight
23 Committee all support the effort to strengthen and preserve the structural
24 independence of the Office of Internal Audit by amending the Accountability in
25 Government Ordinance; and

26 WHEREAS, the City further desires to amend certain elements of the
27 ordinance to provide clarity of language and improve realignment with
28 existing City regulations, auditing standards and professional practices.

29 BE IT ORDAINED BY THE COUNCIL, THE GOVERNING BODY OF THE CITY
30 OF ALBUQUERQUE:

31 SECTION 1. Chapter 2, Article 10 of the Revised Ordinances of
32 Albuquerque, New Mexico, 1994, the “Accountability in Government
33 Ordinance” is hereby amended as follows:

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1 **“§ 2-10-1 SHORT TITLE.**

2 Sections 2-10-1 through 2-10-16 may be cited as the “Accountability in
3 Government Ordinance”.

4 **§ 2-10-2 FINDINGS; PURPOSE; GOALS.**

5 (A) The [City] Council finds that good governance, transparency and
6 accountability are critical in the public sector for the effective and credible
7 functioning of a healthy democracy, and in fulfilling the government’s
8 responsibility to citizens and taxpayers. Transparent and reliable reporting
9 and effective audit[ing] [services] in government [~~serve to~~] promote
10 accountability, enhance the effectiveness [and efficiency] of government
11 services to its citizens, and increase the public’s confidence in their
12 government.

13 (B) The Mayor and City Council share a duty to [~~insure~~ ensure] that the
14 actions of public officials, employees[, community-based organizations,] and
15 contractors of the [~~city~~ City] are carried out in the most responsible manner
16 possible and that city policies, budgets, goals and objectives are fully
17 implemented. To accomplish this end, the [~~city~~ City] requires the services of
18 [~~an~~] independent organization[s] to perform [~~internal~~] audits, [~~conduct~~
19 ~~management studies and investigate claims of waste and mismanagement~~]
20 [investigations, and other activities].

21 (C) The Committee shall oversee the City Auditor and the Inspector
22 General, whose goals are to:

- 23 (1) Conduct audits[,] [~~and~~] investigations[, and other activities] in an
24 efficient, impartial, equitable and objective manner;
- 25 (2) Prevent[, deter,] and detect fraud, waste and abuse in city activities
26 including all city contracts and partnerships;
- 27 (3) Propose ways to increase the city’s legal, fiscal and ethical
28 accountability through the use of audit and [~~management studies~~] [non-audit
29 activities] to [~~insure~~] [ensure] that tax payers’ dollars are spent in a manner
30 that improves the economy [and transparency] of operations; and
- 31 (4) Deter criminal activity through independence in fact and
32 appearance, audit, [review,] investigation and interdiction.

33 **§ 2-10-3 DEFINITIONS.**

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1 For the purpose of this article, the following definitions shall apply unless
2 the context clearly indicates or requires a different meaning.

3 [AUDIT SERVICES. Include audit and non-audit activities, such as
4 strategic reviews and advisory services.]

5 AUDITEES. Auditees are the city related departments, programs,
6 activities, agencies, vendors, contractors or other city related entities affected
7 by an audit or investigation.

8 [BOARD OF ETHICS AND CAMPAIGN PRACTICES. The Board of Ethics and
9 Campaign Practices created pursuant to the City Charter, Article XII, Code of
10 Ethics.]

11 [CITIZENS' INDEPENDENT SALARY COMMISSION. The Citizens'
12 Independent Salary Commission created pursuant to the City Charter, Article
13 XVIII, Citizens' Independent Salary Commission.]

14 CITY AUDITOR. The Director of the Office of Internal Audit.

15 COMMITTEE. The Accountability in Government Oversight Committee.

16 CONTRACTORS. All city contractors[, including those seeking to do
17 business with the City and community-based organizations].

18 EMPLOYEE. All city employees[, including appointed positions].

19 ~~[EXPANDED SCOPE AUDIT. An audit whose original scope is modified by~~
20 ~~the City Auditor or the Committee based on circumstances and findings~~
21 ~~uncovered during the audit.]~~

22 INSPECTOR GENERAL. The Inspector General created pursuant to the
23 Inspector General Ordinance (§§ 2-17-1 et seq.).

24 OFFICIAL. The Mayor ~~[and]~~ [City] Councilors[, and appointed members
25 of City boards, commissions, or committees].

26 PUBLISHED REPORT. ~~[An audit]~~ [A] report that [unless otherwise
27 prohibited,] has been [presented to the Committee,] distributed in final form
28 ~~[to the auditees,]~~ to the Mayor and Chief Administrative Officer, and to the City
29 Council~~[- A published audit report]~~ [and] is available ~~[on request]~~ to the public.

30 SPECIAL [REQUESTS] ~~[AUDITS]~~. Exigent ~~[audits]~~ [engagements] not
31 included in the annual audit plan, because the need for ~~[the audits]~~ [audit
32 service] was not foreseen when the audit plan was adopted. [Special requests
33 for audit services may include audits, strategic reviews, and advisory services

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1 such as benchmarking and best practices analyses requested by an official or
2 the City Auditor, which are initiated at the discretion of the City Auditor.]

3 STRATEGIC REVIEWS. Reportable non-audit work including but not
4 limited to ~~[bench marking, best practices, and compliance reviews requested~~
5 ~~by an official or the City Auditor and at the discretion of the City Auditor]~~
6 [assessments, agreed-upon procedures, compliance reviews, follow-up, and
7 monitoring activities].

8 § 2-10-4 CREATION OF THE OFFICE OF INTERNAL AUDIT; RESOURCES;
9 STAFF.

10 (A) The Office of Internal Audit is created as an independent [and
11 nonpartisan] office of city government. The Office of Internal Audit is not part
12 of the ~~[city's]~~ [City's] executive branch or the City Council [and strictly
13 adheres to government auditing standards while exercising the highest
14 standards of ethics]. The City Auditor shall report [directly and have
15 unrestricted access] to the Committee. [The purpose of the Office of Internal
16 Audit is to provide independent, objective, assurance and non-audit services
17 designed to add value and improve City operations.]

18 (B) [To provide for independence and prevent undue influence,] ~~[The]~~
19 ~~[the]~~ Office of Internal Audit shall independently administer its own budget,
20 [hire, promote, set compensation for, discipline, or discharge,] and supervise
21 its own staff in compliance with the ~~[city's Merit Ordinance and contractual~~
22 ~~services policies and procedures]~~ [City rules and regulations].
23 [Notwithstanding other provisions of this Ordinance, the Mayor and City
24 Council shall establish a dedicated funding source to be used exclusively to
25 implement the duties and requirements of this Ordinance. The dedicated
26 funding source shall be established annually at an amount equal to at least
27 two-tenths of one percent (0.2%) of the City's overall recurring General Fund
28 budgeted appropriations and each subsequent year, shall not increase or
29 decrease more than five percent (5%) from the previous year. Any amounts
30 not expended or encumbered by the end of the fiscal year, shall revert back to
31 the General Fund. In the event a fiscal emergency is declared, City Council
32 may adjust the funding model for the fiscal year to be consistent with the
33 model applied to all city departments. In the fiscal year following the

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1 declaration of fiscal emergency, the funding model described above shall be
2 reinstated.]

3 (C) The Office of the City Attorney shall advise and represent the Office
4 of Internal Audit, except that the Office of Internal Audit may~~[, in consultation~~
5 ~~with the City Attorney,]~~ [notify the City Attorney should it] select an
6 independent legal counsel to advise and represent the Office [of Internal
7 Audit] as needed in the event of a conflict of interest that ~~[the City Attorney~~
8 ~~determines cannot otherwise be cured internally,]~~ [could threaten its
9 independence. If the City Auditor retains or employs independent legal
10 counsel, the Office of Internal Audit shall be the client and is entitled to the
11 benefits and privileges thereof.]

12 (D) The Office of Internal Audit shall comply with all ~~[city ordinances and~~
13 ~~policies]~~ [City rules and regulations] dealing with administrative functions
14 including but not limited to those dealing with personnel~~[, the merit system,]~~
15 and procurements.

16 (E) The Office of Internal Audit shall employ such staff as necessary to
17 carry out its functions as prescribed by this article, including but not limited to
18 the City Auditor, professional audit staff and other staff as may be necessary,
19 subject to budget sufficiency and city personnel ~~[policies and procedures]~~
20 [rules and regulations]. The City Auditor has sole authority to hire, promote,
21 set compensation for, discipline or discharge the staff of the Office of Internal
22 Audit in a manner consistent with the ~~[Merit System Ordinance and the Grade~~
23 ~~Series Pay Plan]~~ [City rules and regulations].

24 (F) The Office of Internal Audit shall provide staff support to the
25 Committee and [the Citizens' Independent Salary Commission and]
26 administrative staff support to the Office of the Inspector General.

27 (G) [The City Auditor will ensure that the internal audit activity remains
28 free of conditions that threaten the ability of the activity to carry out its
29 activities in an unbiased matter. The internal audit activity will have no direct
30 operational responsibility or authority over any of the activities audited.]

31 Neither the City Auditor nor any employee of the Office of Internal Audit shall
32 engage in any partisan political activities or the political affairs of the ~~[city]~~
33 [City] during work hours. [If independence or objectivity is impaired in fact or

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1 appearance, the City Auditor will disclose the details of the impairment to the
2 Committee.]

3 § 2-10-5 CREATION OF COMMITTEE; DUTIES; POWERS; MEMBERSHIP.

4 (A) The "Accountability in Government Oversight Committee" is created
5 [and shall oversee the City Auditor and the Inspector General]. The
6 [independent] Committee shall consist of five members who are residents of
7 the ~~[city]~~ [City. To be independent in fact and appearance, the Committee must
8 be free from conflicts of interest] and ~~[who are]~~ not employed by the ~~[city]~~
9 [City], or in a direct contractual relationship or similar business relationship
10 with the ~~[city]~~ [City]. [No member of the immediate family of the Office of
11 Internal Audit or the Office of Inspector General personnel shall be a member
12 of the Committee.] At least one Committee member shall be a ~~[CPA]~~ [Certified
13 Public Accountant or Certified Internal Auditor], at least one Committee
14 member shall have a law enforcement or law background and at least one
15 Committee member shall be a professional management consultant. The
16 Mayor and one [City] Councilor appointed annually by the [City] Council
17 President shall be nonvoting ex officio members~~[-The Mayor and the~~
18 ~~appointed Councilor]~~ [and] may [attend or] send [a] designee[s] to the
19 Committee meetings [where reports for publication are discussed]. The
20 ~~[committee]~~ [Committee] may request the attendance of other city personnel~~[,]~~
21 ~~[or]~~ auditees[, or investigated parties].

22 (B) As vacancies on the Committee occur, the [City] Council and Mayor
23 shall alternatively appoint new members with the [City] Council making the
24 first appointment. All appointments shall be subject to [City] Council approval.
25 The existing Committee members may make recommendations to the Mayor
26 and [City] Council for candidates to fill vacancies on the Committee. If either
27 the Mayor or [City] Council fails to name a replacement Committee member
28 within 45 days of the vacancy, then the other body shall make the
29 appointment. The Committee members shall be appointed for staggered terms
30 of three years unless an appointment is to fill a vacancy. An appointment to fill
31 a vacancy shall be for the unexpired term. Terms shall begin on the first day of
32 September. The Committee members shall elect the Committee Chair annually.

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1 (C) [Any Committee member may be removed from office by an
2 affirmative vote of two-thirds of the Committee after due notice if such
3 member has missed three consecutive meetings or has been absent from
4 more than fifty percent (50%) of the meetings held during any twelve
5 consecutive months.

6 (D) Any Committee member may be removed from office by an
7 affirmative vote of two-thirds of the Committee after due notice if such
8 member has violated any law, regulation or charter provision, or for other
9 good cause such as the intentional failure to carry out the duties of the
10 Committee.

11 (E) The Committee shall meet at least four times per year, but may also
12 meet monthly or upon the call of the [Committee] Chair or a majority of its
13 members.

14 [(F)] [(D)] Committee members shall not receive compensation for their
15 service. Voting members of the Committee shall not serve on any other city
16 board, commission or task force.

17 [(G)] [(E)] The Chief Administrative Officer and the Director of Council
18 Services or their [respective] designee[s] may attend all Committee meetings
19 [where reports for publication are discussed].

20 [(H)] [(F)] If an Official is the subject of an investigation, then the ex
21 officio members or their designees, shall be recused from all meetings where
22 that particular investigation is being discussed and [they] shall not have
23 access to the investigative file during the pending investigation.

24 [(I)] [(G)] The Committee is a management committee and not a public
25 board, commission or committee as specified by §§ 2-6-1-1 et seq. and not
26 subject to the Open Meetings Act. The Committee is not formed to formulate
27 public policy nor has authority to formulate public policy been delegated to
28 the Committee. The Committee and its members are subject to the City
29 Charter, Article XII Code of Ethics.

30 [(J)] [(H)] The Committee shall annually [recommend the Office of
31 Internal Audit and Inspector General budget to the Mayor and Council through
32 the normal city budget process for city departments in an amount sufficient
33 for both offices to fulfill their respective function, which proposal may include]

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1 [review salaries for the City Auditor and the Inspector General. If after such
2 review the Committee determines that] a salary adjustment [~~for the City~~
3 ~~Auditor or the Inspector General.~~] [is warranted, the Committee shall notify the
4 Department of Finance and Administrative Services' Budget Office and the
5 Human Resources Department indicating the adjusted salary, which will be
6 subject to budget sufficiency and city personnel rules and regulations. The
7 City Auditor and Inspector General shall be provided with compensation
8 commensurate with their responsibilities and at levels consistent with the
9 other City department directors. Experience, performance, certifications, and
10 advanced degrees may be considered in determining compensation.]

11 [(K)] [(H)] The Committee may provide the City Auditor and the Inspector
12 General with guidance, priorities and potential areas for investigations and
13 audits. The Committee may also lend advice to the City Auditor and the
14 Inspector General regarding technical issues that may arise.

15 [~~(J)~~] The Committee shall not prohibit the City Auditor or the Inspector
16 General from initiating, carrying out or completing and reporting on any audit,
17 investigation or strategic review. If a majority of the Committee members finds
18 that an audit, investigation or strategic review is questionable, then the
19 Committee may issue a cautionary statement to the City Auditor or the
20 Inspector General, as appropriate.]

21 [(L)] [(K)] The Committee shall review ~~[any audit, investigatory or~~
22 ~~strategic review]~~ [all] reports [presented] at each meeting. If the ~~[committee]~~
23 [Committee] approves a report then the City Auditor or Inspector General shall
24 [immediately] cause the report to become a published report. If the
25 ~~[committee]~~ [Committee] does not approve a report, then the City Auditor or
26 Inspector General shall cause the report to become a published report no
27 sooner than 15 business days from the date of the ~~[committee's]~~
28 [Committee's] review or consideration. The ~~[committee]~~ [Committee] may draft
29 a cautionary statement for inclusion with the report during this 15 day period
30 which, if provided to the City Auditor or Inspector General within this
31 timeframe, will be made part of the published report. [The Committee shall not
32 prohibit the City Auditor or the Inspector General from initiating, carrying out
33 or completing and reporting on the activities of their offices. The Committee

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1 may elect to defer taking action on the reports presented for up to one
2 Committee meeting, after which, the City Auditor or Inspector General shall
3 cause the report to become a published report no sooner than 15 business
4 days from the date of the Committee’s last review or consideration. When
5 activities are provided at the request of the Citizens’ Independent Salary
6 Commission, the Board of Ethics and Campaign Practices, or the City
7 Attorney’s Office, the usual requirements concerning Committee review of
8 reports should not be followed to maintain the rights and duties of these
9 entities to direct and limit the work performed. The City Auditor or the
10 Inspector General may informally brief the Committee as to the commitment of
11 resources to any work assigned by the Citizens’ Independent Salary
12 Commission or the Board of Ethics and Campaign Practices and the progress
13 being made toward the completion of the work conducted.]

14 [(M)] [(L)] The Committee shall prepare a job description, specify
15 qualifications for applicants, work with the Director of the Human Resources
16 Department to advertise for the position and develop the applicant search
17 procedure and make recommendations to the [City] Council on the selection
18 of the City Auditor and the Inspector General. The [committee] [Committee]
19 shall apply human resources best practices to its applicant search relating to
20 advertisement periods, job posting locations including with national industry-
21 oriented groups or associations, application review processes, interview
22 processes, and contacting of references and prior employers as may be
23 recommended by the Director of Human Resources or other reliable sources.

24 [(N)] [(M)] Any discipline of the City Auditor or the Inspector General, as
25 provided by § 3-1-6 ROA 1994, shall be by the Committee. The City Auditor and
26 the Inspector General shall report to the Committee for approval of vacation,
27 sick, emergency and city business leave.

28 § 2-10-6 SELECTION AND RETENTION OF CITY AUDITOR.

29 (A) (1) The Committee, through its staff, shall accept applications from
30 candidates, interview candidates, and shall submit to the City Council the
31 names of the three candidates (or more in the event that candidates are tied in
32 ranking) that it finds to be the best qualified to be City Auditor indicating its
33 ranking, together with a general description of its selection process, and the

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1 [City] Council shall appoint the City Auditor from the three. The Committee's
2 recommendation to [the City] Council shall be based on the candidates'
3 integrity, capability for strong management and demonstrated ability in
4 accounting, auditing, financial analysis, law, management analysis, public
5 administration, investigation, criminal justice administration or other closely
6 related fields. [Experience, performance, certifications, and advanced degrees
7 may also be considered.]

8 (2) Upon the expiration of four years from the date of the City Auditor's
9 last appointment by the City Council, the Committee shall submit three
10 candidates to the [City] Council for its consideration for appointment to the
11 position of City Auditor, or in lieu of recommending three candidates to the
12 [City] Council, the Committee may recommend to the [City] Council the
13 reappointment of the incumbent City Auditor. Should the [City] Council decline
14 to reconfirm the incumbent City Auditor, the [City] Council President will
15 notify the Committee that it needs to provide the [City] Council with three
16 alternate candidates pursuant to the provisions of subsection (A)(1).

17 (B) If a current or prior city employee or official is appointed to the
18 position of City Auditor, such person shall not audit or assist in the audit of
19 the department or agency where such person previously served or was
20 employed for a period of four years from the last day of such prior
21 employment or service. Any audits of such department or agency shall be
22 referred by the City Auditor to an independent third party auditor who shall
23 serve as an independent proxy for the City Auditor, vested with the full
24 authority of the City Auditor only for the purposes of the specific audit(s) so
25 assigned, and who shall report to the Committee relating to the audit in the
26 same manner as the City Auditor would under this article. If a current or prior
27 city official, contractor, or employee is one of the three recommended to the
28 City Council for possible appointment, the Committee shall submit to the
29 [City] Council a statement describing its assessment of possible conflicts or
30 appearances of conflicts, if any, that may result during the fulfillment of duties
31 as City Auditor if that candidate is appointed.

32 (C) As a condition of retention, the City Auditor must obtain certification
33 as a Certified Public Accountant or Certified Internal Auditor through the

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1 appropriate entity within two years of appointment. Other professional
2 certifications, such as certified fraud examiner [and certified information
3 systems auditor] are recommended.

4 (D) Prior to submission of the final three candidates to the City Council,
5 the three City Auditor candidates shall be fingerprinted and shall provide two
6 fingerprint cards or the equivalent electronic fingerprints to the Committee to
7 obtain the candidate's Federal Bureau of Investigation record. Records and
8 related information shall be privileged and shall not be disclosed to anyone
9 other than Committee members. The [city] [City] shall pay for the cost of
10 obtaining the Federal Bureau of Investigation records.

11 (E) The City Auditor may be removed from office [for cause] only upon
12 an affirmative vote of two-thirds (2/3) of the members of the Committee, or
13 upon the City Council's decision to not reconfirm the City Auditor pursuant to
14 subsection (A)(2) of this section. Within five days of removal of the [Director]
15 [City Auditor] the Committee shall report the reasons for that removal to the
16 Mayor and the [City] Council.

17 [(F) If the City Auditor position is vacated, the City Auditor's first
18 assistant shall serve as Acting City Auditor during the vacancy.]

19 § 2-10-7 CITY AUDITOR'S DUTIES; RESPONSIBILITIES; AUTHORITY;
20 ADMINISTRATIVE SUBPOENA POWER.

21 (A) If the City Auditor detects apparent or potential violations of law or
22 apparent instances of misfeasance or nonfeasance by an official or auditee,
23 the City Auditor shall report the irregularities in writing to the Committee. If the
24 irregularity is criminal in nature, the City Auditor shall immediately refer the
25 irregularity to the appropriate prosecuting authority and notify the Inspector
26 General. The City Auditor shall not accept complaints related to discrimination
27 or labor law matters, or other matters that are the subject of pending litigation.

28 (B) Upon request of the Mayor or City Council, the City Auditor shall
29 assist or provide resources to assist city departments in the review of state
30 and federal legislation, city ordinances, resolutions, rules, regulations and
31 policies pertaining to that particular city department or office.

32 (C) The City Auditor shall promulgate regulations to establish
33 procedures for the Office of Internal Audit.

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1 (D) The City Auditor shall have the power to subpoena witnesses,
2 administer oaths and require the production of records subject to the New
3 Mexico Rules of Civil Procedure. In the case of a refusal to obey a subpoena
4 issued to any person, the City Auditor may make application to any District
5 Court in the state that shall have the jurisdiction to order the witness to appear
6 before the City Auditor and to produce evidence if so ordered, or to give
7 testimony touching on the matter in question.

8 (E) The City Auditor shall maintain a complete ~~[file]~~ [record] of each
9 ~~[audit]~~ [published] report ~~[and each report of other investigations and~~
10 ~~strategic reviews]~~ made under legislative or special Committee authority for
11 ~~[six years]~~ [the retention period required by the City] ~~[from]~~ [beginning] the
12 date that the ~~[audit or review is closed]~~ [report is published], or longer if
13 required by law. The ~~[file]~~ [record] should include ~~[audit]~~ work papers and
14 other supportive material directly pertaining to the [published] report.
15 ~~[Records may be retained in electronic format at the City Auditor's election.]~~

16 (F) In cases where the City Auditor deems it appropriate because of ~~[an~~
17 ~~audit, investigation, or strategic review]~~ [audit activities], the City Auditor may
18 refer opportunities for increased efficiency to the ~~[Office of Management and~~
19 ~~Budget]~~ [Department of Finance and Administrative Services] to work with
20 respective departments on management and process improvement.

21 § 2-10-8 PROFESSIONAL [AUDIT] STANDARDS.

22 (A) The City Auditor shall adhere to generally accepted government
23 auditing standards in conducting its work and will be considered independent
24 as defined by those standards.

25 (B) The [activities of the] Office of Internal Audit~~['s audits,~~
26 ~~investigations, and strategic reviews]~~ are subject to quality assurance reviews
27 [in accordance with Government Auditing Standards] by an appropriate
28 professional non-partisan objective group ~~[every three years]~~. A copy of the
29 written report resulting from this review shall be furnished to the Committee.

30 § 2-10-9 [OFFICE OF INTERNAL AUDIT;] PUBLIC RECORDS;
31 CONFIDENTIALITY.

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1 (A) The City Auditor shall maintain the confidentiality of any public
2 records that are made confidential by law and is subject to the same penalties
3 as the custodian of those public records for violating confidentiality statutes.

4 (B) During the course of audit activities, all ~~[records shall be considered~~
5 ~~deliberative in process and not available for outside review]~~ [workpapers that
6 support audit findings become public after the audit report is published,
7 except for information that is confidential or privileged by law].

8 (C) Prior to publishing a report, the City Auditor may share selected
9 information with other city departments if the information is needed for
10 decision-making purposes; otherwise, reports remain confidential until
11 published, at which time they become public record.

12 (D) The names and identities of persons making complaints and
13 providing information shall not be disclosed without the written consent of the
14 person unless otherwise required by law or judicial processes.

15 (E) Published reports are public records except that the City Auditor
16 shall delay the publication of reports when criminal conduct is found and the
17 Inspector General or appropriate law enforcement authority is pursuing an
18 investigation and release of the report might jeopardize further investigation.
19 An audit report that has been delayed pursuant to this section shall be
20 published promptly at the end of the condition giving rise to the delay.

21 (F) The City Auditor may release a preliminary draft of an audit of
22 anyone other than a city department or agency to the auditee for review and
23 comment if the auditee agrees to restrict its use and to maintain the
24 confidentiality of the information.

25 § 2-10-10 [OFFICE OF INTERNAL] AUDIT [DIVISION]; SCOPE OF AUDITS.

26 (A) [The scope of internal audit activities encompasses, but is not
27 limited to, objective examinations of evidence for the purpose of providing
28 independent assessments on the adequacy, quality, efficiency, and
29 effectiveness of governance, risk management, and control processes for the
30 City.] ~~[The Office of Internal Audit shall conduct audits and strategic reviews~~
31 ~~of all auditees to independently determine whether:~~

32 (1) ~~The city, state or federal law authorizes implemented activities and~~
33 ~~programs;~~

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- 1 ~~(2) The objectives intended by city, state or federal law are efficiently~~
- 2 ~~and effectively accomplished in the implementation of activities and~~
- 3 ~~programs;~~
- 4 ~~(3) The expenditure of funds complies with applicable laws;~~
- 5 ~~(4) The revenues are properly collected, deposited and accounted for;~~
- 6 ~~(5) Resources, including funds, property and personnel, are~~
- 7 ~~adequately safeguarded, controlled and used in a faithful, effective and~~
- 8 ~~efficient manner;~~
- 9 ~~(6) Financial and other reports fairly and fully disclose all information~~
- 10 ~~as required by law necessary to evaluate and ascertain the nature and scope~~
- 11 ~~of programs and activities;~~
- 12 ~~(7) Management established operating and administrative procedures~~
- 13 ~~and practices, accounting internal control systems and internal management~~
- 14 ~~controls are adequate and functioning as intended; and~~
- 15 ~~(8) City policies, budgets, goals and objectives are fully implemented.]~~

16 **(B) At an official's [special] request, the City Auditor [shall] [may] initiate**

17 **[special audits or strategic reviews] [audit services] subject to the provisions**

18 **of § 2-10-12.**

19 **§ 2-10-11 ANNUAL AUDIT PLAN.**

20 **(A) Prior to the beginning of each fiscal year, the City Auditor shall**

21 **submit an annual audit plan to the Committee for review and comment. As part**

22 **of these deliberations, the officials shall be invited to recommend areas for**

23 **inclusion in the plan. The plan shall include the auditees scheduled for audit**

24 **during the year, a statement of the scope of the audit and the estimated time**

25 **required to complete the audit.**

26 **(B) The annual audit plan shall be transmitted to the [City] Council for**

27 **final approval as a resolution.**

28 **(C) This plan may be amended during the year after review with the**

29 **Committee.**

30 **(D) In the selection of audit areas, the determination of audit scope and**

31 **the timing of audit work, the City Auditor should consult with federal and state**

32 **auditors and independent auditors so that the desirable audit coverage is**

33 **provided and audit effort may be properly coordinated.**

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1 (E) The City Auditor shall make reports at least quarterly to the
2 Committee on the status of the work plan.

3 § 2-10-12 SPECIAL ~~[AUDITS]~~ [REQUESTS]; AUDIT REPORTS.

4 (A) In all cases, the City Auditor shall, within 48 hours of
5 implementation, notify the Committee when a special ~~[request]~~ ~~[audit or~~
6 ~~strategic review]~~ is being undertaken.

7 (B) A draft of the report shall be forwarded to the auditees and the Chief
8 Administrative Officer [or their designee] for review and comment before it is
9 provided to the Committee for pre-publication review. The auditees, including
10 departments whose assistance is needed in order to accomplish any audit
11 recommendation, shall respond to the City Auditor, in writing, within 14 days
12 of receipt of the audit report.

13 (C) The auditees' written response shall specify agreement with each of
14 the audit findings and recommendations or reasons for disagreement with
15 findings or recommendations. The auditees' written responses shall include
16 auditees' plans for implementing solutions to identified problems including
17 timetables to complete such activities.

18 (D) Auditees' comments to the preliminary draft may be utilized to
19 amend the report if appropriate. If the preliminary audit report is amended, the
20 auditees will be given a copy of the amended draft, and the auditees will be
21 given ~~[seven]~~ [up] to 14 days, as determined by the City Auditor and the
22 auditees, to respond to the amended draft of the audit report.

23 (E) The City Auditor shall include the auditees' responses in the audit
24 report.

25 § 2-10-13 [OFFICE OF INTERNAL AUDIT] REPORTS TO THE COMMITTEE.

26 (A) ~~[Each investigation, audit and strategic review]~~ [All assurance
27 activities, unless otherwise provided for under this ordinance,] shall result in a
28 written final report.

29 (B) The City Auditor shall submit ~~[at least five copies]~~ [a copy] of each
30 report to [each member of] the Committee and shall retain a copy as a
31 permanent record for ~~[six years]~~ [the retention period required by the City,
32 beginning] ~~[from]~~ the date it became a published report or longer if required
33 by law.

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1 (C) If appropriate, the report shall contain the professional opinion or
2 conclusions of the City Auditor.

3 ~~[(D) The City Auditor's audit reports shall include:~~

4 ~~(1) A precise statement of the scope encompassed by the audit;~~

5 ~~(2) A statement that the audit was performed in accordance with~~
6 ~~generally accepted government auditing standards;~~

7 ~~(3) A statement that an examination for compliance with applicable~~
8 ~~laws, policies and regulations was conducted, and a presentation of the~~
9 ~~findings associated with that examination;~~

10 ~~(4) A statement of significant audit findings, including a statement of~~
11 ~~the underlying causes, evaluative criteria used and the current and~~
12 ~~prospective significance of the findings;~~

13 ~~(5) A statement that internal control systems were examined and a~~
14 ~~report of any material weaknesses found in the internal control systems;~~

15 ~~(6) Statements of response submitted by the auditees relevant to the~~
16 ~~audit findings;~~

17 ~~(7) A concise statement by the auditees of the corrective actions~~
18 ~~previously taken or contemplated as a result of the audit findings and a~~
19 ~~timetable for their accomplishment; and~~

20 ~~(8) Recommendations for additional necessary or desirable action.]~~

21 **§ 2-10-14 [OFFICE OF INTERNAL AUDIT] ANNUAL REPORTING.**

22 (A) The City Auditor shall annually report to the [City] Council and the
23 Mayor regarding [his] [the] activities [of the Office of Internal Audit].

24 (B) Within 60 days of the end of each fiscal year, the City Auditor shall
25 issue an annual report to the Committee that separately lists [audit reports,
26 review] [all published] reports and other assistance efforts completed during
27 the fiscal year.

28 (C) The Office of Internal Audit shall provide copies of the annual report
29 upon request.

30 **§ 2-10-15 CONTRACT AUDITORS, CONSULTANTS, AND EXPERTS.**

31 The City Auditor may obtain the services of certified public accountants,
32 qualified management consultants, certified fraud examiners, forensic
33 auditors or other professional experts necessary to perform the functions of

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1 the Office of Internal Audit. Contractors performing ~~[an audit]~~ [such services]
2 shall not have any financial interest in the affairs of the auditees, officials or
3 employees. The City Auditor shall coordinate and monitor auditing performed
4 by persons under contract to the City Auditor.

5 § 2-10-16 PENALTY; COOPERATION; RETALIATION PROHIBITED.

6 (A) All city officials, employees and contractors shall provide the City
7 Auditor full and unrestricted access to all city offices, employees, records,
8 information, data, reports, plans, projections, matters, contracts, memoranda,
9 correspondence, electronic data, property, equipment and facilities and any
10 other materials within their custody. At the City Auditor’s request, an official,
11 employee or contractor shall prepare reports and provide interviews. If an
12 official, employee, vendor or contractor fails to produce the requested
13 information, the City Auditor shall notify the Committee and make written
14 request to the Chief Administrative Officer for ~~[his]~~ [their] assistance in
15 causing a search to be made and germane exhibits to be taken from any book,
16 paper or record excepting personal property. The Chief Administrative Officer
17 shall require the officials, employees, vendors or contractors to produce the
18 requested information.

19 (B) Every city contract, bid, proposal, application or solicitation for a city
20 contract and every application for certification of eligibility for a city contract
21 or program shall contain a ~~[statement that the individual understands and]~~
22 [provision stating that the contracting parties] will ~~[abide by all]~~ [be subject to]
23 provisions of the Accountability in Government Ordinance.

24 (C) No person shall retaliate against, punish or penalize any other
25 person for complaining to, cooperating with or assisting the City Auditor in
26 the performance of ~~[his]~~ [their] office.

27 (D) Each and every violation of this article is a criminal violation subject
28 to the provisions of § 1-1-99 ROA 1994.

29 (E) Any official or employee who violates the Accountability in
30 Government Ordinance may be subject to discipline as ~~[may be]~~ specified in
31 ~~[the Merit System Ordinance]~~ [City rules and regulations] or any applicable
32 collective bargaining agreement.”

1 **SECTION 2. SEVERABILITY CLAUSE.** If any section, paragraph, sentence,
2 clause, word, or phrase of this ordinance is for any reason held to be invalid
3 or unenforceable by any court of competent jurisdiction, such decision shall
4 not affect the validity of the remaining provisions of this ordinance. The
5 Council hereby declares that it would have passed this ordinance and each
6 section, paragraph, sentence, clause, word, or phrase thereof irrespective of
7 any provisions being declared unconstitutional or otherwise invalid.

8 **SECTION 3. COMPILATION.** The amendments set forth in **SECTION 1**
9 above shall amend, be incorporated in, and made part of the Revised
10 Ordinances of Albuquerque, New Mexico, 1994.

11 **SECTION 4. EFFECTIVE DATE.** This ordinance shall take effect five days
12 after publication by title and general summary.

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