

# CITY of ALBUQUERQUE

## TWENTY FIFTH COUNCIL

COUNCIL BILL NO. O-22-56 ENACTMENT NO. \_\_\_\_\_

SPONSORED BY: Brook Bassan, by request

**1 ORDINANCE**

**2 AMENDING THE ACCOUNTABILITY IN GOVERNMENT ORDINANCE,**  
**3 CHAPTER 2, ARTICLE 10 OF THE REVISED ORDINANCES OF ALBUQUERQUE**

**4 WHEREAS, instituting dedicated funding for the Office of Internal Audit**  
**5 sends a strong signal that the City Council is committed to independent,**  
**6 objective, and unbiased evaluations of government programs and practices**  
**7 that promote accountability and integrity in municipal government; and**

**8 WHEREAS, dedicated funding insulates the Office of Internal Audit from**  
**9 political interference, and provides stability by ensuring more equitable and**  
**10 reliable funding for the audit function; and**

**11 WHEREAS, the City of Albuquerque invests less in the internal audit**  
**12 function than comparable cities identified by the City's Department of**  
**13 Economic Development, and on average these cities invested 0.21% of their**  
**14 total operating budget in the internal audit function, while Albuquerque**  
**15 invested 0.09%.**

**16 WHEREAS, recurring budgets are funded each period to support the**  
**17 current level of service, while non-recurring budgets are typically created for**  
**18 special purposes and through the City's normal budget process for city**  
**19 departments, the Office of Internal Audit's annual budget has averaged nearly**  
**20 one-sixth of one percent (0.17%) of the City's overall recurring General Fund**  
**21 budget since fiscal year 2012, when the Office of Internal Audit and the Office**  
**22 of the Inspector General were operationally separated; and**

**23 WHEREAS, the Internal Audit Compensation Study published by the**  
**24 Institute of Internal Auditors shows that although the demands on today's**  
**25 internal auditors are increasing, the salaries offered are not keeping pace; and**

1        WHEREAS, salaries for the City Auditor and Inspector General have not  
2        been commensurate with their responsibilities, nor been maintained at a level  
3        consistent with other departments with comparably skilled professionals; and

4        WHEREAS, the Institute of Internal Auditors and the Association of Local  
5        Government Auditors – two international authorities on the auditing  
6        profession – support the City Auditor’s ability to obtain independent legal  
7        counsel to prevent potential, perceived, or actual conflicts of interest that may  
8        arise due to the City Attorney’s client relationship with the City or in the event  
9        that the Office of the City Attorney is the subject of an audit; and

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

15        WHEREAS, the City further desires to amend certain elements of the  
16        ordinance to provide clarity of language and improve realignment with  
17        existing City regulations, auditing standards and professional practices; and  
18        BE IT ORDAINED BY THE COUNCIL, THE GOVERNING BODY OF THE CITY OF  
19        ALBUQUERQUE:

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

23        “§ 2-10-1 SHORT TITLE.

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

26        § 2-10-2 FINDINGS; PURPOSE; GOALS.

27        (A) The [City] Council finds that good governance, transparency and  
28        accountability are critical in the public sector for the effective and credible  
29        functioning of a healthy democracy, and in fulfilling the government’s  
30        responsibility to citizens and taxpayers. Transparent and reliable reporting  
31        and effective audit [servicing] [services] in government [serve to] promote  
32        accountability, enhance the effectiveness [and efficiency] of government

1 services to its citizens, and increase the public's confidence in their  
2 government.

3 (B) The Mayor and City Council share a duty to ~~[insure]~~ [ensure] that the  
4 actions of public officials, employees, and contractors of the ~~[city]~~ [City] are  
5 carried out in the most responsible manner possible and that city policies,  
6 budgets, goals and objectives are fully implemented. To accomplish this end,  
7 the ~~[city]~~ [City] requires the services of an independent organization to  
8 perform internal audits, conduct management studies and investigate claims  
9 of waste and mismanagement.

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

12 (1) Conduct audits and investigations in an efficient, impartial, equitable  
13 and objective manner;

14 (2) Prevent and detect fraud, waste and abuse in city activities including  
15 all city contracts and partnerships;

16 (3) Propose ways to increase the city's legal, fiscal and ethical  
17 accountability through the use of audit and ~~[management studies]~~ [non-audit  
18 activities] to ~~[insure]~~ [ensure] that tax payers' dollars are spent in a manner  
19 that improves the economy [and transparency] of operations; and

20 (4) Deter criminal activity through independence in fact and  
21 appearance, audit, [review,] investigation and interdiction.

22 **§ 2-10-3 DEFINITIONS.**

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

25 **AUDITEES.** Auditees are the city related departments, programs,  
26 activities, agencies, vendors, contractors, or other city related entities affected  
27 by audit services.

28 **[BOARD OF ETHICS AND CAMPAIGN PRACTICES. The Board of Ethics**  
29 **and Campaign Practices created pursuant to the City Charter, Article XII, Code**  
30 **of Ethics]**

31 **[CITIZENS' INDEPENDENT SALARY COMMISSION. The Citizens'**  
32 **Independent Salary Commission created pursuant to the City Charter, Article**  
33 **XVIII, Citizens' Independent Salary Commission.]**

1 CITY AUDITOR. The Director of the Office of Internal Audit.  
2 COMMITTEE. The Accountability in Government Oversight Committee.  
3 CONTRACTORS. All city contractors [including community-based  
4 organizations].

5 EMPLOYEE. All city employees.  
6 ~~[EXPANDED SCOPE AUDIT. An audit whose original scope is modified~~  
7 ~~by the City Auditor or the Committee based on circumstances and findings~~  
8 ~~uncovered during the audit.]~~

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

11 OFFICIAL. The Mayor and [City] Councilors.

12 PUBLISHED REPORT. ~~[An audit] [A] report that has been distributed in~~  
13 ~~final form to the auditees, to the Mayor and Chief Administrative Officer, and~~  
14 ~~to the City Council [-A published audit report] [and] is available ~~[on request]~~~~  
15 ~~to the public.~~

16 SPECIAL [AUDITS] [REQUESTS]. Exigent [audits] [engagements] not  
17 included in the annual audit plan, because the need for ~~[the audits] [audit~~  
18 ~~services]~~ was not foreseen when the audit plan was adopted. [Special  
19 requests for audit services may include audits, strategic reviews, and advisory  
20 services such as benchmarking and best practices analyses requested by an  
21 official or the City Auditor, which are initiated at the discretion of the City  
22 Auditor.]

23 STRATEGIC REVIEWS. Reportable non-audit work including but not  
24 limited to ~~[benchmarking, best practices, and compliance reviews requested~~  
25 ~~by an official or the City Auditor and at the discretion of the City Auditor.]~~  
26 [assessments, agree-upon procedures, compliance reviews, follow-up and  
27 monitoring activities.]

28 § 2-10-4 CREATION OF THE OFFICE OF INTERNAL AUDIT; RESOURCES;  
29 STAFF.

30 (A) The Office of Internal Audit is created as an independent [and  
31 nonpartisan] office of city government. The Office of Internal Audit is not part  
32 of the ~~[city's] [City's]~~ executive branch or the City Council [and strictly  
33 adheres to government auditing standards while exercising the highest

1 standards of ethics]. The City Auditor shall report [directly and have  
2 unrestricted access] to the Committee. [The purpose of the Office of Internal  
3 Audit is to provide independent, objective, assurance and non-audit services  
4 designed to add value and improve City operations.]

5 (B) [To provide for independence and undue influence,] [The] [the] Office  
6 of Internal Audit shall independently administer its own budget, [hire,  
7 promote, set compensation for, discipline or discharge] and supervise its own  
8 staff in compliance with [the city's] [City] [Merit Ordinance and contractual  
9 services] policies and procedures. [Notwithstanding other provisions of this  
10 Ordinance, the Mayor and City Council shall establish an Audit Fund to be  
11 used exclusively to implement the duties and requirements of this Ordinance.  
12 The budget for the Audit Fund shall be established annually at an amount  
13 equal to at least two-tenths of one percent (0.2%) of the City's overall recurring  
14 General Fund budget and each subsequent year, shall not increase or  
15 decrease more than five percent (5%) from the previous year. Any portion of  
16 the Audit Fund not expended or encumbered by the end of the fiscal year,  
17 shall revert back to the General Fund where it originated. In the event a fiscal  
18 emergency is declared, City Council may adjust the funding model for the  
19 fiscal year to be consistent with the model applied to all city departments. In  
20 the fiscal year following the declaration of fiscal emergency, the funding  
21 model described above shall be reinstated.]

22 (C) The Office of the City Attorney shall advise and represent the Office  
23 of Internal Audit, except that the Office of Internal Audit may, in consultation  
24 with the City Attorney, select an independent legal counsel to advise and  
25 represent the Office [of Internal Audit] as needed in the event of a conflict of  
26 interest that the City Attorney determines cannot otherwise be cured  
27 internally.] [could threaten its independence. If the City Auditor retains or  
28 employs independent legal counsel, the Office of Internal Audit shall be the  
29 client and is entitled to the benefits and privileges thereof.]

30 (D) The Office of Internal Audit shall comply with all [city] [City]  
31 ordinances and policies dealing with administrative functions including but  
32 not limited to those dealing with personnel [~~, the merit system,~~] and  
33 procurements.

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

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

12 (G) [The City Auditor will ensure that the internal audit activity remains  
13 free of conditions that threaten the ability of the activity to carry out its  
14 activities in an unbiased matter. The internal audit activity will have no direct  
15 operational responsibility or authority over any of the activities audited.]  
16 Neither the City Auditor nor any employee of the Office of Internal Audit shall  
17 engage in any partisan political activities or the political affairs of the [city]  
18 [City] during work hours. [If independence or objectivity is impaired in fact or  
19 appearance, the City Auditor will disclose the details of the impairment to the  
20 Committee].

21 § 2-10-5 CREATION OF COMMITTEE; DUTIES; POWERS; MEMBERSHIP.

22 (A) The "Accountability in Government Oversight Committee" is created.  
23 The [independent] Committee shall consist of five members who are residents  
24 of the [city] [City]. [To be independent in fact and appearance, the Committee  
25 must be free from conflicts of interest] and [who are] not employed by the  
26 [city] [City], or in a direct contractual relationship or similar business  
27 relationship with the [city] [City]. [No member of the immediate family of the  
28 Office of Internal Audit or the Office of Inspector General personnel shall be a  
29 member of the Committee.] At least one Committee member shall be [a-CPA]  
30 [certified as a Certified Public Accountant or Certified Internal Auditor], at  
31 least one Committee member shall have a law enforcement or law background  
32 and at least one Committee member shall be a professional management  
33 consultant. The Mayor and one [City] Councilor appointed annually by the

1 **[City] Council President shall be nonvoting ex officio members. The Mayor and**  
2 **the appointed [City] Councilor may send designees to the Committee**  
3 **meetings. The ~~committee~~[Committee] may request the attendance of other**  
4 **city personnel or auditees.**

5 **(B) As vacancies on the Committee occur, the [City] Council and Mayor**  
6 **shall alternatively appoint new members with the [City] Council making the**  
7 **first appointment. All appointments shall be subject to [City] Council**  
8 **approval. The existing Committee members may make recommendations to**  
9 **the Mayor and [City] Council for candidates to fill vacancies on the Committee.**  
10 **If either the Mayor or [City] Council fails to name a replacement Committee**  
11 **member within 45 days of the vacancy, then the other body shall make the**  
12 **appointment. The Committee members shall be appointed for staggered terms**  
13 **of three years unless an appointment is to fill a vacancy. An appointment to fill**  
14 **a vacancy shall be for the unexpired term. Terms shall begin on the first day of**  
15 **September. The Committee members shall elect the Committee Chair annually.**

16 **[(C) Any Committee member may be removed from office by the Mayor**  
17 **or by an affirmative vote of two-thirds of all Councilors after due notice if such**  
18 **member has missed three consecutive meetings or has been absent from**  
19 **more than fifty percent (50%) of the meetings held during any twelve**  
20 **consecutive months.**

21 **(D) Any Committee member may be removed from office by the Mayor or**  
22 **by an affirmative vote of two-thirds of all Councilors after due notice if such**  
23 **member has violated any law, regulation or charter provision, or for other**  
24 **good cause such as the intentional failure to carry out the duties of the**  
25 **Committee.]**

26 **~~[(G)]~~[(E)]** The Committee shall meet at least four times per year, but may  
27 also meet monthly or upon the call of the **[Committee]** Chair or a majority of its  
28 members.

29 **~~[(D)]~~[(F)]** Committee members shall not receive compensation for their  
30 service. Voting members of the Committee shall not serve on any other city  
31 board, commission or task force.

32 **~~[(E)]~~[(G)]** The Chief Administrative Officer and the Director of Council  
33 Services or their designees may attend all Committee meetings.

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

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

11        ~~[(H)]~~[(J)]        The Committee shall annually ~~[recommend the Office of~~  
12 ~~Internal Audit and Inspector General budget to the Mayor and Council through~~  
13 ~~the normal city budget process for city departments in an amount sufficient~~  
14 ~~for both offices to fulfill their respective function, which proposal may include]~~  
15 [review salaries for the City Auditor and the Inspector General. If after such  
16 review the Committee determines that] a salary adjustment [for the City  
17 Auditor or the Inspector General.] [is warranted, the Committee shall file a  
18 written salary schedule with the City Clerk indicating the proposed salary. The  
19 City Auditor and Inspector General shall be provided with compensation  
20 commensurate with their responsibilities and at a level consistent with the  
21 other City department directors. Experience, performance, certifications, and  
22 advanced degrees may be considered in determining compensation.]

23        ~~[(I)]~~[(K)]        The Committee may provide the City Auditor and the Inspector  
24 General with guidance, priorities and potential areas for investigations and  
25 audits. The Committee may also lend advice to the City Auditor and the  
26 Inspector General regarding technical issues that may arise.

27        ~~[(J)]~~[(L)]        The Committee shall not prohibit the City Auditor or the  
28 Inspector General from initiating, carrying out or completing and reporting on  
29 any audit, investigation or strategic review. If a majority of the Committee  
30 members finds that an audit, investigation or strategic review is questionable,  
31 then the Committee may issue a cautionary statement to the City Auditor or  
32 the Inspector General, as appropriate.



1        ~~[(K)]~~~~[(M)]~~     The Committee shall review ~~[any audit, investigatory or~~  
2 ~~strategic review]~~ ~~[all]~~ reports ~~[to be published]~~ at each meeting. If the  
3 ~~[committee]~~ [Committee] approves a report then the City Auditor or Inspector  
4 General shall ~~[immediately]~~ cause the report to become a published report. If  
5 the ~~[committee]~~ [Committee] does not approve a report, then the City Auditor  
6 or Inspector General shall cause the report to become a published report no  
7 sooner than 15 business days from the date of the ~~[committee']~~ [Committee's]  
8 review or consideration. The ~~[committee]~~ [Committee] may draft a cautionary  
9 statement for inclusion with the report during this 15 day period which, if  
10 provided to the City Auditor or Inspector General within this timeframe, will be  
11 made part of the published report. [When the City Auditor provides non-audit  
12 services at the request of the Citizens' Independent Salary Commission, the  
13 Board of Ethics and Campaign Practices, or the City Attorney's Office, the  
14 usual requirements concerning approval of published reports by the  
15 Committee should not be followed to maintain the rights and duties of these  
16 entities to direct and limit the work performed. The City Auditor may informally  
17 brief the Committee as to the commitment of resources to any work assigned  
18 by the Citizens' Independent Salary Commission or the Board of Ethics and  
19 Campaign Practices and the progress being made toward the completion of  
20 the services provided.]

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

31        ~~[(M)]~~~~[(O)]~~     Any discipline of the City Auditor or the Inspector General, as  
32 provided by § 3-1-6 ROA 1994, shall be by the Committee. The City Auditor

1 and the Inspector General shall report to the Committee for approval of  
2 vacation, sick, emergency and city business leave.

3 § 2-10-6 SELECTION AND RETENTION OF CITY AUDITOR.

4 (A) (1) The Committee, through its staff, shall accept applications from  
5 candidates, interview candidates, and shall submit to the City Council the  
6 names of the three candidates (or more in the event that candidates are tied in  
7 ranking) that it finds to be the best qualified to be City Auditor indicating its  
8 ranking, together with a general description of its selection process, and the  
9 [City] Council shall appoint the City Auditor from the three. The Committee's  
10 recommendation to [the City] Council shall be based on the candidates'  
11 integrity, capability for strong management and demonstrated ability in  
12 accounting, auditing, financial analysis, law, management analysis, public  
13 administration, investigation, criminal justice administration or other closely  
14 related fields. [Experience, performance, certifications, and advanced degrees  
15 may also be considered.]

16 (2) Upon the expiration of four years from the date of the City Auditor's  
17 last appointment by the City Council, the Committee shall submit three  
18 candidates to the [City] Council for its consideration for appointment to the  
19 position of City Auditor, or in lieu of recommending three candidates to the  
20 [City] Council, the Committee may recommend to the [City] Council the  
21 reappointment of the incumbent City Auditor. Should the [City] Council decline  
22 to reconfirm the incumbent City Auditor, the [City] Council President will  
23 notify the Committee that it needs to provide the [City] Council with three  
24 alternate candidates pursuant to the provisions of subsection (A)(1).

25 (B) If a current or prior city employee or official is appointed to the  
26 position of City Auditor, such person shall not audit or assist in the audit of  
27 the department or agency where such person previously served or was  
28 employed for a period of four years from the last day of such prior  
29 employment or service. Any audits of such department or agency shall be  
30 referred by the City Auditor to an independent third party auditor who shall  
31 serve as an independent proxy for the City Auditor, vested with the full  
32 authority of the City Auditor only for the purposes of the specific audit(s) so  
33 assigned, and who shall report to the Committee relating to the audit in the

1 same manner as the City Auditor would under this article. If a current or prior  
2 city official, contractor, or employee is one of the three recommended to the  
3 City Council for possible appointment, the Committee shall submit to the  
4 [City] Council a statement describing its assessment of possible conflicts or  
5 appearances of conflicts, if any, that may result during the fulfillment of duties  
6 as City Auditor if that candidate is appointed.

7 (C) As a condition of retention, the City Auditor must obtain certification  
8 as a Certified Public Accountant or Certified Internal Auditor through the  
9 appropriate entity within two years of appointment. Other professional  
10 certifications, such as certified fraud examiner [and certified information  
11 systems auditor] are recommended.

12 (D) Prior to submission of the final three candidates to the City Council,  
13 the three City Auditor candidates shall be fingerprinted and shall provide two  
14 fingerprint cards or the equivalent electronic fingerprints to the Committee to  
15 obtain the candidate's Federal Bureau of Investigation record. Records and  
16 related information shall be privileged and shall not be disclosed to anyone  
17 other than Committee members. The ~~[city]~~ [City] shall pay for the cost of  
18 obtaining the Federal Bureau of Investigation records.

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

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

27 § 2-10-7 CITY AUDITOR'S DUTIES; RESPONSIBILITIES; AUTHORITY;  
28 ADMINISTRATIVE SUBPOENA POWER.

29 (A) If the City Auditor detects apparent or potential violations of law or  
30 apparent instances of misfeasance or nonfeasance by an official or auditee,  
31 the City Auditor shall report the irregularities in writing to the Committee. If the  
32 irregularity is criminal in nature, the City Auditor shall immediately refer the  
33 irregularity to the appropriate prosecuting authority and notify the Inspector

1 General. The City Auditor shall not accept complaints related to discrimination  
2 or labor law matters, or other matters that are the subject of pending litigation.

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

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

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

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

24 (F) In cases where the City Auditor deems it appropriate because of an  
25 audit, investigation, or strategic review, the City Auditor may refer  
26 opportunities for increased efficiency to the ~~[Office of Management and~~  
27 ~~Budget]~~ [Department of Finance and Administration] to work with respective  
28 departments on management and process improvement.

29 § 2-10-8 PROFESSIONAL STANDARDS.

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

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

6 § 2-10-9 PUBLIC RECORDS; CONFIDENTIALITY.

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

10 (B) During the course of audit activities, all records shall be considered  
11 deliberative in process and not available for outside review.

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

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

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

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

29 § 2-10-10 AUDIT ~~[DIVISION]~~[DEPARTMENT]; SCOPE OF AUDITS.

30 (A) [The scope of internal audit activities encompasses, but is not  
31 limited to, objective examinations of evidence for the purpose of providing  
32 independent assessments on the adequacy, quality, efficiency, and  
33 effectiveness of governance, risk management, and control processes for the

1 City. ~~[The Office of Internal Audit shall conduct audits and strategic reviews of~~  
2 ~~all auditees to independently determine whether:~~

3 (1) ~~— The city, state or federal law authorizes implemented activities and~~  
4 ~~programs;~~

5 (2) ~~— The objectives intended by city, state or federal law are efficiently~~  
6 ~~and effectively accomplished in the implementation of activities and~~  
7 ~~programs;~~

8 (3) ~~— The expenditure of funds complies with applicable laws;~~

9 (4) ~~— The revenues are properly collected, deposited and accounted for;~~

10 (5) ~~— Resources, including funds, property and personnel, are adequately~~  
11 ~~safeguarded, controlled and used in a faithful, effective and efficient manner;~~

12 (6) ~~— Financial and other reports fairly and fully disclose all information as~~  
13 ~~required by law necessary to evaluate and ascertain the nature and scope of~~  
14 ~~programs and activities;~~

15 (7) ~~— Management established operating and administrative procedures~~  
16 ~~and practices, accounting internal control systems and internal management~~  
17 ~~controls are adequate, and functioning as intended; and~~

18 (8) ~~— City policies, budgets, goals and objectives are fully implemented;]~~

19 (B) At an official's [special] request, the City Auditor ~~[shall]~~ [may] initiate  
20 ~~[special audits or strategic reviews]~~ [audit services] subject to the provisions  
21 of § 2-10-12.

22 § 2-10-11 ANNUAL AUDIT PLAN.

23 (A) Prior to the beginning of each fiscal year, the City Auditor shall  
24 submit an annual audit plan to the Committee for review and comment. As  
25 part of these deliberations, the officials shall be invited to recommend areas  
26 for inclusion in the plan. The plan shall include the auditees scheduled for  
27 audit during the year, a statement of the scope of the audit and the estimated  
28 time required to complete the audit.

29 (B) The annual audit plan shall be transmitted to the [City] Council for  
30 final approval as a resolution.

31 (C) This plan may be amended during the year after review with the  
32 Committee.

1 (D) In the selection of audit areas, the determination of audit scope and  
2 the timing of audit work, the City Auditor should consult with federal and state  
3 auditors and independent auditors so that the desirable audit coverage is  
4 provided and audit effort may be properly coordinated.

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

7 § 2-10-12 SPECIAL ~~[AUDITS]~~ [REQUESTS]; AUDIT REPORTS.

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

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

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

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

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

29 § 2-10-13 REPORTS TO THE COMMITTEE.

30 (A) Each investigation, audit and strategic review shall result in a written  
31 final report.

32 (B) The City Auditor shall submit ~~[at least five copies]~~ [a copy] of each  
33 report [to each member of] the Committee and shall retain a copy as a

1 permanent record for ~~[six years]~~ [the retention period required by the City  
2 beginning] ~~[from]~~ the date it became a published report or longer if required  
3 by law.

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

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

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

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

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

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

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

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

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

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

24 § 2-10-14 ANNUAL REPORTING.

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

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

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

33 § 2-10-15 CONTRACT AUDITORS, CONSULTANTS, AND EXPERTS.



1           The City Auditor may obtain the services of certified public accountants,  
2 qualified management consultants, certified fraud examiners, forensic  
3 auditors or other professional experts necessary to perform the functions of  
4 the Office of Internal Audit. Contractors performing ~~[an audit]~~ [such services]  
5 shall not have any financial interest in the affairs of the auditees, officials or  
6 employees. The City Auditor shall coordinate and monitor auditing performed  
7 by persons under contract to the City Auditor.

8           **§ 2-10-16 PENALTY; COOPERATION; RETALIATION PROHIBITED.**

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

22           (B) Every city contract, bid, proposal, application or solicitation for a city  
23 contract and every application for certification of eligibility for a city contract  
24 or program shall contain a ~~[statement that the individual understands and will~~  
25 ~~abide by all provisions of the Accountability in Government Ordinance.]~~  
26 [provision stating that the contracting parties shall be subject to examination  
27 and audit as provided for under this ordinance.]

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

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

1       **(E) Any official or employee who violates the Accountability in**  
2 **Government Ordinance may be subject to discipline as may be specified in the**  
3 **Merit System Ordinance or any applicable collective bargaining agreement.”**

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

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

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

16