

CITY of ALBUQUERQUE

TWENTY FIFTH COUNCIL

COUNCIL BILL NO. C/S 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 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 0.23% 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

26 WHEREAS, the Accountability in Government Oversight Committee should
27 have the ability to ensure salaries for the City Auditor and Inspector General

1 are maintained at a level commensurate with their responsibilities and at a
2 level consistent with other city departments with comparably skilled
3 professionals; and

4 WHEREAS, the ability of the Office of Internal Audit to obtain independent
5 legal counsel prevents potential, perceived, or actual conflicts of interest that
6 may arise due to the City Attorney's client relationship with the City or in the
7 event that the Office of the City Attorney is the subject of an audit; and

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

13 WHEREAS, the Institute of Internal Auditors and the Association of Local
14 Government Auditors – two international authorities on the auditing
15 profession – and the City's Accountability in Government Oversight
16 Committee all support the effort to strengthen and preserve the structural
17 independence of the Office of Internal Audit by amending the Accountability in
18 Government Ordinance; and

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

24 SECTION 1. Chapter 2, Article 10 of the Revised Ordinances of
25 Albuquerque, New Mexico, 1994, the "Accountability in Government
26 Ordinance" is hereby amended as follows:

27 "§ 2-10-1 SHORT TITLE.

28 Sections 2-10-1 through 2-10-16 may be cited as the "Accountability in
29 Government Ordinance."

30 § 2-10-2 FINDINGS; PURPOSE; GOALS.

31 (A) The [City] Council finds that good governance, transparency and
32 accountability are critical in the public sector for the effective and credible
33 functioning of a healthy democracy, and in fulfilling the government's

responsibility to citizens and taxpayers. Transparent and reliable reporting and effective audit ~~[servicing]~~ [services] in government ~~[serve to]~~ promote accountability, enhance the effectiveness [and efficiency] of government services to its citizens, and increase the public's confidence in their government.

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

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

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

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

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

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

§ 2-10-3 DEFINITIONS.

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

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

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

1 [CITIZENS' INDEPENDENT SALARY COMMISSION. The Citizens'
2 Independent Salary Commission created pursuant to the City Charter, Article
3 XVIII, Citizens' Independent Salary Commission.]

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

5 COMMITTEE. The Accountability in Government Oversight Committee.

6 CONTRACTORS. All city contractors [including community-based
7 organizations].

8 EMPLOYEE. All city employees.

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

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

14 OFFICIAL. The Mayor and [City] Councilors.

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

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

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

30 § 2-10-4 CREATION OF THE OFFICE OF INTERNAL AUDIT; RESOURCES;
31 STAFF.

32 (A) The Office of Internal Audit is created as an independent [and
33 nonpartisan] office of city government. The Office of Internal Audit is not part

1 of the ~~[city's]~~ [City's] executive branch or the City Council [and strictly
2 adheres to government auditing standards while exercising the highest
3 standards of ethics]. The City Auditor shall report [directly and have
4 unrestricted access] to the Committee. [The purpose of the Office of Internal
5 Audit is to provide independent, objective, assurance and non-audit services
6 designed to add value and improve City operations.]

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

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

32 (D) The Office of Internal Audit shall comply with all ~~[city]~~ [City]
33 ordinances and policies dealing with administrative functions including but

1 not limited to those dealing with personnel [~~the merit system,~~] and
2 procurements.

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

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

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

23 § 2-10-5 CREATION OF COMMITTEE; DUTIES; POWERS; MEMBERSHIP.

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

1 least one Committee member shall be a professional management consultant.
2 The Mayor and one [City] Councilor appointed annually by the [City] Council
3 President shall be nonvoting ex officio members. The Mayor and the
4 appointed [City] Councilor may send designees to the Committee meetings.
5 The ~~[committee]~~[Committee] may request the attendance of other city
6 personnel or auditees.

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

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

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

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

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

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

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

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

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

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

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

1 then the Committee may issue a cautionary statement to the City Auditor or
2 the Inspector General, as appropriate.

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

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

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

5 § 2-10-6 SELECTION AND RETENTION OF CITY AUDITOR.

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

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

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

1 authority of the City Auditor only for the purposes of the specific audit(s) so
2 assigned, and who shall report to the Committee relating to the audit in the
3 same manner as the City Auditor would under this article. If a current or prior
4 city official, contractor, or employee is one of the three recommended to the
5 City Council for possible appointment, the Committee shall submit to the
6 [City] Council a statement describing its assessment of possible conflicts or
7 appearances of conflicts, if any, that may result during the fulfillment of duties
8 as City Auditor if that candidate is appointed.

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

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

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

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

29 § 2-10-7 CITY AUDITOR'S DUTIES; RESPONSIBILITIES; AUTHORITY;
30 ADMINISTRATIVE SUBPOENA POWER.

31 (A) If the City Auditor detects apparent or potential violations of law or
32 apparent instances of misfeasance or nonfeasance by an official or auditee,
33 the City Auditor shall report the irregularities in writing to the Committee. If the

1 irregularity is criminal in nature, the City Auditor shall immediately refer the
2 irregularity to the appropriate prosecuting authority and notify the Inspector
3 General. The City Auditor shall not accept complaints related to discrimination
4 or labor law matters, or other matters that are the subject of pending litigation.

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

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

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

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

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

31 § 2-10-8 PROFESSIONAL STANDARDS.

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

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

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

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

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

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

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

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

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

32 § 2-10-10 AUDIT ~~[DIVISION]~~ [DEPARTMENT]; SCOPE OF AUDITS.

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

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

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

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

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

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

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

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

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

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

26 § 2-10-11 ANNUAL AUDIT PLAN.

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

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

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

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

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

11 § 2-10-12 SPECIAL [AUDITS] [REQUESTS]; AUDIT REPORTS.

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

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

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

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

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

33 § 2-10-13 REPORTS TO THE COMMITTEE.

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

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

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

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

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

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

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

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

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

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

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

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

28 § 2-10-14 ANNUAL REPORTING.

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

31 (B) Within 60 days of the end of each fiscal year, the City Auditor shall
32 issue an annual report to the Committee that separately lists [audit reports,

1 ~~review]~~ [all published] reports and other assistance efforts completed during
2 the fiscal year.

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

5 § 2-10-15 CONTRACT AUDITORS, CONSULTANTS, AND EXPERTS.

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

13 § 2-10-16 PENALTY; COOPERATION; RETALIATION PROHIBITED.

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

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

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

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

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

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

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

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

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