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11/20/08
Item No. 5

AN ORDINANCE 2008-11-20-1015

GOVERNING THE ROLE AND OVERSIGHT OF THE CITY AUDITOR AND THE CITY INTERNAL AUDIT DEPARTMENT

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WHEREAS, the voters of the City of San Antonio in November 2001 approved an amendment to the City Charter to establish the City Internal Audit Department to be under the direction and control of the City Internal Auditor, who shall be appointed by the City Council; and

WHEREAS, the Mayor and City Council concluded it was necessary to further define the role of the Auditor and the Audit Department and its oversight by the Council to promote the efficiency and effectiveness of that department; and

WHEREAS, the Mayor created an ad hoc committee comprised of Council Members Jennifer Ramos, Philip Cortez, and John Clamp, County Judge Nelson Wolff, Mr. Ed Whitacre and Mr. Rolando Pablos to examine the government auditing standards, model legislation related to internal audit and best practices included in charters and ordinances from other municipalities; and

WHEREAS, ad hoc committee developed recommendations to further define the role and oversight of the Auditor and the City Internal Audit Department; and

WHEREAS, the City Council has determined that it is necessary to implement these recommendations; **NOW THEREFORE**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN ANTONIO:

SECTION 1. Office of the City Auditor. There shall be an independent Office of the City Auditor which is charged with conducting audits of all city departments, offices, agencies and programs. The Office of the City Auditor shall be under the direction and control of the City Auditor.

SECTION 2. Appointment, Qualifications and Compensation of City Auditor. There shall be a City Auditor who shall be appointed by the City Council, and shall report to the City Council through an Audit Committee of the Council. The City Auditor must:

1. be knowledgeable in public administration, public financial and fiscal practices, governmental accounting and auditing; and
2. be licensed as a certified public accountant.

The City Auditor's compensation shall be fixed by the City Council.

SECTION 3. Term, Removal, Absence or Disability of the City Auditor. The City Auditor shall not be appointed for a definite fixed time but shall be removable at the will and pleasure of the City Council only by a vote of not less than a majority of the members of the Council. The action of the City Council in removing the City Auditor shall be final. In case of the absence or disability of the City Auditor, the City Council may designate a qualified person to perform the duties of the office.

SECTION 4. Appointment and Removal of Employees. The City Auditor has the authority to appoint, employ, and terminate an assistant or other personnel as necessary to operate the Office of the City Auditor, independently of the direction of the City Manager or City Council, subject to the budget approval process. Assistant auditors shall serve at the will and pleasure of the City Auditor. All other employees in the Office of the City Auditor shall be in the classified civil service of the City and shall be appointed and may be removed by the City Auditor. Any classified employee in the Office of the City Auditor shall have the same rights as other classified city employees, except that in the event of a suspension, reduction or removal of a classified employee in the Office of the City Auditor, the classified employee shall have the right to appeal to the Municipal Civil Service Commission whose decision shall be final.

SECTION 5. Independence, Objectivity, and Audit Standards. The City Auditor shall organize and administer the Office of the City Auditor to operate without interference or influence that might adversely affect an independent and objective judgment of the auditor. The City Auditor:

1. shall organize the Office of the City Auditor as necessary to perform the auditor's responsibilities and duties under the City Charter;
2. shall exercise due professional care in carrying out the auditor's duties, and ensure that due professional care is employed to conduct an audit;
3. shall adhere to generally accepted government auditing standards established by the Comptroller General of the United States to conduct the auditor's work and be independent as defined by the standards; and
4. may not be actively involved in partisan City political activity.

SECTION 6. Powers and Duties. In carrying out the annual audit plan, the City Auditor shall evaluate the adequacy and effectiveness of controls encompassing the City's operations and information systems. This should include reliability and integrity of financial and operational information; effectiveness and efficiency of operations; safeguarding of assets; and compliance with laws, regulations, and contracts. The City Auditor shall also conduct special audits and investigations, as assigned by the Audit Committee. The City Charter establishes the Office of the City Auditor, and the City Auditor's powers and duties are as follows:

1. The City Auditor shall communicate directly with the Audit Committee and City Council, attend Audit Committee meetings, and regularly meet with Council.
2. The City Auditor may conduct follow-up reviews determined to be necessary by the City Auditor to verify a report or plan from City Management in response to an audit recommendation.

3. If the City Auditor determines that a city employee or official may have violated the law, or may be reasonably anticipated to commit a violation, the auditor shall:
   a. report the suspected violation to the City Manager;
   b. report the suspected violation to the Audit Committee;
   c. consult with and obtain advice from the City Attorney;
   d. immediately report the suspected violation to the appropriate authority; and
   e. if the suspected violation is criminal, notify the appropriate chief prosecuting authority.
4. The City Auditor may hire a certified public accountant, qualified management consultant, or other professional expert necessary to assist in the performance of the auditor's duties, in compliance with the City's procurement requirements.

SECTION 7. Access to Records and Property. The City Auditor shall have access to and authority to examine any and all documents including but not limited to books, accounts, internal or external memoranda, tapes, reports, vouchers, files and other records, CDs, computer data, bank accounts, money, funds, and other property of any City department, office or agency, excluding records protected by the attorney-client privilege.

It is the duty of any officer, employee or agent of the City having control of such records to permit reasonable access to, and examination thereof, upon the request of the City Auditor or his or her authorized representative. It is also the duty of any such officer, employee or agent to fully cooperate with, and to make full disclosure of all pertinent information. Each City officer and employee shall provide the City Auditor with free and open access to property, equipment, facilities, and operations for inspection or observation by the auditor.

SECTION 8. Professional Development. Sufficient resources shall be made available to the City Auditor and staff to ensure appropriate professional development, continuing professional education and compliance with applicable certification requirements.

SECTION 9. Annual Audit Plan. The City Auditor shall prepare an annual audit plan based on requests from the City Council, the City Manager and a risk assessment performed by the Office of the City Auditor. Not later than the end of the first quarter of a fiscal year, the City Auditor shall submit an annual audit plan to the City Council for review and approval through the Audit Committee.

1. The annual audit plan shall identify each audit the City Auditor intends to conduct, including:
   a. the department, organization, service, program, function, or policy to be audited; and
   b. key audit objective(s) to be addressed.
2. The annual audit plan may be amended by the City Auditor if he or she notifies and obtains the concurrence of the Audit Committee.
3. The City Auditor may initiate, conduct, or expand the scope of an audit or investigation, if the auditor determines that:
   a. fraud, abuse, or illegality may have been or is occurring; or

b. an audit finding requires expansion of the scope of an audit or investigation in progress.

SECTION 10. Audit Committee. The Audit Committee, one of the standing Committees of the City Council, serves the City Council, the Office of the City Auditor, City Manager and staff, and the general public by promoting a culture of improvement, integrity, accountability and trust in the performance of City operations and functions. The Audit Committee will accomplish this goal by providing guidance to and oversight of the Office of the City Auditor in the performance of its responsibilities.

Members.
Five members appointed by the Mayor shall comprise the Audit Committee. Three members shall be members of the City Council. Two members, who are residents of the City of San Antonio and have applicable experience in financial and/or audit matters, shall also be appointed by the Mayor. These appointments shall be made by the Mayor after consultation with the Audit Committee and others. These two members are to be independent of City Management and the City of San Antonio. The Mayor shall appoint one of the Council Members as Chairperson.
Meetings.
The Audit Committee shall meet as needed to perform its duties but shall not meet less than once quarterly.

1. A majority of the members of the Audit Committee shall constitute a quorum.
2. The Chairperson of the Audit Committee may request the City Manager, City Auditor or others attend meetings and provide pertinent information, as necessary.
3. The minutes of each meeting are to be prepared and sent to Committee members and approved at subsequent meetings.
4. In compliance with the Texas Open Meetings Act, the Audit Committee will hold executive sessions with the City Auditor and external auditors as deemed appropriate.

Financial statements responsibilities.

1. Review significant accounting and reporting issues, including complex or unusual transactions and highly judgmental areas, and recent professional and regulatory pronouncements, and understand their impact on the financial statements.
2. Review with management and the external auditors the results of the audit, including any difficulties encountered.
3. Review the annual financial statements, and consider whether they are complete, consistent with information known to Committee members, and reflect appropriate accounting principles.
4. Review other sections of the annual report before release and consider the accuracy and completeness of the information.
5. Review the independent auditors' single audit of the federal awards administered by the City and their reports thereon.
6. Review with management and the external auditors all matters required to be communicated to the Committee under generally accepted auditing standards.

Internal control responsibilities.

1. Consider the effectiveness of the City's internal control system, including information technology security and control.
2. Understand the scope of external auditors' review of internal control over financial reporting, and obtain reports on significant findings and recommendations, together with management's responses.

City Auditor responsibilities.

The Audit Committee shall communicate City Council's expectations and feedback to the City Auditor.

1. The Committee shall review with the City Auditor the charter, budget, plans, activities, and staffing of the internal audit function.
2. The Chairperson of the Audit Committee shall meet periodically with the City Auditor to discuss whether the materials and information being furnished to the Committee are meeting their needs. The City Auditor shall have reasonable access to the Chairperson of the Audit Committee.
3. The Audit Committee shall review and approve the City Auditor's proposed annual audit plan. This plan may be amended after review with and approval by the Committee. In the case of extraordinary circumstance, the City Manager may utilize resources from the City Auditor to take actions as necessary to safeguard the assets of the City, with the concurrence of the Audit Committee Chair, until the next scheduled meeting of the Audit Committee. The Audit Committee shall:
   a. ensure that the City Manager has provided input and feedback on the proposed annual audit plan;
   b. continuously identify significant issues for audit in order to minimize unexpected or negative outcomes;
   c. ensure that audit work efforts are commensurate with perceived risk; and
   d. review and recommend on a case-by-case basis future actions concerning any written audit requests by the City Auditor, City Manager or City Council that are beyond the approved annual audit plan.
4. The Audit Committee shall perform an evaluation of the City Auditor annually and report the results of the evaluation and effectiveness of the audit function to the City Council.
5. The Audit Committee shall review the City Auditor's report on major activities, key findings and issues. The City Auditor shall be expected to raise matters that have a material effect on controls, integrity of management and quality of financial reporting. The Audit Committee shall:
   a. monitor the City Auditor's audit results and follow-up activities on significant findings and recommendations from previous audits to determine whether timely and appropriate corrective actions have been taken by City Management;
   b. ensure that audit results include recommendations that serve to improve and enhance City operations; and
   c. ensure that City Management's corrective action plans to audit report recommendations are appropriate.
6. The Audit Committee shall review the City Auditor's report on performance measures for the Office of the City Auditor.

External audit responsibilities.

1. Review the external auditors' proposed audit scope and approach, including coordination of audit effort with the City Auditor.
2. Review the performance of the external auditors, and subject to review and final approval of the City Council exercise approval on the appointment or discharge of the auditors.
3. Review and confirm the independence of the external auditors by obtaining statements from the auditors on relationships between the auditors and the City, including non-audit services, and discussing the relationships with the auditors.
4. When required, meet separately with the external auditors to discuss any matters that the Committee or auditors believe should be discussed privately.

Compliance responsibilities.

The Audit Committee shall review the effectiveness of the system for monitoring compliance with laws and regulations.

SECTION 11. Peer Review. In accordance with generally accepted government auditing standards, the City Auditor shall be subject to peer review not less than once every three years by a professional, non-partisan, objective person or group, including an auditor or other professional with appropriate government auditing expertise.

1. After the Audit Committee has evaluated the findings and recommendations in the written peer review report, the Committee shall provide a copy of the written peer review report to City Council.
2. The City Auditor shall pay the cost of the peer review, including reasonable travel and living expenses, from the Office of the City Auditor's budget.

SECTION 12. This ordinance shall become effective immediately upon passage by eight or more affirmative votes; otherwise, it shall become effective on and after the tenth day after passage.

PASSED AND APPROVED on this the 20th day of November, 2008.

M A Y O R
Phil Hardberger

ATTEST:

Leticia Vacek, City Clerk

APPROVED AS TO FORM: _____
City Attorney