

Item No. #26

“To Be Delivered” Material

For

City of Sacramento

City Council

Financing Authority

Housing Authority

Redevelopment Agency

Agenda Packet

Submitted: May 19, 2009

For the Meeting of: Tuesday, May 19, 2009

The attached materials were not available at the time the Agenda Packet was prepared.

Title: Report Back: Creation of Office of the City Auditor

Contact Information: Eileen M. Teichert, City Attorney and Matthew Ruyak,
Supervising Deputy City Attorney, (916) 808-5346, Office of the City Attorney

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No. 26

**REPORT TO COUNCIL
City of Sacramento**

915 I Street, Sacramento, CA 95814-2604
www. CityofSacramento.org

Staff Report

Date: May 19, 2009

**Honorable Mayor and
Members of the City Council**

Title: Report Back: Creation of Office of the City Auditor

Location/Council District: Citywide

Recommendation: Review the recommended framework for the creation of an Office of the City Auditor, and direct the City Attorney to return with a proposed Ordinance consistent with Council's direction.

Contact: Eileen Teichert, City Attorney

Matthew Ruyak, Supervising Deputy City Attorney, -808-3546

Presenters: Matthew Ruyak

Department: City Attorney's Office, Org. # 09300

Division: N/A

Department ID: 09300

Description/Analysis

Issue:

On April 21, 2009, the Council directed the City Attorney, City Manager, and the City Auditor to report back to Council with options and recommendations for establishing a City Auditor appointed by the City Council. This report presents for Council's consideration a proposed structure for the Office of the City Auditor. Attached is a draft ordinance establishing a broad framework for a City Auditor. After receiving comment from Council, the City Attorney's Office can return with a redrafted ordinance consistent with Council's direction.

Policy Considerations: The proposed City Auditor framework touches upon issues fundamental to City operations: accountability, economic prudence, regulatory compliance, and efficiencies in City government.

Environmental Considerations: None

California Environmental Quality Act (CEQA): This action does not constitute a "project" as defined in section 15378 of the CEQA Guidelines.

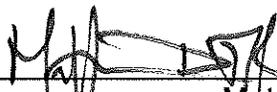
Sustainability: Not applicable.

Commission/Committee Action: Not Applicable.

Rationale for Recommendation: The draft ordinance attached provides a suggested framework that creates a Council-appointed City Auditor, but grants future flexibility on the City Auditor's operations.

Financial Considerations: Currently, the City Auditor has a staff of two (the auditor and an assistant), and the City Council has already approved the addition of two staffers. The proposed ordinance does not affect staffing levels, which will be subject to the Council's future budget decisions.

Emerging Small Business Development (ESBD): Not Applicable.

Respectfully Submitted by: 
Matthew D. Ruyak,
Supervising Deputy City Attorney

Approved by: 
Eileen M. Teichert, City Attorney

Recommendation Approved:


Ray Kerridge
City Manager

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Attachment 1**Background**

The City of Sacramento currently has a City Auditor reporting directly to the City Manager. Each year the City Auditor presents to the Council a proposed work plan. Prior to presentation to the Council, the auditor's work plan is approved by the City Manager.

During the presentation of the annual Internal Audit Workplan on February 17 and 24, the City Council requested a report regarding the organizational placement of the City Auditor. On April 21, 2009, the City Auditor presented to Council his report back on the organizational placement of the City Auditor. The Council passed a motion (8-1) directing the City Manager, City Attorney and City Auditor to work together on a report back to Council on framework under which the auditor would report to Council.

This report puts before Council for consideration and discussion two concepts: (1) placing the City Auditor in a direct reporting relationship to Council, by way of an ordinance establishing the Office of the City Auditor, with further direction to be provided by Council resolution; and (2) the creation of an audit committee. The first concept (the draft ordinance) attempts to respond directly to the main issues identified by various council members at the April 21 meeting. The second concept (the committee) is presented for general discussion and direction.

A. Office of the City Auditor

Attachment 2 is a draft ordinance for Council's review and comment. The draft ordinance includes some introductory findings about the mission of a City Auditor and would add Chapter 2.18 to the Sacramento City Code. (Title 2 of the City Code covers "Administration and Personnel." Chapter 2.18 would be the first chapter within Title 2 identifying a particular department or office.) It establishes a broad framework for the auditor, by doing the following:

1. **Creating the Office of the City Auditor.** The City Auditor would be identified as a "city officer" under Section 70(d) of the Sacramento City Charter, appointed and removed by the City Council. There are presently no other non-Charter offices established under Section 70(d). As with the other council-appointed city officers, the City Auditor would be the appointing authority for the office.
2. **Establishing Qualifications.** For many California cities with charter-created or code-created auditors it is a standard requirement for the auditor to be a Certified Public Accountant or Certified Internal Auditor. The draft section setting the qualifications allows, however, for the Council to set additional or alternative qualifications. For example, the Association of Local Government Auditors' guidelines also allow for "relevant certifications" such as Certified Public Accountant or Certified Internal Auditor "or an advanced degree in a related field with at least five (5) years of experience in government auditing, evaluation or analysis." The auditor would set the qualifications for all others within the office.

3. **Mandating an Audit Plan and Standards.** This section of the draft ordinance mandates the City Auditor to present an annual audit plan to City Council for approval. This is the method for establishing the City Auditor's yearly scope of work. The section also provides a means for expansion of the audit plan without approval of the full council – i.e., through a resolution authorizing others to make audit requests, such as an audit committee or Charter officers. As for standards, there are multiple standards that may be applicable. For example, the Comptroller General of the United States issues Government Audit Standards; and there are the Standards for the Professional Practice of Internal Auditing, established by the Institute of Internal Auditors. The standards to be followed would be adopted by resolution.
4. **Requiring Reports.** This draft section simply requires the city auditor to prepare written reports. However, it leaves the details for a future resolution. City Council may, for instance, wish to have the city auditor first present some (or all) reports to a committee. It may wish to have the auditor prepare the reports in a certain format or within a specified time period. It may wish to allow for a “response” by audited departments.
5. **Access to Information.** To ensure cooperation with the city auditor's requests, this section places upon city departments, offices and employees a duty of providing information and access. However, there may be some information the auditor is not permitted by law to obtain, e.g., certain criminal history information. Therefore, the access is not unlimited. Additionally, the last sentence is added to so as not to “politicize” the city auditor's office.
6. **Non-Interference.** This draft section is suggested to maintain the independence of the city auditor. That is, the auditor is to perform audit functions as directed or authorized by the council, without individual influence.

The draft ordinance, with its very basic form, is intended to be consistent with other parts of the Sacramento City Code in its structure. It has been crafted to afford Council flexibility with respect to the City Auditor. That is, it allows for Council resolution to fill in the details. Specifically, draft Section 2.18.020 allows for flexibility in the City Auditor's qualifications; Section 2.18.030 allows the City Council to authorize a committee or charter officer to request additional audits, as well as setting the standards for audits; and Section 2.18.040 allows a resolution to set the manner of report preparation and presentation. It is contemplated that City Council would, shortly after adopting an ordinance, adopt a resolution detailing such issues.

B. Audit Committee

During discussion about a future City Auditor, staff discussed the possibility of an audit committee. Additionally, on April 30, 2009, the City's external auditors presented Council with its “Report to the City Council for the Fiscal Year Ended June 20, 2008.” On page 6 of that report, the external auditors stated: “In an effort to enhance the quality of the

City's financial reporting, we recommend the establishment of an audit committee.”

Establishment of an audit committee was not included in this draft ordinance. However, the draft ordinance allows flexibility for a committee to assist the full council, with oversight and supervision of the auditor, if that is desired. For such a committee, the City Council may wish to consider whether to create by resolution a new audit committee or place additional responsibilities upon an existing committee. The committee's function could be broad. For example, in addition to receiving, reviewing, and forwarding to the full council the city auditor's updates and reports, the audit committee could do the same for reports from the city treasurer, department of finance, external auditors, and other city offices as relevant to city audits. The audit committee could make recommendations to the city council with respect to the city auditor or other matters that come before it. It could make recommendations to the full council on the selection of the city auditor.

ORDINANCE NO.

Adopted by the Sacramento City Council

Date Adopted

**AN ORDINANCE ADDING CHAPTER 2.18 TO THE SACRAMENTO CITY CODE TO
CREATE THE OFFICE OF THE CITY AUDITOR**

BE IT ENACTED BY THE COUNCIL OF THE CITY OF SACRAMENTO:

SECTION 1.

Section 5 of the Charter of the City of Sacramento provides that “[t]he city council may establish departments, divisions, offices and positions of employment not established by this Charter or created thereunder and shall have the power to abolish, merge or consolidate same.” Section 70 et seq. of the Charter further provides that the City Council may appoint officers of its own body to serve at the City Council’s pleasure. The City Council finds that the creation of a Council-appointed City Auditor pursuant to the foregoing provisions serves the best interests of the City, by making the City Auditor independent of the other City offices.

A city auditor directly appointed by the City Council promotes honest, efficient, effective, and fully accountable city government. A city auditor fulfills that mission by independently conducting audits and examinations of any city department, program, service or activity. Audits and examinations provide the city council and city management with information and evaluations regarding the effectiveness and efficiency with which city resources are employed, the adequacy of the system of internal controls, and compliance with city policies and procedures and regulatory requirements.

SECTION 2.

Chapter 2.18 is added to the Sacramento City Code to read as follows:

Chapter 2.18

Office of the City Auditor

2.18.010 Office of the City Auditor Created

There is created an Office of the City Auditor. The city council shall appoint the city auditor, who shall be a city officer under Section 70, subdivision (d), of the Charter. The city auditor shall have such staff and budget as the City Council may prescribe. The city auditor shall appoint all other members of the city auditor’s office.

2.18.020 City Auditor Qualifications

The city auditor shall be a certified public accountant, a certified internal auditor, or have such other qualifications as established by the city council. The city auditor shall set the qualifications for subordinate staff.

2.18.030 Audit Plan and Standards

A. By March 1 each year, the city auditor shall submit an annual audit plan to the city council for approval. The annual audit plan may be amended during the year with the approval of the city council. The council may, by resolution, authorize a committee or charter officer to request additional audits.

B. Audits shall be conducted in accordance with standards as prescribed by council resolution.

2.18.040 City Auditor Reports

The city auditor shall prepare a written report of the results of each audit conducted and will be responsible for retaining a copy as a permanent record. The council may prescribe by resolution the manner of report preparation and presentation.

2.18.050 Access to Information

City departments, offices and employees shall provide the city auditor access to all sources of information, property, and personnel relevant to the performance of a council-approved audit, unless restricted or prohibited by law. This section shall not apply to the office of any elected official.

2.18.060 Non-Interference with City Auditor

Except as provided by ordinance or resolution, no person shall directly or indirectly coerce or attempt to coerce the city auditor relative to the city auditor's examinations, audits, or the appointment or removal of any employee which is made by the city auditor.

Adopted by the City of Sacramento City Council on _____ by the following vote:

Ayes:

Noes:

Abstain:

Absent:

MAYOR

Attest:

City Clerk

Passed for Publication:

Published:

Effective: