



REPORT TO COUNCIL City of Sacramento

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

Staff Report

Date: June 16, 2009

Honorable Mayor and
Members of the City Council

**Title: (Pass for Publication) Ordinance: Creation of Office of the City Auditor; and
Creation of an Audit Committee**

Location/Council District: Citywide

Recommendation: (1) Review an **Ordinance** adding Chapter 2.18 to the Sacramento City Code relating to the creation of an Office of the City Auditor; (2) pass for publication the Ordinance title as required by Sacramento City Charter section 32(c), to be adopted June 16, 2009; and (3) adopt a **Resolution** establishing an Audit Committee.

Contact: Eileen Teichert, City Attorney

Matthew Ruyak, Supervising Deputy City Attorney, 808-5346

Presenters: Matthew Ruyak

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

Division: N/A

Department ID: 09300

Description/Analysis

Issue:

On May 26, 2009, the City Attorney's Office presented to the City Council a report with a draft ordinance relating to a Council-appointed city auditor. After staff presentation and Council discussion, Council directed staff to return with (1) an ordinance for adoption, (2) a resolution establishing an audit committee, and (3) a discussion of logistics, i.e., mechanics and timing, for hiring a Council-appointed city auditor.

Policy Considerations: The proposed ordinance and resolution touch upon issues fundamental to City operations: accountability, economic prudence,

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 presented ordinance creates a Council-appointed City Auditor, but grants future flexibility on the City Auditor's operations. The proposed resolution creates an audit committee of councilmembers, to facilitate receipt and review of the auditors reports, as well as providing recommendations to the full Council on matters within its purview.

Financial Considerations: The proposed ordinance does not affect approved staffing levels, which will be subject to the Council's future budget decisions. The FY2009/10 Budget Adoption resolution includes a technical adjustment moving the Office of the City Auditor from the City Manager's Office to the Mayor and City Council. The proposed resolution creates a Council committee. It has unknown, but likely negligible, financial effects.

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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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 directing the City Manager, City Attorney and City Auditor to work together on a report back to Council on a framework under which the auditor would report to Council. On May 19, 2009, the City Attorney's Office presented to the Council a report with a draft ordinance for review and comment. That report also discussed the potential creation of an "Audit Committee."

At the conclusion of staff's presentation, Council passed a motion directing staff to do the following three tasks simultaneously: (1) return to Council (and bypass the Law and Legislation Committee) with an ordinance substantially conforming to the draft ordinance reviewed at the May 19 meeting; (2) present to Council a resolution establishing an Audit Committee; and (3) report on the mechanics and timing for the hiring of a Council-appointed city auditor. These three issues are discussed in turn.

A. Ordinance Creating an Office of the City Auditor

Attachment 2 is an ordinance creating an Office of the City Auditor. The ordinance includes introductory findings about the reasons for a Council-appointed City Auditor and adds 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.) The ordinance 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, council member, 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 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 section seeks 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 ordinance 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, council member, 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 adopt a resolution detailing such issues in the near future, and staff solicits and welcomes direction on the substance of that resolution.

It must be noted that staff has made several minor modifications to the draft ordinance discussed on May 19. Attachment 3 is a “redlined” version of the ordinance,

showing the changes between the May 19th version and the ordinance being presented for final approval. To summarize the changes: (1) in Section 2.18.020 [qualifications], the language has been made clearer to allow for alternative qualifications, as the Council may establish by resolution; (2) to address an issue discussed at the May 19 City Council meeting, in Section 2.17.030 a clause has been added to allow a councilmember to request an audit of his or her own office, if council approves that request authority by resolution; (3) to further address that issue, in Section 2.18.050 a clause was added to address cooperation with an audit by a councilmember's office; (4) the introductory clause in Section 2.18.060 was deleted, as it was potentially confusing and unnecessary; and (5) two minor editorial changes.

B. Resolution Creating an Audit Committee

Attachment 4 is a Resolution for the creation of an Audit Committee. As with the proposed ordinance creating the Office of the City Auditor, the Resolution takes a minimalist approach. This is for three reasons. First, the two existing Council committees have only general descriptions of their purpose and procedures. (See Council Rules of Procedure, Chapters 13 & 14 [adopted January 27, 2009, Resolution 2009-056].) Second, if a more complete description of the committee's scope and charge is necessary, that can be further evaluated after the committee and the Council-appointed City Auditor operate under the new system. Third, there likely will be at least two further resolutions that complement this resolution – one (or more) implementing resolution(s) to establish additional guidelines for audit plans and auditor reports, and one to update the committee chapters in the Council Rules of Procedure.

The Resolution has three operative sections. The first (Section 1) establishes the committee as a standing committee of the Council, in accordance with the direction given by Council on May 19. The composition and selection of the committee (i.e., four councilmembers appointed annually by the Mayor and confirmed by the Council) is the same as for the two existing standing committees. Additionally, Section 1 expressly states the Audit Committee will conduct its business in the same manner as the other committees, e.g., it will be subject to the Brown Act. The attached resolution is intended to work in conjunction with the current Council Rules of Procedure. The Council Rules of Procedure set forth the guidelines for standing committees (see Chapter 12), and specifically sets for the purpose and procedures for the operation of the Law and Legislation Committee and the Personnel and Public Employees Committee (see Chapters 13 & 14). For consistency, it is recommended that when the Council revisits its Rules of Procedure next year, the Rules of Procedure include a new chapter covering the Audit Committee.

Section 2 of the Resolution sets the fundamental scope and purpose of the committee – to monitor and consider the City Auditor's work. Additionally, the second sentence was part of the discussion presented in the May 19 report to Council. This would allow the Audit Committee to receive and consider other matters that impact the City's finances and operations.

Finally, Section 3 allows the Audit Committee a formal role in the selection of the City Auditor. Thus, it could meet to interview the candidates and make a recommendation to the full Council. The second clause is intended to give the Audit Committee the ability to consider the substance of the implementing resolutions governing the city auditor's work, including those contemplated by the ordinance establishing the Office of the City Auditor (see, e.g., proposed Sections 2.18.020 [auditor qualifications], 2.18.030 [delegation of audit request authority], and 2.18.040 [auditor reports]). The last clause of Section 3 is a catch-all that allows the Audit Committee to consider matters expedient to its function and purpose.

C. Mechanics and Timeline for Appointing City Auditor

To meet Council's apparent goal of putting a city auditor to work as quickly as possible, but no later than the end of this calendar year, the City can do the following: direct Human Resources staff to immediately – that is, commencing July 1 (see below) – work with an executive recruiting firm to pursue the city auditor hiring process on an expedited basis, and use the Audit Committee (if it gets appointed timely) to conduct interviews of the top screened candidates, for prompt referral to the full Council. Assuming an adequate pool of applicants, the process will take no less than 6 weeks, but more realistically several months.

The City is currently negotiating with three (3) firms to provide executive recruiting services on a rotational or as-needed basis. It is anticipated these contracts, executed under the City Manager's contracting authority, will be in place by July 1, 2009. It therefore makes sense to use one of these companies to assist the Council in its selection of a City Auditor. The contracts' scope of services sets the following typical process for candidate selection:

- Phase 1: Recruitment (i.e., advertising campaign, creation of brochure, conduct a phone bank of prospective applicants, etc.)
- Phase 2: Search Assessment of the Applicants to Advance to Candidacy
- Phase 3: Candidate Assessment
- Phase 4: Leadership Assessment
- Phase 5: Hiring Interview (i.e., coordinate with Human Resources and appropriate City of Sacramento representatives to schedule hiring interviews)
- Phase 6: Feedback and Follow-up
- Phase 7: Negotiations

Once a recruiting firm is chosen, materials must be produced and approved. That normally takes about one week. The duration of Phase 1 (Recruitment) depends, in part, upon Council's wishes for the scope of the recruitment. That is, for California-only recruitments, the City typically has had an open application period of three weeks; for a nationwide recruitment, the period is four weeks. Screening (that is, Phase 2, resulting in top potential candidates) takes approximately one week. The subsequent interview

process also depends, in part, on Council's wishes regarding the number of candidates to be interviewed, e.g., the top two candidates recommended by the recruiter and Human Resources staff, or the perhaps the top four or five candidates.

Slowdowns are possible at several points: during recruitment when either too few or an overwhelming number of applications are received; the scheduling of interviews according to the availability of candidates; the deliberations of Council; the negotiation of employment terms for the preferred candidate; and the ability of the chosen candidate to release herself or himself from present employment, and perhaps relocate to Sacramento.

No definitive start date can be assumed at this time. However, according to Human Resources, three of the most recent executive recruitments (resulting in selections from outside the City) each took approximately 2 ½ to 3 months. Of course, it should be noted that there is a difference between those recruitments and the one to be conducted for the City Auditor – the City Manager was the appointing authority for those positions. Nonetheless, Council's direction to staff, as well as the active and timely involvement of the Audit Committee, can help set a strict timeframe for the process. Thus, a similar timeline may be optimistic, but not impossible.

D. Additional Considerations

Assuming the Council adopts the proposed ordinance and resolution, the Council, or Audit Committee, should consider additional steps in the near future. As touched upon, or intimated, in this report, those include: getting the Audit Committee appointed and operating; involving the Audit Committee in the city auditor hiring process; adopting further resolutions regarding the city auditor's operations; and amending the Council Rules of Procedure as the Council deems necessary to address the existence and function of the Audit Committee.

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 an Office of the City Auditor, with 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 or additional qualifications as the city council may establish by resolution. 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, by resolution, may authorize a committee, charter officer, or an individual councilmember with respect to audits of the councilmember's own office, 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 an audit, unless restricted or prohibited by law. This section shall not apply to the office of any elected official, unless that elected official requested the audit of that official's own office.

2.18.060 Non-Interference with City Auditor

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:

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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:

RESOLUTION NO.

Adopted by the Sacramento City Council

CREATION OF AN AUDIT COMMITTEE

BACKGROUND

- A. The City Council is creating an Office of the City Auditor, to replace the auditor's office currently under the direction of the City Manager. The City Auditor will be appointed by, and be under the direction of, the City Council.
- B. The City Council should be kept apprised of the City Auditor's work. A committee of councilmembers can assist the full Council in the oversight and supervision of the City Auditor.
- C. A standing Audit Committee would enhance the City's ability to effectively and openly evaluate the effectiveness and efficiency of City operations, as well as compliance with City policies and procedures and regulatory requirements.

BASED ON THE FACTS SET FORTH IN THE BACKGROUND, THE CITY COUNCIL RESOLVES AS FOLLOWS:

- Section 1. There is created a standing council committee to be known as the "Audit Committee." The audit committee shall consist of four council members, who shall be appointed to the committee annually by the mayor and approved by the city council. Except as provided by this Resolution, the Audit Committee shall be subject to the Council Rules of Procedure, as adopted from time to time.
- Section 2. The Audit Committee shall receive, review, and forward to the full council the city auditor's updates and reports. The audit committee may do the same for reports from the city treasurer, department of finance, external auditors, and other city offices as relevant to city audits.
- Section 3. The Audit Committee may make recommendations to the city council with respect to the selection of the city auditor, resolutions necessary or convenient to the operation of the office of the city auditor, and any other matter related to audits or the city auditor.