

1 E. The governing body does hereby establish the internal audit department, an
2 independent city department of city government reporting to the city manager, which shall oversee
3 the internal auditor and the functions hereby established. To ensure independence and compliance
4 with generally accepted governmental auditing standards, the internal auditor:

5 (1) Shall report results to the city manager, the audit committee, the finance
6 committee and the governing body;

7 (2) Is a city department located organizationally outside of other city
8 departments;

9 (3) Has access to the governing body in accordance with the Open Meeting Act;
10 and

11 (4) Is sufficiently removed from political pressures to conduct audits and report
12 findings, opinions and conclusions objectively without fear of political reprisal.

13 F. The governing body also directs the internal audit department, in cooperation with
14 the audit committee, to establish job descriptions and department policies and procedures based on
15 generally accepted governmental auditing standards; and to adopt the Code of Ethics as defined by
16 the Institute of Internal Auditors.

17 **Section 2. Subsection 2-22.3 SFCC 1987 (being Ord. #2012-32, §4) is amended to**
18 **read:**

19 **2-22.3 Definitions.** For the purpose of this article, the following definitions shall apply
20 unless the context clearly indicates or requires a different meaning.

21 *Auditees* mean the city related departments, programs, activities, agencies, vendors,
22 contractors, employees, public officials or other city related entities affected by an audit or
23 investigation.

24 *Committee* means the city of Santa Fe audit committee.

25 *Contractors* mean all city contractors.

1 *Internal auditor* means the internal auditor who is the head of the internal audit department.

2 *Employee* means a city employee.

3 *Official* means the mayor or a city councilor.

4 *Report* means an audit, a special audit, an investigation and/or an examination

5 *Special investigation or special audit* means additional procedures or audits undertaken
6 because the need was not previously foreseen.

7 **Section 3. Subsection 2-22.4 SFCC 1987 (being Ord. #2012-32, §4) is amended to**
8 **read:**

9 **2-22.4 Creation of the Internal Audit Department; Resources; Staff.**

10 A. The internal audit department is created as an independent office of city government.
11 The internal auditor is the head of the internal audit department and shall report to the city manager.

12 B. The audit committee shall review applications for and make a recommendation to the
13 city manager for hiring of the internal auditor, a city employee.

14 C. The internal auditor shall review applications and make recommendations to the city
15 manager for hiring other internal audit department employees; or independent contractors to be
16 procured for assistance to the internal audit department.

17 D. In accordance with law and in consultation with the city attorney's office, the city
18 manager shall report proposed personnel actions, such as hiring, discipline or termination, relating to
19 the internal auditor to the audit committee in executive session, in accordance with the New Mexico
20 Open Meetings Act. Nothing in this paragraph shall prohibit the city manager from immediately
21 placing the internal auditor on administrative leave due to a proposed personnel action; however, the
22 city manager shall report the proposed personnel action to the audit committee, within seven (7)
23 business days from the date the internal auditor is placed on administrative leave..

24 E. The internal auditor's work shall result in a complete written final report being made
25 of each annual audit, special audit, investigation and/or examination made ("report") and shall be

1 delivered to the city manager, except if city manager is the subject of the audit, then the report shall
2 be delivered to the mayor. The internal auditor shall also notify the governing body in writing that
3 the final report has been delivered. Each report, in its final form, shall set out in detail, in a separate
4 section, any violation of law or good accounting practices found. Such reports are confidential under
5 this Ordinance until placed on the finance committee's agenda or put in its final form, whichever
6 occurs first. Reports shall not exist in a draft form for more than thirty (30) days without presentation
7 to the finance committee. Final reports shall also be timely presented to the audit committee. If the
8 draft report is not ready to be delivered to the city manager in its final form or is not ready to be
9 presented to the finance committee after thirty (30) days, then staff shall inform the finance
10 committee, in writing, the specific date, absent court order not exceeding twenty (20) days, when the
11 final report will be delivered to the city manager or presented to the finance committee and the stated
12 basis for the additional time needed.

13 F. Any final report for presentation to city committees or the governing body shall be
14 included in the meeting packet and such meeting packets shall be posted on the city's website.

15 G. Prior to the committee meeting a final report placed on a committee agenda shall be
16 accessible by all members of the governing body and the public, and at such time shall become a
17 public record consistent with the Inspection of Public Records Act and its exemptions.

18 H. Within thirty (30) days after receipt of the report, the employee and/or division
19 and/or department audited may notify the internal auditor of any errors in the report. If the internal
20 auditor is satisfied from data or documents at hand, or by an additional investigation, that the report is
21 erroneous, the internal auditor shall correct the report and furnish copies of the corrected report to all
22 parties receiving the original report.

23 I. The internal auditor may disclose audit information or audit documentation that is
24 confidential, without losing the confidentiality under this Ordinance to an independent external
25 auditor in connection with a special audit, performance audit, attestation engagement or other existing

1 or potential engagement regarding the financial affairs *and* transactions of the city.

2 J. The auditor's budget shall be reflected in the city manager's proposed budget as a
3 separate department. The budget shall be sufficient to allow the organization to carry out its
4 responsibilities including sufficient funding for annual continuing professional education
5 requirements and professional certification as required by the generally accepted governmental
6 auditing standards. The auditor's proposed budget shall be prepared and presented to the finance
7 director and the city manager.

8 **Section 4. Subsection 2-22.5 SFCC 1987 (being Ord. #2012-32, §6) is amended to**
9 **read:**

10 **2-22.5 Internal Auditor's Duties; Responsibilities; Authority; Administrative**
11 **Subpoena Power.**

12 A. If the internal auditor detects instances of possible fraud, waste, or abuse or potential
13 violations of law by an auditee, he shall report the irregularities to the city manager and the audit
14 committee.

15 (1) In accordance with Section 12-6-6 NMSA 1978 and state auditor's Rule
16 2.2.2.10K(3), a notification letter regarding the possible fraud, waste or abuse shall also be
17 sent to the state auditor's office whether or not an investigation by the internal auditor is
18 conducted.

19 (2) If the irregularity is criminal in nature, the internal auditor shall immediately
20 refer the irregularity to the appropriate prosecuting authority.

21 (3) If the irregularity warrants a special investigation, audit, and/or special audit,
22 then the internal auditor shall conduct a special investigation, audit and/or special audit. The
23 report shall be submitted to the city manager, the audit committee, the auditee, the governing
24 body through the finance committee.

25 (4) The internal auditor shall not accept complaints related to discrimination or

1 labor law matters. In some cases, it may be appropriate for internal audit to work with
2 investigators or legal authorities, or withdraw from or defer further audit work on the audit or
3 portion of the audit to avoid interfering with an ongoing investigation or legal proceeding.

4 B. The internal auditor shall adhere to generally accepted governmental auditing
5 standards in conducting its work and will be considered independent as defined by those standards.

6 C. The internal audit department is subject to a peer review by an appropriate
7 professional non-partisan objective group every three to five years. A copy of the written report shall
8 be furnished to the city manager, audit committee, and governing body, via the finance committee.

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

15 **Section 5. Section 2-22.6 SFCC 1987 (being Ord. #2012-32, §7) is amended to read:**

16 **2-22.6 Scope of Audits.**

17 A. Audits, except for special audits or special investigations/examinations, will be
18 conducted based on an annual audit plan developed in accordance with applicable professional
19 auditing standards. This plan and any modifications thereof, are to be reviewed by the audit
20 committee and recommended for approval.

21 (1) Within sixty (60) days before the beginning of each fiscal year, the internal
22 auditor shall submit a one-to-five-year audit plan to the audit committee, the city manager and the
23 governing body for review and comments, but the internal auditor shall have final authority to
24 select the audits planned. The proposed plan shall include the rationale for the selections, for
25 auditing departments, offices, boards, activities, subcontractors and agencies for the period. This

1 plan may be amended after review;

2 (2) The final plan and any amendments will be presented to the audit committee,
3 the city manager, and subject to approval of the governing body;

4 (3) In the selection of audit areas and audit objectives, the determination of audit
5 scope and the timing of audit work, the internal auditor should consult with federal, state and
6 other external auditors so that the desirable audit coverage is provided and audit effort is
7 properly coordinated.

8 B. The internal auditor is authorized to conduct the following audits as defined in
9 generally accepted governmental auditing standards:

10 (1) *Performance/Management Audits.* Performance audits are defined as
11 engagements that provide assurance or conclusions based on an evaluation of sufficient and
12 appropriate evidence against stated criteria, such as specific requirements, measures, or
13 defined business practices.

14 (2) *Financial Audits.*

15 (3) *Attestation Engagements.* Attestation engagements result in an examination,
16 a review, or agreed upon procedures about a subject matter that is the responsibility of
17 another party. This includes special audits.

18 (4) *Advisory (Non-Audit) Services.* This includes special investigations. The
19 issued report shall not include an opinion statement or a statement indicating the investigation
20 was done in accordance with generally accepted government auditing standards. These
21 services are subject to applicable professional standards.

22 C. The auditor shall have the authority to conduct performance and financial audits,
23 attestation engagements or to provide advisory (non-audit) services to independently and objectively
24 determine whether:

25 (1) The city, state or federal law authorizes the implemented activities and

1 programs that are the subject of the audit;

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

4 (3) The expenditure of funds was or is in compliance with applicable laws;

5 (4) The revenues were or are properly collected, deposited and accounted for;

6 (5) The entity, programs, activities, functions, or policies are effective, including
7 the identification of any causes of inefficiencies or uneconomical practices;

8 (6) The desired result or benefits are being achieved;

9 (7) Resources, including funds, property and personnel, were or are adequately
10 safeguarded, controlled and used in a faithful, effective and efficient manner;

11 (8) Financial and other reports fairly and fully disclosed all information as
12 required by law necessary to evaluate and ascertain the nature and scope of programs and
13 activities;

14 (9) Management established operating and administrative procedures and
15 practices, accounting internal control systems and internal management controls were and are
16 adequate and functioning as intended;

17 (10) City policies, budgets, goals and objectives were and are fully implemented;
18 and

19 (11) Indications of fraud, waste, abuse or illegal acts are valid and need further
20 investigation.

21 **Section 6. Section 2-22.7 SFCC 1987 (being Ord. #2012-32, §8) is amended to read:**

22 **2-22.7 Reports.**

23 A. The internal auditor shall report results of all types of audits, investigations and/or
24 engagements in their final report form to the audit committee, the city manager, the auditees, and the
25 governing body via the finance committee.

1 B. All types of audit reports, investigations and/or engagements, in their final report
2 form, are public records, available for public inspection.

3 C. The internal auditor's reports, including attestation engagements, shall follow the
4 guidelines as specified in generally accepted governmental auditing standards, or in the case of a non-
5 audit service applicable professional auditing standards.

6 D. At a minimum audit and attestation engagement reports should include:

- 7 (1) Statements describing the objectives, scope and methodology of the audit;
- 8 (2) A statement that the audit was performed in accordance with generally
9 accepted government auditing standards;
- 10 (3) Background information, audit results, and findings as appropriate;
- 11 (4) A conclusion based on the audit objectives and the audit findings.
- 12 (5) The findings in the audit report should present sufficient, appropriate
13 evidence to support the conclusion in relation to the audit objectives.

14 E. Responses submitted by the city manager relevant to the audit findings must include
15 a remediation plan specifying dates and corrective action to be taken to resolve the issue.

16 (1) A response is required [~~to respond~~] within fourteen (14) days of receipt of a
17 final report;

18 (2) If no response is received, the internal auditor will note that fact in the
19 transmittal letter and will release the report without a remediation plan.

20 F. The internal auditor shall submit an annual report to the audit committee, city
21 manager, and governing body via the finance committee within sixty (60) days after fiscal year end
22 indicating all audits, investigations and/or engagements completed, major findings, corrective actions
23 taken by administrative managers, and significant issues which have not been fully addressed by
24 management.

25 **Section 7. Section 2-22.9 SFCC 1987 (being Ord. #2012-32, §10) is amended to**

1 read:

2 **2-22.9 Contract Auditors, Consultants, And Experts.** Within budgetary constraints, the
3 internal auditor may obtain the services of certified public accountants, qualified management
4 consultants, certified fraud examiners, forensic auditors or other professional experts necessary to
5 perform the functions of the internal audit department. Contractors performing an audit shall not
6 have any financial interest in the affairs of the auditees, officials or employees. The internal auditor
7 shall coordinate and monitor auditing performed by persons under contract to the internal auditor.

8 **Section 8. Section 2-22.10 SFCC 1987 (being Ord. #2012-32, §11) is amended to**
9 **read:**

10 **2-22.10 Penalty; Cooperation; Retaliation Prohibited.**

11 A. All city officials, employees and contractors shall provide the internal auditor full and
12 unrestricted access to all city offices, employees, records, information, data, reports, plans,
13 projections, matters, contracts, memoranda, correspondence, electronic data, property, equipment and
14 facilities and any other materials within their custody. At the internal auditor's request, an official,
15 employee or contractor shall prepare reports and provide interviews. If an auditee, official, employee,
16 vendor or contractor fails to produce the requested information, the internal auditor shall notify the
17 city manager requesting his assistance in causing a search to be made and germane exhibits to be
18 taken from any book, paper or record, written or electronic, excepting personal property. The city
19 manager shall require the officials, employees, vendors or contractors to produce the requested
20 information. Further, all contracts with outside contractors and subcontractors shall contain a "right-
21 to-audit" clause providing the internal auditor access to the contractor's employees and to all financial
22 and performance related records, property, and equipment purchased in whole or in part with
23 governmental funds.

24 B. No person shall retaliate against, punish or penalize any other person for complaining
25 to, cooperating with or assisting the internal auditor in the performance of his office. The internal

1 auditor, all city employees and public officials and any person cooperating with the internal auditor in
2 performance of duties has the same protections as provided for in the Federal Whistle Blower
3 Protection Act and the New Mexico Whistleblower Protection Act, Sections 10-16C-1 et seq. NMSA
4 1978.

5 C. Any official or employee who violates this Ordinance may be subject to discipline as
6 may be specified in applicable city ordinances or any applicable collective bargaining agreement.

7 **Section 9. A new Subsection 2-22.11 SFCC 1987 is ordained to read:**

8 **2-22.11 [NEW MATERIAL] Audits and the Inspection of Public Records Act.**

9 A. This subsection is adopted pursuant to the general welfare and police powers
10 conferred upon the city of Santa Fe by §3-17-1 et seq. and §3-18-1 et seq. NMSA 1978, pursuant to
11 the powers conferred upon the city of Santa Fe by the New Mexico Constitution, Article X §§6(D)
12 and 6(E) and the Municipal Charter Act §3-15-1 et seq. NMSA 1978, which have been exercised by
13 the city's adoption of the Santa Fe Municipal Charter. The purpose of this subsection is within both
14 the city's home rule powers and the delegated powers that all municipalities have to provide for the
15 general welfare of their residents by the general welfare clause in Section 3-17-1(B) NMSA 1978 and
16 police power to "protect generally the property of its municipality and its inhabitants" and to
17 "preserve peace and order within the municipality" by Section 3-18-1(F) and (G) NMSA 1978.

18 B. At all times during the audit process and after the report becomes a public record; the
19 internal auditor shall follow applicable standards and 2.2.2 NMAC regarding the release of any
20 information relating to the audit. Applicable standards include but are not limited to the AICPA Code
21 of Ethics Rule 301 and related interpretations and guidance, Institute for Internal Auditors
22 interpretations and guidance and GAGAS 4.30 to 4.32 and GAGAS 4.40 to 4.44.

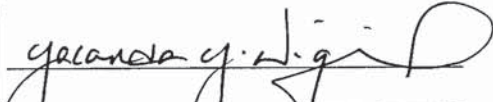
23 PASSED, APPROVED and ADOPTED this 30th day of October, 2013.
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DAVID COSS, MAYOR

ATTEST:


YOLANDA Y. VIGIL, CITY CLERK

APPROVED AS TO FORM:


for KELLEY A. BRENNAN, INTERIM CITY ATTORNEY