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CITY OF OAKLAND
AGENDA REPORT

TO: Finance and Management Committee, City Council
FROM: Office of the City Attorney
DATE: June 14, 2011

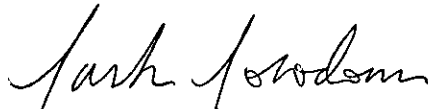
RE: Status Of Required Audits – Receive An Informational Report On An Update On City Ordinance And Enacted Ballot Measure Mandated Audits

At its April 26, 2011, meeting, the Finance and Management Committee asked for additional information relating to the mandated audits by the City Auditor. Specifically, the Committee asked for a complete description of the other City Charter mandated duties of the City Auditor.

The City Attorney's Office has previously conducted and delivered to the City Council an analysis. (Attached.) In 2010, the City Attorney's Office requested an expert analysis of the level of auditing services necessary for the City Auditor to perform her Charter-mandated duties. The City Attorney's Office engaged the firm MGT of America ("MGT"), based in Sacramento. MGT is a national management consulting and performance audit firm specializing in providing services to public-sector and non-profit clients. MGT has provided services to the City's Finance and Management Agency in 2007, 2008, and 2009. In addition, MGT has performed audits and reviews of governmental entities across the country, including the North Carolina General Assembly and the City of San Jose.

Pages 10-26 specifies all the Charter and Ordinance mandated duties.

Respectfully submitted,



Mark T. Morodomi
Supervising Deputy City Attorney

CITY OF OAKLAND
Office of the City Attorney
Legal Opinion

TO: PRESIDENT JANE BRUNNER AND
HONORABLE CITY COUNCIL

CC: Mayor Ronald V. Dellums; City Administrator Dan Lindheim;
Budget Director, Cheryl Taylor

FROM: City Attorney John Russo

DATE: May 27, 2010

SUBJECT: Minimum Budget Requirements for City Auditor's Office Under the Oakland
City Charter

I. INTRODUCTION

On April 25, 2006, the City Attorney's Office issued a formal legal opinion on whether the City Council must provide the City Auditor minimum funding. Budgetary matters, including fixing of the number of employees, their salaries, and their benefits, are legislative actions. The general rule is that a legislature, a city council for example, has wide discretion over purely legislative actions. However in "rare" cases judicial interference with the legislative process is justified. A city council cannot violate its own charter. "The city council cannot relieve a charter officer of the city from the duties devolving upon him by the charter" (Scott v. Common Council, 44 Cal.App.4th 684, 690 (1996).) The Legal Opinion is attached.

On March 5, 2010, the City Auditor asked the City Attorney's Office for a formal legal opinion on at what budgetary level is the City Auditor's Office prevented from carrying out its Charter-mandated duties.

Because the City Auditor's request required an expert analysis of the level of auditing services necessary for the City Auditor to perform her Charter-mandated duties, we engaged the firm MGT of America ("MGT"), based in Sacramento. MGT is a national management consulting and performance audit firm specializing in providing services to public-sector and non-profit clients. MGT has provided services to the City's Finance and Management Agency in 2007, 2008, and 2009, and is currently providing services to the Agency. In addition, MGT has performed audits and reviews of governmental entities across the country, including the North Carolina General

Assembly and the City of San Jose. The staff that performed the expert services for the City Auditor's report were not the same staff who have or are providing services to the Finance and Management Agency.

II. QUESTION

Would a cut of 15 percent from the City Auditor's budget in fiscal year 2010-11 impair the City Auditor from carrying out activities mandated under the City Charter?

III. CONCLUSION

According to MGT's report, the current budget for auditor positions in the City Auditor's Office is already below the amount necessary to carry out the minimum duties required by the City Charter. As stated in the MGT report, the analysis considered current auditing benchmarking and best practices, census population estimates to ascertain similarly sized cities, and cities with elected auditors with analogous charter mandates. Because the MGT analysis is a "snapshot" of a specific moment in the City's organizational history, the City Attorney's Office does not reach the issue of whether the previously adopted City Auditor budget violates the Charter nor does the City Attorney's Office opine that the number of positions suggested by the MGT report is an absolute, constant minimum.

As of this date, however, and based on MGT's analysis, the City Attorney's Office does conclude that any cuts in existing auditor positions would be in violation of the City Charter because further cuts would certainly prevent the City Auditor from carrying out her Charter mandated duties.

Very truly yours,



JOHN A. RUSSO

City Attorney

Attorney Assigned:

Mark T. Morodomi

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MGT
OF AMERICA, INC.

May 24, 2010

Mr. John Russo
Oakland City Attorney
1 Ogawa Plaza, 6th Floor
Oakland, CA 94612

Dear Mr. Russo:

MGT of America, Inc. (MGT), is pleased to submit our report to the City of Oakland (City), Office of the City Attorney, in response to your request to conduct an analysis of the required activities and workload for the Office of the City Auditor. The purpose of this report was to address the question: "At what budgetary level is the City of Oakland's (City's) Auditor's Office prevented from carrying out its charter mandated duties."

Our analysis determined that it appears that the City Auditor's Office, at its Fiscal Year 2009-10 funding levels, may be understaffed by one audit full time equivalent (FTE). The City Council's recent decision to cut 15 percent from the City Auditor's budget in fiscal year 2010-11 would only serve to increase the problem, and impair the City Auditor from carrying out activities mandated under the city charter.

In arriving at our conclusion, we utilized several data sources and processes to calculate the required workload associated with City Charter activities. We acknowledge that the City is faced with difficult budget decisions in the upcoming year. However, we believe the Council should consider, in addition to the minimum required activities of the City Auditor as documented in the report, the potential benefits and savings to the City through having a well-established audit function. We note that the City Auditor's office has generated between \$4 to \$5 in savings and recommendations for each dollar spent during the two most recent years. Reducing staff and budgets may likely reduce the expected benefits to the City.

Please contact me at 916-443-9236, extension 4501 or linus_li@mgtamer.com if you have any questions or would like to discuss the report in further detail.

Sincerely,

Linus Li

Linus Li
Principal

Enclosures

SECTION ONE: INTRODUCTION

This report presents the team's findings related to our review of the workload requirements of the Oakland City Auditor's Office. The team was requested to perform this review by the Oakland City Attorney's Office in response to concerns from the City Auditor who believed that the proposed 15 percent cut to her budget in fiscal year 2010-11 would prevent her office from carrying out mandated responsibilities under the City Charter, City Ordinances, and past local ballot measures. The core question to be answered as a result of this study is "At what budgetary level is the City of Oakland's (City's) Auditor's Office prevented from carrying out its charter mandated duties."

Review Scope

In March 2010, the Oakland City Attorney's Office contracted with MGT of America, Inc. (MGT or the review team) to conduct an analysis of the Office of the City Auditor's ability to conduct its mandated duties. The review team began its work in early April, with the initial draft report issued in late April 2010.

Methodology

The team had seven tasks within the scope of the review, summarized below:

➤ **Task 1: Perform Project Initiation Activities**

This task involved conducting a kickoff meeting with management of the City Auditor's Office, and the project liaison at the City Attorney's Office. The kickoff meeting focused on the scope and timing of the review and the protocol for conducting interviews and requesting information. The team had previously presented an initial data and document request list to the City Attorney and City Auditor in advance of the meeting.

Following the kickoff meeting, the team held an entrance conference with the City Auditor's Office. At the meeting, the City Auditor and the Assistant City Auditor presented the team with information gathered as part of our initial document request list. The City Auditor also gave an overview of her office's structure and history. The team identified the principal contact for the review during the engagement.

➤ **Task 2: Identify and Document Existing Structure of City Auditor's Office**

In this task, we developed a current profile of the City Auditor's Office, by identifying key characteristics of the organization, such as staff responsibilities, current and past workload, types and number of audit reports issued, level of effort to conduct audits, extent of work contracted to outside vendors, and volume of follow-up work performed in response to prior audits. We developed this profile through a combination of staff interviews, document review, and observation of activities. The profile developed by the team is discussed in Section 2, *Overview of City Auditor's Office*.

➤ **Task 3: Identify Statutory and Mandated Requirements of the City Auditor's Office**

The team focused on the statutory and mandated requirements of the City Auditor's Office to better determine the level of effort and number or types of staff required by the office. In addition to reviewing Section 403 of the City Charter, we researched City ordinances, past and current ballot measures, and administrative instructions. The team also met with the City Auditor and others to understand their interpretation of the charter (and other applicable requirements) and identify the basis for these interpretations. The results of the team's analysis are presented in Section 3, *Statutory and Mandated Requirements of the City Auditor's Office.*"

➤ **Task 4: Develop Baseline Standards for Adhering to Mandated Requirements**

This task involved identifying appropriate benchmarks for use in calculating required budget and staffing needs of the City Auditor's Office. In conducting our analysis, the team used publications and surveys from the Association of Local Government Auditors, the Institute of Internal Auditors, and work plans reports issued by other cities' auditors and controllers, among other items.

We note that in analyzing the City Auditor's functions, there are no national, state, or local standards that set a minimum level of effort for conducting audits. The team found that, in many instances, best practices consist of vague recommendations that do not specify level of effort in terms of number of audits, percentage of coverage, number of audit hours, or other quantifiable metrics. No regulatory body or association governing local government auditors promulgates specific requirements on the number of audits that should be conducted (per year or per auditor), the number of audit hours that should be dedicated per audit, or the frequency with which departments should be audited by a City Auditor.

Typically, the frequency with which each department, division, and/or auditable process within the city should be audited is dependent on the auditor's assessment of risk associated with the entity or process. Best practices recommend that auditors conduct annual risk assessments to evaluate the risks associated with each auditable unit (division, department, or process) and target high-risk areas for audits during the upcoming year. High-risk auditable units could be subject to annual audits, while auditable units with lower assessed risk could be audited on a less frequent basis. There is no standard established by any association or regulatory body on minimum level of audit effort (i.e. "each department shall be audited no less than every "x" years"). Therefore, we conducted research to find out what best practices recommend as the minimum frequency. Our analysis found that there is a wide variety in recommendations for audit frequency. However, typically, federal, state, and local auditors we reviewed established between a three to five year audit cycle—that is, every auditable unit should be audited no less than once every three to five years. Because the City Auditor's term falls within this range (four-year term), the team elected to use four years as the standard by which the City Auditor's office audits or reviews

each auditable unit in the City for those mandated activities that require the City Auditor to audit "all" departments.

To obtain guidance on the number of audits that should be conducted annually or number of audit hours per audit, we conducted research to identify what other organizations have used as their standards in creating annual audit work plans. One key data source used by our team was a survey of local governmental auditors published in the Association of Local Government Auditors' (ALGA) 2008 Benchmarking and Best Practices Survey. The ALGA was created in 1985 to bring together local government auditors—auditors at the city and county level—in an association to share best practices, strategies, and to assist in building strong auditing practices. ALGA has conducted its benchmarking and best practices survey biennially since 1996. The survey collects information from respondents on number and type of audits, audit hours, types of activities, types of entities audited, and standards followed, among other items.

In using the ALGA survey data, the team acknowledges that there are challenges associated with using this data. The survey data relies on participation by local government auditors and contains their estimates. The data is reviewed by ALGA staff for reasonableness and consistency, but is not audited for data reliability or tested against performance metrics or data tracked by the respondents. Moreover, in categorizing hours spent on various activities or types of audits, the survey may contain differences based on the respondent's interpretation of the question. For example, one respondent may report only Yellow Book audits under a particular category (financial or performance, for example), while another respondent may report non-audit services under the same category. Because Yellow Book-compliant audits are more time-intensive than non-audit engagements, the differences in the types of activities will result in large fluctuations in the data responses and average hours.

To validate the data reported in the ALGA survey, we also analyzed a sample of audit work plans, to the extent available, from 25 cities similar in size or nature to Oakland. Using the most recent census population estimates, we identified 20 cities that are closest in population to Oakland to determine what audit activities these cities perform, and level of effort. We also reviewed audit work plans for an additional five cities that had much larger populations than Oakland, but who have elected auditors with similar mandates to those contained in the City of Oakland's charter.

The team notes that in identifying estimates for audit hours, these represent averages as reported on audit plans or surveys only. The determination of hours needed to complete audits depends on the individual auditor's determination of risk associated with the department or process to be audited, the scope of the audit, and the size of the program or department to be reviewed. No organization we identified currently places maximum limits on the number of hours that can be spent on an audit, and we do not recommend that any limits be placed on the City Auditor's Office. Setting arbitrary limits on audit hours could impair the City Auditor's independence and prevent the office's staff from using their professional judgment in creating audit work plans. The information we present here represents our best estimate of what the typical audit

(based on statutory requirements) may take, but should not be interpreted as representing a limitation on the hours the City Auditor can spend on a given project.

Based on our identification of mandated activities and benchmark data, we calculated annual expected work hours, and then translated this into staff (FTEs) and approximate cost. We developed standards for what the City Auditor's Office should expect to perform to comply with the charter and other requirements based on our understanding of the office's required activities, and benchmarks for performing audits developed through our firm's best practices database and external entities' metrics. We utilized comparative data, to the extent available, from other audit organizations to assist in formulating the standards. The results of our analysis are presented in Section 4, *Baseline Standards and Resources Required to Perform Mandated Activities*.

➤ **Task 5: Identify Resources Needed to Meet the Requirements**

Based on the previous tasks, we identified the staffing and operational resources needed to adhere to the requirements of the charter and determine the threshold at which the City Auditor's Office is prevented from carrying out its mandated duties. The results of our analysis are presented in Section 4, *Baseline Standards and Resources Required to Perform Mandated Activities*.

➤ **Task 6: Prepare Draft Report and Request Feedback**

We developed a draft report identifying our analysis and conclusions that addressed the specific question: "At what budgetary level is the City of Oakland's City Auditor's Office prevented from carrying out its Charter mandated duties?" We provided the draft report to the project liaison at the City Attorney's Office for review and feedback as a single consolidated response. The team also presented our findings and recommendations to the City Auditor's office to obtain its perspective on our report.

➤ **Task 7: Prepare and Present Final Report**

Following the receipt of feedback from the City Attorney's Office and City Auditor's Office, we modified our draft report and issued this final report to the City Attorney's Office. We will be available to conduct a formal presentation, if requested, to the City Council or other audience.

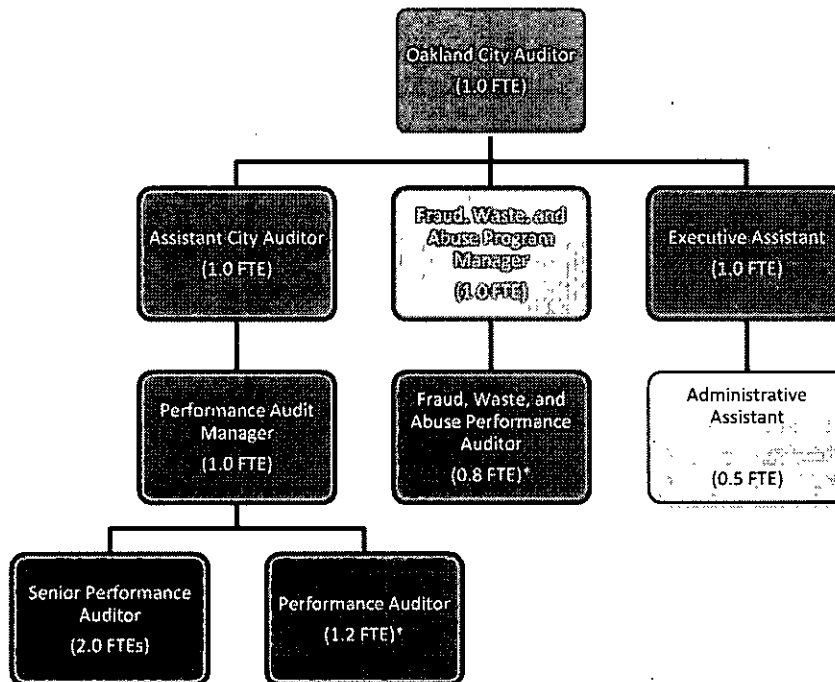
SECTION TWO: OVERVIEW OF CITY AUDITOR'S OFFICE

The Oakland City Auditor's Office is responsible for safeguarding city assets and strengthening fiscal accountability of all City Departments. The mission of the office is "to serve as a model performance-auditing organization that delivers in-depth, unbiased and meaningful results to the citizens of Oakland."

The office is led by the Oakland City Auditor. The City Auditor is an elected official who serves for a four-year term. The current City Auditor—Courtney A. Ruby, CPA, CPE—was elected by the voters of Oakland in November 2006 and will be up for re-election in November 2010. As the City Auditor, she is responsible for directing and overseeing the operations of the office, including directing auditing activities for financial, compliance, contract, grant, and performance audits; developing, preparing, and monitoring the department's annual budget; and evaluating assigned personnel and work teams.

The auditor's office has had a total of ten authorized positions representing 9.5 full-time equivalents (PTEs). The administrative assistant position was reduced to 0.5 FTE to achieve salary savings resulting from mid-cycle budget reductions in fiscal year 2009-10. The staff and titles are shown in the organizational chart in Exhibit 1.

Exhibit 1: Organizational Structure of the Oakland City Auditor's Office



Source: Oakland City Auditor's Office organizational chart and City Budget showing authorized FTEs.

* Note: One performance auditor is assigned 80 percent to Fraud, Waste, and Abuse prevention efforts, and 20 percent to performance audits.

Performance audit staff conducts a variety of reviews and audits, including financial, operational, contract, grant, and performance audits. Additionally, these staff prepare the financial impact analyses of ballot measures, as well as audits of candidates accepting public matching funds from the City.

In September 2008, the City Council appropriated two years of funding at \$250,000 per year to fund a fraud, waste, and abuse prevention program. In January 2009, the City Auditor's Office began operating a confidential hotline for City employees, contractors, citizens, or others to report suspected fraud, waste, or abuse in Oakland. Although the funding authorized by the City Council ends as of June 2010, the City Auditor is seeking to carry forward unused funds from prior years into the 2010-11 fiscal year. The unused funds stemmed from the approximately six-months of lead time needed by the office to recruit, hire, and train the fraud, waste, and abuse prevention staff. Since the inception of the hotline, the number of reports flowing into the City Auditor's Office has increased dramatically—in calendar year 2009, the hotline accepted 122 reports, 18 percent of which staff found merited an investigation. An additional 31 percent of the reports were referred to other performance auditors in the office to be included as part of a then-ongoing audit.

The Assistant City Auditor, executive assistant, and part-time receptionist assist in performing all administrative duties, including accounting, budgeting, payroll processing, and human resources functions, in addition to assisting in audit report processing functions.

In January 2007, when she began her term, the current City Auditor began addressing past, deficient practices of the office. During that time, there were only two permanent staff members in addition to the City Auditor. In March 2007, a peer review team concluded its review of the prior Administration's activities and reported that the office's internal quality control system was not suitably designed to ensure compliance with Generally Accepted Government Auditing Standards. In response to the peer review report, the City Auditor created policies, procedures, and standard operating practices. Additionally, she created new job descriptions and filled vacant positions.

Between January 2007 and March 2010, the City Auditor's Office issued 13 audit reports—three of these audits were conducted by contractors to the office, and ten were performed in-house. For contract audits, the City Auditor and her staff remained heavily involved in many of the day-to-day activities of the audit, providing assistance in obtaining required documents or data, and in addressing concerns when department staff declined to provide requested items timely or completely. The City Auditor and her staff were also involved in the report editing and quality assurance as part of these contract audits. In addition to working on the contract and in-house audits, the City Auditor also worked on a number of initiatives and changes to the office, including the implementation of an electronic workpaper system (TeamMate) in 2009 and the implementation of the fraud, waste, and abuse prevention program. The 13 audits and studies issued by the City Auditor's Office since 2007 are as shown in Exhibit 2.

Exhibit 2: Audit Reports Issued by the Oakland City Auditor's Office – 2007 to 2010

Study or Audit Report Name	Date Issued	Staff-Produced or Contractor-Produced
Payroll and Compensation Practices Performance Audit	11/29/2007	Contractor
Interim Public Ethics Commission (PEC) Compliance Review of Neighbors for Aimee Allison Campaign (Public Matching Funds)	05/13/2008	Staff
Measure K Performance Audit	05/29/2008	Staff
Measure M Performance Audit	06/30/2008	Staff
Measure N Performance Audit	06/30/2008	Staff
PEC Compliance Review of Neighbors for Aimee Allison Campaign	07/07/2008	Staff
Measure Q Performance Audit	10/27/2008	Staff
Public Works Agency Performance Audit	04/29/2009	Contractor
Interim Residential Parking Permt (RPP) Performance Audit	05/28/2009	Staff
PEC Compliance Review of the Committee for Clifford Gilmore	07/06/2009	Staff
Measure K 2.5 Percent Set-Aside Performance Audit	07/14/2009	Staff
Measure Y Violence Prevention Program Performance Audit	08/31/2009	Staff
Hihng Practice Performance Audit	10/21/2009	Contractor
East Oakland Multipurpose Senior Center Operational Review	05/06/2010	Staff
Residential Parking Permit Final Performance Audit	May 2010 (Anticipated)	Staff
PEC Compliance Review of Nancy Nadel for City Council	May 2010 (Anticipated)	Staff
PEC Compliance Review of the Committee for Sean Sullivan	May 2010 (Anticipated)	Staff
Parking Citation Administration and Revenue Reconciliation System (CARRS) RFP Review	June 2010 (Anticipated)	Staff

Source: Oakland City Auditor's Office and team's review of reports published by the Office from 2007 to 2010.

The City Auditor's Office has also been responsible for analyzing the seven ballot measures approved for the Oakland elections between 2007 and 2010—one in June 2008, two in November 2008, and four in June 2009—as described below:

- June 2008 Election
 - Measure J (to modify telephone utility tax rate structure).

MGT of America, Inc. Review of Oakland City Auditor's Office Mandated Activities

- November 2008 Election
 - Measure NN (to provide more police services to neighborhoods and businesses through a parcel tax)
 - Measure OO (to increase existing mandatory funding for children's and youth services).
- July 2009 Election
 - Measure C (to amend the city's hotel tax to provide additional funding to the Oakland Zoo, the Oakland Museum of California, the Chabot Space and Science Center, cultural arts programs and festivals and the Oakland Convention and Visitor Bureau).
 - Measure D (to amend the city charter to require set-asides of general fund revenues for grants to children's and youth services).
 - Measure F (to establish a new tax rate for cannabis businesses).
 - Measure H (to amend Oakland's property tax to clarify transfers of real property).

Currently, the City Auditor's staff is working to complete audits of the following:

- Measure M (Emergency Medical Services Tax)
- Measure N (Paramedic Services Tax)
- Measure Q (Library Parcel Tax)
- Accounts Payable
- American Recovery and Reinvestment Act (ARRA) Funds
- Revenue Audit – Public Works Agency
- Revenue Audit – Community and Economic Development Agency
- Contract Compliance
- Follow-Up on Prior Audit Recommendations

The Auditor's Office has also prepared an RFP for a contracted audit of the Fox Theater. The Auditor reported that due to the complexity of the renovation project, the Auditor's Office needed technical matter experts to assist in the audit. However, the office currently has no funds to hire a contractor to assist in performing this audit, which was requested by the City Council at the January 2010 Council meeting. Therefore, the audit is in stasis pending additional funding.

In prior years, the City Auditor's Office was funded with a mix of General Fund and program funding. However, in fiscal year 2010-11, the City shifted to funding the office from the General Fund only. Subsequently, with the Council's decision to cut spending in all General Funded offices and departments, the City Auditor's Office has taken similar cuts. Most recently, the City Council approved a 15 percent budget cut for the Auditor's Office in fiscal year 2010-11. The Council is also considering a motion to deny authorization to the office to carry forward remaining (unspent) funds allocated to the office for Fraud, Waste, and Abuse Prevention program efforts in prior years.

SECTION THREE: STATUTORY AND MANDATED REQUIREMENTS OF THE OAKLAND CITY AUDITOR'S OFFICE

As background, the team notes that an April 1996 court case (Juanita Scott v Common Council of the City of San Bernardino) established that governing bodies cannot act in conflict with its city charter to eliminate functions mandated in the charter before eliminating functions not mandated in the charter. Essentially, in this case, the City Council was attempting to eliminate or reduce the San Bernardino City Attorney's office through budget cuts. In April 2006, the Oakland City Attorney's Office issued a legal opinion that concluded that the Oakland City Council must provide the City Auditor's Office with minimum funding so that it may perform, without material impairment, its charter mandated duties. The purpose of this section is to demonstrate our analysis of the required activities of the City Auditor under the Oakland City Charter.

The Office of the City Auditor is defined and authorized by Section 403 of the City Charter. Under Section 403, the City Auditor is vested with the power and duty to audit the books, accounts, money, and securities of all departments and agencies of the City and such other matters as the Council may request. The City Auditor is also charged with reporting to the City Council periodically on the results of the audits, including advising and making recommendations to the City Administrator regarding accounting forms design, fiscal and statistical reports and the methods or procedures for maintaining the accounts and accounting system throughout all departments, offices, or agencies of the City. The City Auditor must also conduct surveys, reviews, and audits as the Auditor deems to be in the best public interest or as required by the Council or Mayor. Sections 403(1) to 403(9) of the City Charter define "public interest" as follows:

- Section 403(1): Reviewing and appraising the soundness, adequacy, and application of accounting, functional, and operating controls and reliability and timeliness of accounting and other data generated within the organization.
- Section 403(2): Evaluating the city's internal controls to ensure that the City's assets and resources are reasonably safeguarded from fraud, waste, and mismanagement.
- Section 403(3): Ascertaining compliance with the Council's resolutions and policies and the Mayor's Administrative Instructions and Directives as well as applicable State and Federal laws and regulations.
- Section 403(4): Providing assistance to City Departments to enhance the effectiveness, efficiency, and economy of their operations.
- Section 403(5): Preparing an impartial financial analysis of all ballot measures, pursuant to the provisions of the Municipal Code.
- Section 403(6): Preparing impartial financial analyses of proposed major expenditures prior to the approval of these expenditures. These analyses will be for informational purposes only and will include, but not be limited to proposals, contracts, ventures, programs, and construction projects. The proposed major expenditures selected for these financial analyses will be based on requests from Mayor/Council and/or deemed to be prudently advisable in the objective and professional judgment of the City Auditor.
- Section 403(7): Responding to requests for audit and reviews.

MGT of America, Inc. Review of Oakland City Auditor's Office Mandated Activities

- Section 403(8): Submitting, at a public meeting of the full City Council, a quarterly report to the Council and public on the extent of implementation of recommendations for corrective actions made in the City Auditor's report.
- Section 403(9): Conducting performance audits of each department as specified in the City budget.

In addition to the required activities in Section 403 shown above, other articles in the City Charter also define required activities or rights of the City Auditor's Office, as shown in Exhibit 3 below.

Exhibit 3: Additional Mandated Activities of the City Auditor's Office Contained in the City Charter

Citation	Description
Oakland City Charter, Article VII, Section 715 Port of Oakland	A certified copy of the Port of Oakland's budget must be filed with the City Council, the City Administrator, and the City Auditor.
Oakland City Charter, Article XII, Section 1201 General Provisions	The City Administrator, or the City Attorney, or the Auditor, as to personnel under their respective jurisdictions, shall declare the activities which will be considered inconsistent, incompatible, or in conflict with, or inimical to, the duties of such personnel as City employees.
Oakland City Charter, Article XIII, Section 1300 Kids First! Oakland Children's Fund	The KIDS First! Oakland Fund for Children and Youth shall receive revenues in the amount equal to three percent of the City of Oakland's annual actual unrestricted General Purpose Fund revenues. The annual amount of actual unrestricted general Purpose Fund revenues shall be estimated by the City Administrator and verified by the City Auditor.
Oakland City Charter, Article XIII, Section 1305 Kids First! Oakland Children's Fund	The Planning and Oversight Committee shall be responsible for receiving City Auditor annual reports on the Oakland Children's Fund's Financial Statement and the Base Spending Requirement.
Oakland City Charter, Article XIII, Section 1306 Kids First! Oakland Children's Fund	Within 180 days following the completion of each fiscal year's external audit through 2020-2021, the City Auditor shall calculate and publish the actual amount of City of Oakland spending for children and youth services (exclusive of expenditures mandated by state or federal law).
Oakland City Charter, Article XX, Section 2002 Oakland Municipal Employees' Retirement System	Requires the City Auditor to serve on a Board of Administration for the Oakland Municipal Employees' Retirement System (OMERS) to oversee the system.

Source: City of Oakland Charter

In addition to those responsibilities established in the City Charter, Section 403, the team also found mandated activities of the City Auditor's Office contained in City

MGT of America, Inc. Review of Oakland City Auditor's Office Mandated Activities

Ordinances, shown in Exhibit 4. Based on the team's analysis, the team believes that most of these mandated activities in the City Ordinances also tie to one or more of the charter requirements from sections 403(1) to 403(9). The team notes that this table presents only items that place workload requirements on the City Auditor's Office.

Exhibit 4: Mandated Activities of the City Auditor's Office Contained in Oakland City Ordinances

Citation	Description	Ties to Charter Requirements?
Oakland Code of Ordinances, Title 3, Section 3.08.210 Elections on City Measures	Requires the City Auditor to conduct a financial impact analysis of any city measures qualifying for a placement on the ballot.	Yes – Section 403(5) also contains this specific language and requirement.
Oakland Code of Ordinances, Title 3, Section 3.13.100(D) Limited Public Financing Act	Requires the City Auditor to conduct mandatory audits or compliance reviews of all candidates accepting public matching funds.	Yes – Section 403 requires the City Auditor to audit the books, accounts, money, and securities of all departments and agencies of the City. Additionally, Section 403(7) requires the City Auditor to respond to requests for audits and reviews, but does not define how the requests can be made. A City Ordinance requirement appears to fit the definition of a "request".
Oakland Code of Ordinances, Title 4, Section 4.16.170; Title 4, Section 4.24.031(E); Title 4, Section 4.24.100; and Title 5, Section 5.04.550	Requires the City Auditor or his/her designee to serve on a Board of Review to hear grievances with Tax Administrator decisions.	No
Oakland Code of Ordinances, Title 5, Section 5.04.540(C) Business Taxes, Permits, and Regulations	Requires the City Auditor to audit annually on a test basis refunds previously approved by the Director of Finance.	Yes – Section 403 requires the City Auditor to audit the books, accounts, money, and securities of all departments and agencies of the City. Additionally, Section 403(7) requires the City Auditor to respond to requests for audits and reviews, but does not define how the requests can be made. A City Ordinance requirement appears to fit the definition of a "request".

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MGT of America, Inc. Review of Oakland City Auditor's Office Mandated Activities

Citation	Description	Ties to Charter Requirements?
Oakland Code of Ordinances, Title 5, Section 5.10.180(D) Business Taxes, Permits, and Regulations – Bingo	Requires the City Auditor to approve in advance a Certified Public Accountant selected to conduct annual audits of bingo hall operators.	No
Oakland Code of Ordinances, Title 6, Section 6.04.130(B) and 6.04.140(B) Animal Control Regulations Generally	Allows the City Auditor in conjunction with the Associated Charities, the City Treasurer, and upon the majority vote of the whole Council by resolution, to waive payment of dog license fees and charges under selected circumstances.	No
Oakland Code of Ordinances, Title 8, Section 8.38.110 Sanitation	Requires the City Auditor to audit amounts spent by the City Health Officer in abating sanitation conditions.	Yes – Section 403 requires the City Auditor to audit the books, accounts, money, and securities of all departments and agencies of the City. Additionally, Section 403(7) requires the City Auditor to respond to requests for audits and reviews, but does not define how the requests can be made. A City Ordinance requirement appears to fit the definition of a "request".

Source: Oakland City Ordinances and MGT Analysis

The team identified three additional ordinances that require or allow the City to conduct an audit, but that do not specify what entity is required to conduct the audit. Specifically, Title 4 requires the City to conduct an independent annual audit of the Transient Occupancy Tax. Title 5 allows the City to audit the business records of holders of State Video Service Franchises and Medical Cannabis Dispensary permits. For purposes of this review, the team did not consider these to be mandatory activities of the City Auditor's office required under the City Charter.

The team noted that there are also several ballot measures from prior years that require the City Auditor to conduct audits, but that are not codified in the City Ordinances. The requirements of these ballot measures are summarized in Exhibit 5. The team notes that each of these items could be construed as required under the City Charter. That is, Section 403(1) requires the City Auditor to review and appraise the accounting, functional, and operating controls and the reliability and timeliness of accounting and other data generated within the organization (the City).

Exhibit 5: Ballot Measures Mandating Audits by the City Auditor’s Office that Are Not Contained in City Ordinances

Measure	Election Date	Measure Description	Funding Provided for Audit as Part of Measure?
Measure M	June 1997	Requires the City Auditor to conduct an annual audit to assure accountability and the proper disbursement of the proceeds of a special tax to fund emergency medical services.	No
Measure N	June 1997	Requires the City Auditor to conduct an annual audit to assure accountability and the proper disbursement of the proceeds of a special tax to fund paramedic services.	No
Measure Q	March 2004	Requires the City Auditor to conduct an annual audit to assure accountability and the proper disbursement of the proceeds of the library parcel tax in accordance with the Measure’s objectives. Sunsets in June 2024.	No

Source: City of Oakland Ballot Measures and MGT Analysis

Based on the information presented above, the team created a table showing required activities (shown in Exhibit 6 on the following pages). The team notes that where the statutes are indefinite, we have used standards and best practices from surveys and audit plans of other local (city and county) auditors to determine the estimated number of audits, reviews, or reports as well as an estimated amount of hours of work effort that would be required by the City Auditor’s Office. Our assumptions and rationale are provided in the “Notes” column in Exhibit 6.

The team also notes that we attempted to eliminate duplicates from the minimum requirements shown in Exhibit 6. That is, if one audit could allow the Auditor to meet two or more criteria, we only reported the minimum once in the first item and put “zero” for the minimum requirement in later rows, with a note explaining our rationale.

Finally, we note that the hours per engagement are heavily dependent on the scope of the audit or review as determined by the City Auditor. Although we have used survey responses and a sample of other cities’ annual audit work plans to estimate required hours, we note that this is an estimate only and is not the definitive or required number of hours (since no agency or oversight body has established required, minimum, or maximum hours per audit or review. However, using the survey data as well as the other cities’ audit plans, combined with our team’s experience in planning and conducting hundreds of audits and reviews of state and local governments, leads us to conclude that the estimates presented in the following exhibit represent a reasonable calculation of expected workload based on City Charter requirements.

Exhibit 6: Evaluation of Minimum Annual Work Levels Required of the City Auditor's Office Under the City Charter

Citation	Description	Annual Workload	Notes
Oakland City Charter, Article IV, Section 403 – General Regulations	Requires the City Auditor to audit the books, accounts, money, and securities of all departments and agencies of the City and such other matters as the Council may request.	n/a	See sub-categories listed in the following six rows. Note that for purposes of calculating workload associated with this item, we did not include audits of all auditable units (departments, agencies, or programs), since this calculation is already shown as part of Section 403(9) requirements. For the following items, we present workload associated with audits mandated by City Ordinances, which we deemed to be a "request" from the Council in accordance with the charter language in Section 403.
Oakland Code of Ordinances, Title 3, Section 3.13.100(D) Limited Public Financing Act	Requires the City Auditor to conduct mandatory audits or compliance reviews of all candidates accepting public matching funds.	1 compliance review per year = 285 hours per year	<p>Workload will vary depending on the number of candidates running for election and the number accepting public matching funds. Typically the office will see added workload only in even-numbered years. However, because there is no required time frame by which the Auditor's Office must complete the audits, the Auditor may have work to perform in odd-numbered years to finish up reviews from prior years' elections.</p> <p>Since 2006, four candidates have accepted public matching funds. Based on this, the team believes that the City Auditor will need to complete, on average, one compliance review per year (4 candidates / 4 years = 1 candidate per year).</p> <p>To calculate expected hours associated with these audits, we used data from the 2008 survey of local government auditors conducted by the Association of Local Government Auditors (ALGA survey). Because this is a compliance review of expenditures, rather than a performance audit, we used the "attestation" category from the survey to estimate hours. Survey respondents reported needing an average of 285 hours per attestation engagement.</p>

Continued on the following page

MGT of America, Inc. Review of Oakland City Auditor's Office Mandated Activities

Citation	Description	Annual Workload	Notes
Oakland Code of Ordinances, Title 5, Section 5.04.540(C) Business Taxes, Permits, and Regulations	Requires the City Auditor to audit annually on a test basis refunds previously approved by the Director of Finance.	1 audit = 285 hours	This requirement is for an annual audit of all refunds approved by the Director of Finance annually. ALGA survey averages reported respondents needed 280 hours per financial statement audit and 285 hours on average per attestation engagement, both of which would be similar to the refund audit requirements. The team used 285 hours as the workload since the office will need to attest to the allowability of the refunds approved by the Finance Director.
Oakland Code of Ordinances, Title 8, Section 8.38.110 Sanitation	Requires the City Auditor to audit amounts spent by the City Health Officer in abating sanitation conditions.	1 audit = 285 hours	Workload depends on whether the City Health Officer was required to expend funds to abate sanitation conditions. A review of the City's Public Works web site found that it appears that every year, expenditures on sanitation abatements are occurring. Therefore, the team estimated that one audit of the abatement amounts would be required annually. To calculate workload hours, we used the ALGA survey's attestation category.
Measure M	Requires the City Auditor to conduct an annual audit to assure accountability and the proper disbursement of the proceeds of a special tax to fund emergency medical services.	1 audit = 285 hours	The requirement under this measure is for one audit per year. To calculate workload, we used the attestation category from the ALGA Survey.
Measure N	Requires the City Auditor to conduct an annual audit to assure accountability and the proper disbursement of the proceeds of a special tax to fund paramedic services.	1 audit = 285 hours	The requirement under this measure is for one audit per year. To calculate workload, we used the attestation category from the ALGA Survey.
Measure Q	Requires the City Auditor to conduct an annual audit to assure accountability and the proper disbursement of the proceeds of the library parcel tax in accordance with the Measure's objectives. Sunsets in June 2024.	1 audit = 285 hours	The requirement under this measure is for one audit per year. To calculate workload, we used the attestation category from the ALGA Survey.

Continued on the following page

MGT of America, Inc. Review of Oakland City Auditor's Office Mandated Activities

Citation	Description	Annual Workload	Notes
Oakland City Charter, Article IV, Section 403(1)	Requires the City Auditor to review and appraise the soundness, adequacy, and application of accounting, functional, and operating controls and the reliability and timeliness of accounting and other data generated within the organization.	0 Hours included in Section 403(9)	<p>The team notes that this section requires the City Auditor to conduct reviews and audits of accounting, functional, and operating controls, but does not specifically require a fixed number of audits or coverage of city departments, divisions, and/or processes.</p> <p>Best practices recommend that auditors create annual audit work plans based on risk assessments. In March 2007, the City Auditor contracted with an external firm to have a risk assessment performed. This assessment identified five departmental audits and four City-wide audits as the highest priority for the Auditor's Office. Two of these audits have since been completed, leaving seven high-risk departments and divisions that need to be audited. The Auditor's Office has also identified an additional 26 potential medium- to high-risk audit areas.</p> <p>For purposes of calculating workload, the team believes that audits conducted under this requirement will cross over with and also meet the requirements of Section 403(9) of the City Charter. Therefore, the team has added an expectation of workload for this Section = 0 audits or hours to avoid duplication.</p>

Continued on the following page

MGT of America, Inc. Review of Oakland City Auditor's Office Mandated Activities

Citation	Description	Annual Workload	Notes
Oakland City Charter, Article IV, Section 403(2)	Requires the City Auditor to evaluate the city's internal controls to ensure that the City's assets and resources are reasonably safeguarded from fraud, waste, and mismanagement.	1 risk assessment and creation of annual audit work plan = 400 hours per year	<p>As part of their performance audit activities, City Auditor staff evaluates internal controls that are material to the programs or departments under review. Further, the City Auditor can elect to review selected workpapers and audit activities of the City's external auditor to determine whether the office can rely upon the external auditor's evaluation of internal controls related to financial reporting.</p> <p>However, these activities only satisfy a portion of this requirement. Our assessment indicates that to meet this requirement the Office will need to conduct risk assessment and audit planning activities.</p> <p>Best practices and industry standards recommend that internal auditors conduct an annual risk assessment evaluation. In a risk assessment, auditors break down the entity into auditable units (divisions, departments, or major processes) and evaluate each auditable unit's relative liability (risks) related to a wide variety of topic areas. The auditors then use the risk assessment to create an audit plan that results in the auditors directing the majority of their activities to areas where the entity's exposure due to financial loss; program failure; fraud, waste, or abuse; or public exposure is greatest.</p> <p>For purposes of identifying workload, the team believes that the City Auditor's Office should conduct an annual risk assessment; use the results of the risk assessment to create an annual audit work plan; and carry out planned activities and audits using the work plan as guidance.</p> <p>We have included the hours for carrying out planned activities (audits) under Section 403(9) so we are not including hours for conducting the audits under this category (to avoid double</p>

MGT of America, Inc. Review of Oakland City Auditor's Office Mandated Activities

Citation	Description	Annual Workload	Notes
Section 403(2) Continued			<p>counting the workload). However, we have included the estimated hours to conduct the risk assessment and create the audit work plan based on results reported by local auditors in the 2008 ALGA survey as well as our sample of work plans and annual audit reports from a sample of 25 cities.</p> <p>Further, the team notes that the charter speaks to ensuring that the City's assets are reasonably safeguarded from fraud, waste, and mismanagement. See Section 403(7) for additional discussion of this requirement and our calculation of workload.</p>
Oakland City Charter, Article IV, Section 403(3)	Requires the City Auditor to ascertain compliance with the Council's resolutions and policies and the Mayor's Administrative Instructions and Directives as well as applicable State and Federal laws and regulations.	0 Hours included in Section 403(9)	In analyzing this section, the team reviewed charter requirements, generally accepted government auditing standards, and other standards promulgated by oversight entities, such as the Institute of Internal Auditors. Because the compliance activities can be combined with other performance audit objectives, we have included the estimated workload hours for this item in the Section 403(9) category in this table.
Oakland City Charter, Article IV, Section 403(4)	Requires the City Auditor to provide assistance to City Departments to enhance the effectiveness, efficiency, and economy of their operations.	0 Hours included in Section 403(9)	<p>If the Auditor's Office had no other requirements for audits, the team believes that to be in compliance with this section, it would need to complete at least one audit, review, or study of a city department annually. However, because of the other audit requirements previously identified and discussed in this table, it appears that the audits required under other sections could serve to also allow the City Auditor to meet this requirement. For example, by making recommendations in their Measure M audit, the City Auditor is technically "providing assistance to City Departments."</p> <p>Based on the description, we believe that this item has a base workload of 0 audits or reviews since other required activities will serve a dual purpose in meeting this requirement. Hours are therefore included in the Section 403(9) section of this table.</p>

Continued on the following page

MGT of America, Inc. Review of Oakland City Auditor's Office Mandated Activities

Citation	Description	Annual Workload	Notes
Oakland City Charter, Article IV, Section 403(5) and Oakland Code of Ordinances, Title 3, Section 3.08.210	Requires the City Auditor to prepare an impartial financial analysis of all ballot measures, pursuant to the provisions of the Municipal Code.	4 ballot analyses = 700 hours	<p>Workload for this requirement will vary depending on events going on within the City and the State. The City has placed 37 ballot measures before its voters over the past ten years (2000 to April 2010). Until 2009, the City generally only had ballot measures during even numbered years. In calendar year 2009, however, the City had four ballot measures. The team used the average as its estimate for future years' workload.</p> <p>The team used the "non-audit engagements" category from the ALGA survey to calculate expected workload for this item. The average number of hours reported on the survey were 175 hours per engagement. Our review of work performed by other cities (review of 25 other cities) found that this appears to be reasonable given workload projections reported by other cities for which data were available.</p>
Oakland City Charter, Article IV, Section 403(6)	Requires the City Auditor to prepare impartial financial analyses of proposed major expenditures prior to the approval of these expenditures. The proposed major expenditures selected for these financial analyses will be based on requests from Mayor/Council and/or deemed to be prudently advisable in the objective and professional judgment of the City Auditor.	1 financial analysis = 175 hours	<p>The determination of what constitutes a major expenditure will be based on the Auditor's Office professional judgment of the materiality of proposed expenditures. Setting a high threshold for materiality could result in no required analyses if everything fell below the threshold. However, this situation would not result in the Auditor being able to meet the intent of the charter requirement, which was to have an independent financial analysis performed before those responsible for decision-making authorize the expenditures.</p> <p>We note that this charter requirement places the City Auditor's office in an awkward position of having to provide information to management that could affect their decision to approve the expenditure—and thus put the City Auditor into a position of indirectly making management decisions. This could affect the office's independence if they later have to audit and present an opinion on the city's decision to make the expenditure. The prior City Auditor's performance of these types of reviews in</p>

MGT of America, Inc. Review of Oakland City Auditor's Office Mandated Activities

Citation	Description	Annual Workload	Notes
<p>Section 403(6) Continued</p>			<p>fact resulted in criticism from the external peer reviewers in their March 2007 report.</p> <p>The most recent survey performed by the Association of Local Government Auditors, found that other local auditors reported an average of 4.93 "non-audit engagements" per year. Based on this, the team estimated that the City Auditor would expect to perform five financial analyses on average annually to meet this charter requirement. However, because the five analyses should include the 4 analyses performed of ballot measures (see Section 403(5)), we conclude that the expectation would be that the City Auditor would need to complete only one additional analysis to meet this mandated requirement. We also assessed this required workload as low in recognition of the fact that this requirement has the potential to impair the City Auditor's independence.</p> <p>To calculate workload, the team used the "non audit engagements" category from the ALGA Survey.</p>

Continued on the following page

MGT of America, Inc. Review of Oakland City Auditor's Office Mandated Activities

Citation	Description	Annual Workload	Notes
Oakland City Charter, Article IV, Section 403(7)	Requires the City Auditor to respond to requests for audit and reviews.	500 hours for fraud, waste, and abuse prevention efforts	<p>The team notes that this section requires the Auditor to respond to all requests but does not establish that the Auditor must conduct a minimum number of audits or reviews.</p> <p>We considered the <i>intent</i> of the section in analyzing workload. In calculating workload for this item, we have included a portion of our calculations from Section 403(2), which requires the City Auditor to ensure that the City's assets are reasonably safeguarded from fraud, waste, and mismanagement. In part, the City Auditor satisfies this requirement by conducting an annual risk assessment. However, our analysis of Sections 403(2) and 403(7), combined with our review of best practices and industry standards, leads us to conclude that the two sections also require the City Auditor to investigate suspected instances of fraud, waste, and abuse—such as those items brought to its attention through the hotline or anonymous tips.</p> <p>There are no minimum industry standards established for carrying out fraud, waste, and abuse prevention activities. However, we reviewed annual audit reports and plans for 25 cities and the ALGA 2008 Survey. We found that for the cities we reviewed who publish budgets or hours for their fraud, waste, and abuse prevention activities, the number of hours spent by these cities ranged from 500 to 1,800 hours per year. The ALGA Survey found that respondents reported that on average they conducted 2.9 fraud investigations, at 160 hours per investigation, or 464 hours per year, which is fairly close to the lower limit of the cities we surveyed. Based on these results, we included a determination that the City Auditor would need to spend 500 hours per year (lower limit for the 25 cities reviewed) to satisfy Section 403(2) and 403(7) requirements.</p>

Continued on the following page

MGT of America, Inc. Review of Oakland City Auditor's Office Mandated Activities

Citation	Description	Annual Workload	Notes
Oakland City Charter, Article IV, Section 403(8)	Requires the City Auditor to submit, at a public meeting of the full City Council, a quarterly report to the Council and public on the extent of implementation of recommendations for corrective actions made in the City Auditor's report.	4 quarterly reports = 752 hours	This requirement calls for the City Auditor to create four reports (one per quarter each year) that report on the status of prior audit recommendations. Survey respondents participating in the ALGA Survey reported needing 188 hours on average to conduct follow-up work. The team's review of 25 cities found that this may be low. Follow-up hours are driven by the complexity of the original audit, the responsiveness of management to auditor follow-up requests, and any additional work required to test or verify management assertions, among other items. However, for purposes of being conservative, we used the average reported on survey responses (188 hours per report) for four reports.
Oakland City Charter, Article IV, Section 403(9)	Requires the City Auditor to conduct performance audits of each department as specified in the City budget.	9 performance audits per year = 5,850 hours	<p>The wording of this charter requirement lends itself to multiple interpretations. It could be interpreted as meaning the City Auditor should conduct performance audits of each department because the departments are specified in the budget. It could also mean that the City Auditor should conduct performance audits only for specific departments called out in the budget as needing an audit. The problem with the second definition is that the Auditor Office's independence and ability to direct its own work could be impaired if the City Council were allowed to have control over the performance audit subject matter. The team therefore utilized the first interpretation because it appears closer to the requirements under Generally Accepted Government Audited Standards for independence.</p> <p>Next, we note that there is no time limit or minimum level of effort specified in this section. However, based on our analysis earlier in this report, we believe that best practices would indicate that the City Auditor should have a goal of auditing all required departments or divisions at least once in the Auditor's four-year term. The auditable units (departments, divisions or processes) would be identified through a comprehensive risk</p>

MGT of America, Inc. Review of Oakland City Auditor's Office Mandated Activities

Citation	Description	Annual Workload	Notes
Section 403(9) Continued			<p>assessment performed (and updated) annually. The most recent risk assessment identified nine high-risk departments, divisions, or processes. Additionally, audit staff in subsequent work identified an additional 26 medium- to high-risk audit areas, for a total of 35 "auditable units." Covering all 35 auditable units over a four-year term would require the City Auditor to complete an average of 9 performance audits per year. For purposes of this calculation, we have used the ALGA survey average hours to conduct performance audits. We reviewed work plans of other cities and note that the average of 650 hours in the survey appears reasonable. However, we also note that the true audit hours will depend on the auditor's determination of scope. Larger scope audits will require more audit hours than smaller or less complex audits.</p> <p>We also note that we are including hours for conducting compliance reviews and internal control reviews that are required under Section 403(1), 403(3), and 403(4) in this section.</p>

Continued on the following page

MGT of America, Inc. Review of Oakland City Auditor's Office Mandated Activities

Citation	Description	Annual Workload	Notes
<p>Oakland City Charter, Article XIII, Section 1300 and 1306 Kids First! Oakland Children's Fund</p>	<p>Requires the City Auditor to verify the amount of actual unrestricted General Purpose Fund revenues available for distribution to the KIDS First! Oakland Children's Fund.</p> <p>Requires the City Auditor, within 180 days following the completion of each fiscal year's external audit through 2020-2021, to calculate and publish the actual amount of City of Oakland spending for children and youth services (exclusive of expenditures mandated by state or federal law).</p>	<p>1 review and attestation = 285 hours</p>	<p>The requirement under this section is for one audit per year. Although it could be deemed to be an "attestation" engagement, the team notes that per discussions with City Auditor staff, they are conducting a performance audit rather than a financial review or simple attestation. This is because the City Auditor's staff has identified high-risk areas (poor internal controls, multiple recipients and users of these funds, for example) associated with this program.</p> <p>We note that although this may require a large number of hours, because the City Charter requirement speaks of verification and calculation (rather than audit) activities, we used the attestation average reported on the ALGA Survey and verified through a review of other cities' annual audit work plans.</p>

Source: MGT analysis of City Auditor requirements.

MGT of America, Inc. Review of Oakland City Auditor's Office Mandated Activities

In Exhibit 7 below, we present a summary of the calculated hours from Exhibit 6, with the narrative removed to better illustrate the estimates. In total and as shown below, we estimate that the City Charter Requirements translate into an annual expected workload of 10,372 hours per year.

Exhibit 7: Summary of Expected Workload of City Auditor under the Oakland City Charter

Citation	Annual Workload (Reviews or Reports)	Annual Workload (Hours)
Oakland City Charter, Article IV, Section 403 – General - Regulations	n/a	n/a
Oakland Code of Ordinances, Title 3, Section 3.13.100(D) - Limited Public Financing Act	1 compliance review per year	285 hours
Oakland Code of Ordinances, Title 5, Section 5.04.540(C) - Business Taxes, Permits, and Regulations	1 audit	285 hours
Oakland Code of Ordinances, Title 8, Section 8.38.110 – Sanitation	1 audit	285 hours
Measure M	1 audit	285 hours
Measure N	1 audit	285 hours
Measure Q	1 audit	285 hours
Oakland City Charter, Article IV, Section 403(1)	0	0
Oakland City Charter, Article IV, Section 403(2)	1 risk assessment and creation of annual audit work plan	400 hours per year
Oakland City Charter, Article IV, Section 403(3)	0	0
Oakland City Charter, Article IV, Section 403(4)	0	0
Oakland City Charter, Article IV, Section 403(5) and Oakland Code of Ordinances, Title 3, Section 3.08.210	4 ballot analyses	700 hours
Oakland City Charter, Article IV, Section 403(6)	1 financial analysis	175 hours
Oakland City Charter, Article IV, Section 403(7)	Fraud, waste, and abuse prevention	500 hours
Oakland City Charter, Article IV, Section 403(8)	4 quarterly reports	752 hours
Oakland City Charter, Article IV, Section 403(9)	9 performance audits per year	5,850 hours
Oakland City Charter, Article XIII, Section 1300 and 1306 - Kids First! Oakland Children's Fund	1 review and attestation	285 hours
TOTAL	n/a	10,372 hours

Source: MGT analysis of City Auditor requirements.

SECTION FOUR: BASELINE STANDARDS AND RESOURCES REQUIRED TO PERFORM MANDATED ACTIVITIES

In carrying out this analysis, we identified in prior sections the minimum level of effort that we believe the City Auditor's Office needs to carry out activities mandated through the City Charter. In this section, we discuss how our calculation translates into staff for the City Auditor's Office.

The City Auditor's Office staff, per their union contracts, are required to work 37.5 hours per week. To calculate the number of staff needed to perform the audit, review, and reporting tasks calculated in the prior section, the team looked at benchmark data to gain an understanding of how many of these work hours could be allocated to "audits".

Benchmark data from ALGA shows that on average, 66.5 percent of auditors' time is available for audits, follow-up work, and reviews, with the remainder of the time spent on administrative activities (training, time-keeping, etc) and leave (annual, sick, holiday, or other paid leave). This agrees with our review of other cities who also have staff time reserved for administrative functions, leave, and continuous professional development.

Using the required work hours of the City Auditor's staff means that each auditor FTE would be expected to have 1,296.75 work hours per year (37.5 hours per week* 52 weeks per year * 66.5 percent of time for audits, reviews, and other engagements).

Taking the estimate of 10,372 hours needed per year to complete only those activities mandated under the charter, the minimum staffing threshold (number of auditors needed) by the City Auditor's Office would be 8.0 auditor FTEs.

Currently, the City Auditor's Office has seven auditor FTEs if the City Auditor is excluded. The team excluded the City Auditor because her time and activities are spent conducting executive management rather than conducting audit work. We also excluded the executive assistant and receptionist to the City Auditor because these individuals provide support and administrative functions and do not conduct audits or reviews.

We note that based on our analysis, the City Auditor's Office may be underfunded given the workload identified above. Further, the most recent decision by the Oakland City Council—to cut the City Auditor's Office budget by 15 percent—would reduce the City Auditor's staff levels even further below those needed to carry out the minimum required activities of her office. We acknowledge that the City is faced with difficult budget decisions in the upcoming year. However, we believe the Council should consider, in addition to the minimum required activities of the City Auditor as documented in the report, the potential benefits and savings to the City through having a well-established audit function. We note that the City Auditor's office has generated between \$4 to \$5 in savings and recommendations for each dollar spent on their office during the two most recent years. Reducing staff and budgets would also reduce the expected benefits to the City.

CITY OF OAKLAND



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Office of the City Auditor
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City Auditor

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March 5, 2010

Mr. John Russo
City Attorney
City of Oakland
1 Frank H. Ogawa Plaza, 6th Floor
Oakland, CA 94612

RE: Minimum Funding for the Office of the City Auditor to Perform Charter Mandated Duties

Dear City Attorney Russo:

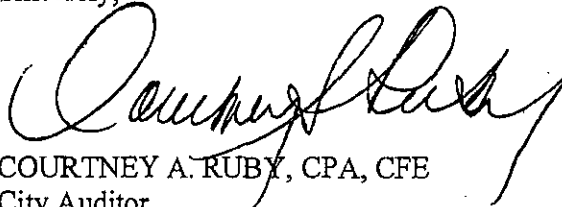
On April 25, 2006, you issued a legal opinion, which concluded that the City Council must provide the Office of the City Auditor minimum funding so that it may perform, without material impairment, its charter mandated duties.

As you are aware, this past Tuesday evening the City Council called for the Office of the City Auditor to sustain an additional 15% cut after a 10% cut earlier this fiscal year. In light of City Council's continued failure to provide adequate funding to fulfill these mandated functions, it is imperative that an objectively determined minimum funding amount for the Office of the City Auditor be clearly established.

Without adequate funding, this Office is materially impaired and prevented from meeting its Charter obligation to protect the public's interest. This failure to fund adequately the City Auditor's Office also makes it impossible for this Office to provide audit services as mandated by special tax and bond measures, which Oakland voter have passed at the ballot box.

It is my hope that your office is able to prioritize this request and establish clear, minimum funding guidelines for the Office of the City Auditor.

Sincerely,

A handwritten signature in cursive script, appearing to read 'Courtney A. Ruby', written in black ink.

COURTNEY A. RUBY, CPA, CFE
City Auditor

CC: Mayor Ronald V. Dellums
President Jane Brunner
City Administrator Dan Lindheim

Attachments: 1

CITY OF OAKLAND

Office of the City Attorney

Legal Opinion

To: Roland Smith, City Auditor
From: Office of the City Attorney
Date: April 25, 2006
RE: City Auditor Budget Cuts

I. Question

Does the Charter require the City Council to provide minimum funding for staff of the City Auditor's Office?

II. Summary Conclusion

The City Council must provide minimum funding so that the City Auditor may perform, without material impairment, his Charter mandated duties.

iii. Analysis

Budgetary matters, including fixing of the number of employees, their salaries, and their benefits, are legislative actions. (Scott v. Common Council, 44 Cal.App.4th 684, 690 (1996)) The general rule is that a legislature, a city council for example, has wide discretion over purely legislative actions. (Id.; Hicks v. Board of Supervisors, 69 Cal.App.3d 228, 232; see also Scott v. Common Council, 44 Cal.App.4th 684 (1996); County of Butte v. Superior Court (Brooks) 176 Cal.App.3d 693 (1985).)

However this general rule yields to the exception that the budget cuts may not prevent the performance of a city official's duties as enumerated by a city charter. (Scott v. Common Council, supra, at 695.) The Scott court recognized that in "rare" cases judicial interference with the legislative process is justified. A city council cannot violate its own charter. The City Council, by a budgetary act, could not ignore a charter officer's charter mandated duties.

It is well settled that a charter city may not act in conflict with its charter. Any act that is violative of or not in compliance with the charter is void. The city council cannot relieve a charter officer of the city from the duties devolving upon him by the charter (Id., internal quotations and citations omitted, emphasis added.)

In Scott, the trial court found that elimination of all of the city attorney's investigators "materially impaired" the city attorney in the performance of his charter mandated prosecutorial duties. The investigators were "absolutely necessary" for the performance of the city attorney's city charter functions. The work of the investigators was "inseparable" from the city attorney's prosecutorial function. The San Bernardino council's budgetary actions rendered the city attorney "unable to perform his statutory functions" and "eliminate[d] [the city attorney's] ability to carry out the sworn statutory and charter requirements and duty mandated by the people of this city and the State of California." (Id. at 694-695.)

The appellate court upheld the trial court and held that the city could only eliminate charter mandated duties after it had eliminated non-charter mandated programs first. (Id. at 698, fn. 11.)

Can the City Council Cut Positions in the City Auditor's Office?

Under the guidelines of Scott and Hicks, the Oakland City Council's funding of positions in the City Auditor's Office depends on a factual question: Will the reduction of positions in the City Auditor's office "prevent" or "materially impair" the City Auditor from performing his Charter mandated duties?

The City Auditor's Charter Mandated Duties

Under the Oakland City Charter, the City Auditor has wide ranging mandatory duties to review the City's financial documents:

The City Auditor shall have the power and it shall be his or her duty to *audit the books, accounts, money and securities of all departments and agencies of the City* and such other matters as the Council may request;

[T]o report to the Council periodically the results of such audits and to advise and make recommendations to the City Administrator regarding accounting forms design, fiscal and statistical reports and the methods or

procedures for maintaining the accounts and accounting system throughout all departments, offices and agencies of the City. . . .

The City Auditor *shall conduct surveys, reviews, and audits as the Auditor deems to be in the best public interest or as required by the Council or Mayor.* (Charter, section 403, emphasis added.)

The Charter goes on to define that the "public interest" "shall include, but not be limited to":

(1) *Reviewing and appraising the soundness, adequacy and application of accounting, functional, and operating controls and reliability and timeliness of accounting and other data generated within the organization.*

(2) *Evaluating the city's internal controls to ensure that the City's assets and resources are reasonably safeguarded from fraud, waste, and mismanagement.*

(3) *Ascertaining compliance with Council's resolutions and policies and the Mayor's Administrative Instructions and Directives, as well as applicable State and Federal laws and regulations.*

(4) *Providing assistance to City Departments to enhance the effectiveness, efficiency and economy of their operations.*

(5) *Preparing an impartial financial analysis of all ballot measures, pursuant to the provisions of the Municipal Code.*

(6) *Preparing impartial financial analyses of proposed major expenditures prior to the approval of such expenditures. These analyses will be for informational purposes only and will include, but not be limited to, proposals, contracts, ventures, programs and construction projects. The proposed major expenditures selected for these financial analyses will be based on requests from Mayor/Council and/or deemed to be prudently advisable in the objective and professional judgment of the City Auditor.*

(7) *Responding to requests for audit and reviews.*

(8) *Submitting, at a public meeting of the full City Council, a quarterly report to the Council and public on the extent of implementation of recommendations for corrective actions made in the City Auditor's report.*

(9) *The City Auditor shall conduct performance audits of each department as specified in the City budget (Id.)*

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Charter Section 403 includes "responding to requests for audit and review" as "in the public interest." The Charter also requires that the City Auditor perform audits "as required by the Council." Several ballot measures authored and placed on the ballot by City Council direct the City Auditor to perform an annual audit of disbursements authorized by the measures. Those measures include Measure M (Special Tax to Fund Emergency Medical Services); Measure N (Special Tax to Fund Paramedic Services); Measures O (Library Service Retention Act of 1994) and Measure Q (Library Services Retention and Enhancement Act).

So long as the City Council funds any non-Charter mandated expenditures, the City Council must provide minimum funding so that the City Auditor may perform, without material impairment, his Charter mandated duties.

Very truly yours,

John Russo
City Attorney

Attorney assigned: M. Morodomi

MTM:ww