

**2006 CHARTER REVIEW COMMISSION
OPTIONS PAPER
PERFORMANCE AUDITOR
JUNE 14, 2006**

**Prepared by
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BACKGROUND

Staff prepared and presented to the Commission a background paper related to Performance Auditor on May 10, 2006. That paper described the types of audits, comparisons with other counties/cities with performance auditors and a list of issues and concerns in 2006. Attachments included relevant section of Snohomish County Code, and materials from various auditors including Snohomish County. The paper did not present options as it was prior to the development of the final list for debate and consideration.

This paper presents options for the commission to consider as they consider options that could be presented to the voters in November.

THE OPTIONS:

1. No Change
2. Move the Auditor to the County Council
3. Create an Elected Office of Performance Auditor
4. Contract for Performance Audit Services

No Change

The performance auditor remains under the county auditor. Questions of independence and resource allocation remain. "When auditors report to management there is a greater potential for being gagged, assigned less useful tasks, assigned non-audit activities and eliminated during lean times. Also auditors who report internal are at risk of major shift in direction with turnover of one person (e.g. City Manager, Finance Director) where elected auditors are not and appointed auditors have several bosses that typically serve staggered terms."¹

There is an important distinction here. Is the current Performance Auditor more like an internal auditor performing like a performance auditor?

Pros

- A known way of doing business
- The citizens approved this model 10 years ago

Cons

- Budget and staffing levels fluctuate
- Lack of clarity as to who controls the audit plan
- No budget for contracting for external audits or expertise

¹ Point/Counterpoint Elected vs Appointed Auditors, 9/2005, Association of Local Government Auditors, Page 3

Move Auditor to County Council

The Performance Auditor is moved under the county council. In order to maintain independence, the auditor should be appointed to a term of office and operate not unlike the hearings examiner with appropriate resources. A Committee of the council approves audit plans. Examples of charter language and enabling ordinance are attached.² Without the appointment clause nothing has changed from the current operation. The appointment provides the most independence short of election as can be seen with the Hearing Examiner.³

Pros

- This fits more of the national model as to how and where the Performance Auditor should be located
- Moves audit function to the policy side of the county out of operations
- What may seem political is more a like a committee having to make a decision regarding personnel issues.
- Solves the “internal auditor” issue raised by Treasurer Dantini 10 years ago⁴

Cons

- Perception of Political Independence

Create an Elected Office of Performance Auditor

The issue of elected versus appointed auditor is debated in the in a Point Counterpoint paper published by the Association of Local Government Auditors⁵

One of the major risks with this model is finding individuals with the appropriate credentials.

Costs would be comparable to adding County Council members as described in the Size of the County Council Briefing Paper.

Line Item	Cost
Elected Performance Auditor	\$106,205
Aid	\$78,752
Auditor	\$91,000
Other Costs including Overhead	\$25,200
Totals	\$301,157.00

Pros

² Guidelines and Model Legislation for Local Government Auditors; National Association of Local Government Auditors

³ Snohomish County Code 2.02

⁴ 1996 Charter Review Minutes April 4, 1996

⁵ Point/Counterpoint Elected vs Appointed Auditors, 9/2005, Association of Local Government Auditors

- Becomes elected and accountable to the citizens
- Independent from all other branches of government

Cons:

- Ensuring the right type of person runs for office
- Potential of becoming disconnected and irrelevant from the other branches of government
- Cost of developing a new elected department.

Contract for Performance Audits

Under this option the County Council could contract for independent performance audits on either an as needed based on an adopted Audit Plan.

Pros

Independence

Cons

Will council budget for the Audits?

Cost of the audits. One source quotes \$150.00/hour

Attachments

- Guidelines and Model Legislation for Local Government Auditors
- Point/Counterpoint Elected Vs Appointed Auditors



**GUIDELINES AND MODEL LEGISLATION
FOR
LOCAL GOVERNMENT AUDITORS**

**National Association of Local Government Auditors
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(for better formatted printing) [click here](#).*

**NATIONAL ASSOCIATION OF LOCAL GOVERNMENT AUDITORS
GUIDELINES AND MODEL LEGISLATION FOR
LOCAL GOVERNMENT AUDITORS**

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NATIONAL ASSOCIATION OF LOCAL GOVERNMENT AUDITORS

September 1, 1999

Dear Local Government Decisionmaker,

The National Association of Local Government Auditors (N.A.L.G.A.) believes that audits of local government programs, functions, activities and organizations are essential. As an integral part of the governance process, the audit function plays a key role in providing accountability for management's performance. The greater the separation between a policy or oversight body and its management, the more critical the need for an independent function within the organization to ensure the accountability of its management. The primary mission of the auditor is to require an accounting of the activities and accomplishments of the organization.

In the public sector, the contribution of the audit function to management accountability is significant, because the ultimate form of performance accountability, bankruptcy, is not a major threat to public sector organizations. There is little likelihood that government will "go out of business", even when it experiences severe financial difficulties. Private sector organizations have some inherent motivation to evaluate and control their risks if only to ensure survival, public sector entities seldom share this motivation.

The importance to the public, our ultimate customer, of the functionally independent auditor function can be demonstrated by the emergence of numerous federal, state and local laws and ordinances establishing internal auditors. This trend has emerged because government officials, both elected and appointed, have realized that an independent oversight function is particularly important because of the unique relationship that government auditors have with their primary stakeholders, the taxpayers. The taxpayers and, for the most part, elected representatives want assurance that their scarce tax dollars are being protected by audit functions which operate with reasonable independence from the supervisory chain. Anything less severely limits the credibility of the auditor in terms of the public trust.

In 1992 the National Association of Local Government Auditors issued its first edition of "Guidelines and Model Authorizing Legislation for Local Government Audit Functions". This document was based on the first comprehensive set of guidelines and model legislation for local government auditing promulgated by the National Intergovernmental Audit Forum in 1987. The purpose of this document is to foster accountability and improved government services and programs in cities, counties, special districts and taxing jurisdictions.

It is our sincere hope that this document will provide local government officials with a clear understanding of the role of the local government audit function and assist in providing a blueprint for the development of model legislation authorizing local government audit functions. Feel free to contact N.A.L.G.A. at (859) 276-0686 or kpnasact@mis.net.

Sincerely,

Helen Niesner, President

N.A.L.G.A. Board Members

(1999-2001)

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NATIONAL ASSOCIATION OF LOCAL GOVERNMENT AUDITORS

**GUIDELINES AND MODEL LEGISLATION
FOR LOCAL GOVERNMENT AUDITORS**

INTRODUCTION

Audits are essential in providing reasonable assurance that local governments are 1) operating in accordance with laws, rules, regulations and policies; 2) responding to citizen needs; and 3) functioning economically, efficiently and effectively.

Local governmental managers are responsible for designing and implementing effective internal controls to ensure that assets are safeguarded, records are reliable, reports on operations are sufficient and fairly presented, fraud, waste and abuse are deterred, and programs, functions, and activities are conducted economically, efficiently and effectively.

Audits of local government are an essential element of public control and accountability. By independently reviewing and reporting on programs, functions, activities and organizations, and by conducting or causing to be conducted independent audits of financial statements, auditors provide the public, elected officials and management with a fair, objective and reliable assessment of local

government performance. Local government auditors can also make other contributions such as recommending improvements in policies, organizational structure, accounting procedures and management control systems and operations. Auditing is especially important in local government because:

1. Unlike the private sector, profit cannot be used readily as a key indicator of performance in government. Other measures of governmental efficiency, economy and effectiveness are needed.
2. Governments must function in compliance with laws, policies and established procedures while exercising good judgment in their stewardship of finite resources and following sound management principles.

The audit function should be organized and structured to make the greatest possible contribution to economical, efficient and effective government conducted in accordance with legislative and management directives.

We, therefore, endorse the following guidelines for establishing the audit function in local government entities.

GUIDELINES FOR ESTABLISHING AUDIT FUNCTIONS

Local government charters, ordinances or policy statements establishing an independent audit function (either legislative/appointed or elected) should:

1. Provide for an "independent" auditor either through election or appointment by the legislative body or chief executive officer. Appointment or removal of an appointed auditor by a chief executive officer should be subject to legislative approval.
2. Authorize the auditor to conduct financial and performance audits in accordance with government auditing standards as promulgated by the United States General Accounting Office. Government auditing standards provide for various types of audits which generally fall into one of the following categories:
 - a. Financial audits include financial statement and financial related audits.
 1. Financial statement audits provide reasonable assurance about whether the financial statements of an audited entity present fairly the financial position, results of operations, and cash flows in conformity with generally accepted accounting principles.
 2. Financial related audits include determining whether (1) financial information is presented in accordance with established or stated criteria, (2) the entity has adhered to specific financial compliance requirements, or (3) the entity's internal control structure over financial reporting and/or safeguarding assets is suitably designed and implemented to

achieve the control objectives.

- b. Performance audits include economy and efficiency and program audits.
 1. Economy and efficiency audits include determining (a) whether the entity is acquiring, protecting, and using its resources (such as personnel, property, and space) economically and efficiently, (b) the causes of inefficiencies or uneconomical practices, and (c) whether the entity has complied with laws and regulations concerning matters of economy and efficiency.
 2. Program audits include determining (a) the extent to which the desired results or benefits established by the legislature or other authorizing body are being achieved, (b) the effectiveness of organizations, programs, activities, or functions, and (c) whether the entity has complied with laws and regulations applicable to the program.
- c. Other Activities of an Audit Organization

Auditors may perform services other than audits. For example, some auditors may:

1. assist a legislative body by developing questions for use at hearings;
2. develop methods and approaches to be applied in evaluating a new or a proposed program;
3. forecast potential outcomes under various assumptions without evaluating current operations;
4. review proposed contract terms and conditions; and
5. perform investigative work.

The following key elements are crucial in providing for an effective independent audit function:

1. Require a written report containing relevant background information, findings and recommendations regarding audited activities and communicate the results of the report to the Audit committee, Legislative Board and management.
2. Assure that the auditor has full, free and unrestricted access to local government employees, officials, records, vendor contracts and reports.

3. Ensure that all contracts contain a right to audit provision.
4. Establish an audit committee at the local level to be responsible for review of the auditor's work concerning financial and performance audits. The committee should also work to assure maximum coordination between the work of the auditor and the audit needs of the chief executive officer, the legislative body and external auditors.
5. Assign the auditor responsibility to coordinate and monitor all audits and audit related services received by the local government entity including those performed by public accountants, consultants or audit organizations of the entity and its subdivisions.
6. Negate the influence of partisan politics on the selection and operations of the appointed auditor or on the operations of the elected auditor.
7. Require that responsible government managers promptly respond in writing, within a time specified, to audit recommendations explaining what actions are planned or have been taken to deal with problems identified in audit reports.
8. Require follow-up on significant findings and recommendations from previous audits to determine whether timely and appropriate corrective actions have been taken by management.
9. Provide for periodic quality assurance reviews of the audit function.

The concepts identified in these guidelines are divided between establishing a legislative /appointed and elected auditor. They include recommendations for each related to Charter provisions and legislation.

**MODEL CHARTER LANGUAGE ESTABLISHING A
LEGISLATIVE/APPOINTED AUDITOR
IN LOCAL GOVERNMENT ENTITIES**

SECTION _____, (NAME OF ENTITY) Auditor

The *(NAME OF ENTITY)* auditor shall be appointed by a majority of the legislative body/board (or by the chief executive of *(NAME OF ENTITY)* and ratified by a majority of the legislative body). The auditor shall conduct, or cause to be conducted financial, performance and other audit services following government auditing standards. The auditor can be removed from office for cause on a vote of at least two thirds of the legislative body. All audit reports are public documents and will be made available for public examination.

MODEL CODE/ORDINANCE LANGUAGE TO IMPLEMENT

**CHARTER PROVISIONS ESTABLISHING A LEGISLATIVE/APPOINTED
LOCAL GOVERNMENT AUDITOR**

***AN ORDINANCE/RESOLUTION/POLICY STATEMENT ESTABLISHING AN
OFFICE OF (NAME OF ENTITY) AUDITOR AND SETTING FORTH THE
CONDITIONS AND SPECIFICS UNDER WHICH SAID OFFICE SHALL
FUNCTION***

WHEREAS government auditing independently reviews, evaluates and reports on the financial condition, the accuracy of financial record keeping, compliance with applicable laws, policies, guidelines and procedures, and efficiency and effectiveness of operations; and

WHEREAS management and employees in the public sector are responsible for taxpayer use of public resources and should be held accountable for their use; and

WHEREAS it is vital that government exercise its power and perform its duties in compliance with law, policy, and established procedures and apply good judgment and sound management practices; and

WHEREAS the independence and public accountability of the auditor can be assured by provision of an independent, legislatively appointed (or ratified) auditor.

NOW THEREFORE BE IT ORDAINED/RESOLVED THAT:

1. *The Office of (NAME OF ENTITY) Auditor is hereby established.*

BE IT FURTHER ORDAINED/RESOLVED THAT:

2. *The auditor shall be named through appointment by a majority vote of the legislative body/board (or appointed by the chief executive officer and ratified by a majority vote of the legislative body/board).*
3. *The auditor shall be knowledgeable in performance and financial auditing, public administration, and government financial and fiscal practices.*
4. *The auditor shall not be actively involved in partisan political activities or the political affairs of (NAME OF ENTITY).*
5. *The auditor shall possess adequate professional proficiency for the job, demonstrated by relevant certification such as CIA (Certified Internal Auditor), CPA (Certified Public Accountant) or an advanced degree in a relevant field with at least five years experience in the field of government auditing, evaluation or analysis (CIA or CPA preferred). The auditor shall have a bachelors degree in accounting, business administration, or public administration or related field. If financial statement audits are performed, the auditor must be a CPA.*
6. *The auditor shall serve a minimum term of _____ years, unless removed for cause by a vote of at least two-thirds of the legislative body/board. The auditor may be re-appointed at the end of the term of office.*
7. *An audit committee shall be established to consult with the auditor regarding establishment of audit schedule, audit progress, audit follow-up, special needs; and shall work to assure maximum coordination between the work of the auditor and the needs of the chief executive officer the legislative body/board and external auditors. Audit committee members shall be appointed by the legislative body and all appointees shall be independent of the local government's management and administrative service. The legislative body shall appoint at least one of its members to serve on the committee.*
8. *The auditor and the auditor's office shall adhere to government auditing standards in conducting its work and shall be considered independent as defined by those standards.*

**CHAPTER (NUMBER)
LEGISLATIVE/APPOINTED AUDITOR**

Sections:

1. *Assistants and Employees*
2. *Scope of Audits*
3. *Audit Schedule*
4. *Special Audits*
5. *Funding*
6. *Records*
7. *Access to Employees, Records and Property*
8. *Agency Response*
9. *Audit Reports to Legislative Body/Board*
10. *Report of Irregularities*
11. *Annual Report*
12. *Audit Follow-up*
13. *Contract Auditors, Consultants and Experts*
14. *Quality Assurance Reviews*

SECTION 1. Assistants and Employees

1. The Office shall be provided a separate budget (subject to available resources) sufficient to carry out the responsibilities and functions established in this ordinance.
2. The auditor shall establish an organizational structure appropriate to carrying out the responsibilities and functions of this ordinance.
3. The auditor shall have the power to appoint, employ, and remove such assistants, employees and personnel as deemed necessary for the efficient and effective administration of the affairs of the office.

SECTION 2. Scope of Audits

1. The auditor shall conduct work in accordance with government auditing standards.
2. The auditor shall have authority to conduct financial, performance or other audits of all departments, offices, boards, activities and agencies of the entity in order to independently and objectively determine whether:
 - a. activities and programs being implemented have been authorized by government Charter or Code, state law or applicable federal law or regulations;
 - b. activities and programs are being conducted as prescribed by management/governing body to accomplish the objectives intended by government Charter or Code, state law or applicable federal law or regulations;
 - c. activities or programs efficiently and effectively serve the purpose

intended by government Charter, Code, state law or applicable federal law or regulations;

- d. activities and programs are being conducted and funds expended in compliance with applicable laws;
- e. revenues are being properly collected, deposited and accounted for;
- f. resources, including funds, property and personnel, are adequately safeguarded, controlled and used in an effective and efficient manner;
- g. financial and other reports are being provided that disclose fairly and fully all information that is required by law, that is necessary to ascertain the nature and scope of programs and activities and that is necessary to establish a proper basis for evaluating the programs and activities;
- h. there are adequate operating and administrative procedures and practices, systems or accounting internal control systems and internal management controls which have been established by management; or
- i. there are indications of fraud, abuse or illegal acts which need further investigation.

SECTION 3. Audit Schedule

At the beginning of each calendar (fiscal) year, the auditor shall submit a one to five year audit schedule to the legislative body/board (audit committee) for review and comment. The schedule shall include the proposed plan for auditing departments, offices, boards, activities, subcontractors and agencies for the period. This schedule may be amended during the period after review with the legislative body/board or audit committee. Additionally, the auditor may spontaneously initiate and conduct any other audit deemed necessary.

In the selection of audit areas and audit objectives, the determination of audit scope and the timing of audit work, the auditor should consult with federal and state auditors and external auditors so that the desirable audit coverage is provided and audit effort is properly coordinated.

SECTION 4. Special Audits

In the event the auditor receives a request to perform a special audit not included in the annual audit schedule, the auditor may obtain the approval of the legislative body to amend the annual audit schedule to reflect the approved modification.

SECTION 5. Funding

Funds sufficient to carry out the responsibilities specified herein shall be provided. The auditor's performance shall be evaluated annually by the appointing authority

(and by the audit committee) and the auditor's salary shall be adjusted accordingly.

SECTION 6. Records

The auditor shall retain for three years (or longer if so directed by statute or ordinance), a complete file of each audit report and each report of other examinations, investigations, surveys and reviews made under legislative authority. The file should include audit workpapers and other supportive material directly pertaining to the audit report.

SECTION 7. Access to Employees, Records and Property

1. All officers and employees of (NAME OF ENTITY) shall furnish the auditor with unrestricted access to employees, information and records (including automated data) within their custody regarding powers, duties, activities, organization, property, financial transactions, contracts and methods of business required to conduct an audit or otherwise perform audit duties. In addition, they shall provide access for the auditor to inspect all property, equipment and facilities within their custody. If such officers or employees fail to produce the aforementioned access and/or information, the auditor may initiate a search to be made and exhibits to be taken from any book, paper or record of any such official or employee, or outside contractor or subcontractor, except as governed by statute. Further, all contracts with outside contractors and subcontractors shall provide for auditor access to all financial and performance related records, property, and equipment purchased in whole or in part with governmental funds and facilities.
2. The auditor shall not publicly disclose any information received during an audit that is considered proprietary in nature (confidential) by any local, state or federal law or regulation.

SECTION 8. Agency Response

A final draft of the audit report will be forwarded to the audited agency and the chief executive officer for review and comment regarding factual content before it is released. The agency must respond in writing and specifying agreement with audit findings and recommendations or reasons for disagreement with findings and/or recommendations, plans for implementing solutions to issues identified and a time table to complete such activities. The response must be forwarded to the auditor within (SPECIFY TIME FRAME). The auditor will include the agency's response in the report. If no response is received, the auditor will note that fact in the transmittal letter and will release the audit report. In the case of contracted audits, audits may be released without inclusion of a response. Any subsequent responses shall be distributed to those who received the audit report.

SECTION 9. Audit Reports to Legislative Body/Board

1. Each audit will result in a written report containing relevant background information and findings and recommendations, and shall communicate

results to the Audit Committee, Legislative Board and/or management. The report shall also be available for public examination.

2. The auditor shall submit each audit report to the legislative body/board and shall retain a copy as a permanent record. A copy shall also be filed with the clerk of record and/or the area public library.

SECTION 10. Report of Irregularities

If during an audit, the auditor becomes aware of abuse or illegal acts or indications of such acts that could affect the governmental entity, the auditor shall report the irregularities to the audit committee, the chief executive officer or legislative board/body. In the case of an auditor appointed by the chief executive officer, if the chief executive officer is believed to be a party to abuse or illegal acts, the auditor shall report the acts directly to the legislative board/body. If it appears that the irregularity is criminal in nature, the auditor shall (immediately) notify the appropriate chief prosecuting authority (when appropriate) in addition to those officials previously cited.

SECTION 11. Annual Report

The auditor shall submit an annual report to the legislative body within (number of days)

after the calendar/fiscal year indicating audits completed, major findings, corrective actions taken by administrative managers, and significant findings which have not been fully addressed by management.

SECTION 12. Audit Follow-up

The auditor shall follow-up on audit recommendations as practical to determine if administrative managers are implementing corrective action. The auditor may request periodic status reports from audited entities regarding actions taken to address reported deficiencies and audit recommendations.

SECTION 13. Contract Auditors, Consultants and Experts

1. Within budget limitations, the auditor may obtain the services of Certified Public Accountants, qualified management consultants, or other professional experts necessary to perform the auditor's duties. An audit that is performed by contract must be conducted by persons who have no financial interests in the affairs of the governmental unit or its officers. The auditor will coordinate and monitor auditing performed by public accounting or other organizations employed under contract by the (NAME OF ENTITY).
2. The auditor will play a key role in the selection of the (NAME OF ENTITY) independent auditor. In contracting for the external audit, the auditor will follow (ENTITY)'s normal contracting processes. The auditor's selection of a certified public accounting firm for the annual financial audit must be

approved by the (GOVERNING BODY).

SECTION 14. Quality Assurance Reviews

1. The audit activities of the auditor's office shall be subject to quality review in accordance with applicable government auditing standards by a professional, non-partisan objective group utilizing guidelines endorsed by N.A.L.G.A. A copy of the written report of this independent review shall be furnished to each member of the legislative body. This report shall be available to the public.
2. The quality control review shall determine compliance with government auditing standards and the quality of the audit effort and reporting, including:
 - a. general standards such as staff qualifications, due professional care, and quality assurance;
 - b. fieldwork standards such as planning, supervision, and audit evidence; and
 - c. reporting standards such as report content, presentation, and timeliness.
3. The local government shall reimburse the costs of the quality control review team from funds budgeted in the auditor's budget or other in-kind support.

**MODEL CHARTER LANGUAGE ESTABLISHING AN ELECTED
AUDITOR IN LOCAL GOVERNMENT ENTITIES**

**AN ORDINANCE/RESOLUTION/POLICY STATEMENT PRESENTING
a proposed Charter Amendment to the people to establish the elected position
of (NAME OF ENTITY) auditor and setting forth the conditions and specifics
under which said official shall function.**

WHEREAS the activity of government auditing independently reviews, evaluates and reports on the financial condition, the accuracy of financial record keeping, compliance with applicable laws, policies, guidelines and procedures, and efficiency and effectiveness of operations; and

WHEREAS management and employees in the public sector are responsible for the use of public resources and should be held accountable for their use; and

WHEREAS it is vital and fair to effective government that the government exercise its power and perform its duties in compliance with law, policy, and established procedures and apply good judgment and sound management practices; and

WHEREAS the independence and public accountability of the auditor can be assured by provision for an elected auditor.

NOW THEREFORE BE IT ORDAINED/RESOLVED THAT the following Charter amendment be presented to the people for vote at the (TYPE) election to be held on (DATE).

SECTION 1. Elected Auditor

The office of elected auditor of (NAME OF ENTITY) is hereby established.

SECTION 2. Term of Office

The term of the auditor shall be _____ years.

SECTION 3. Nonpartisanship

The position of the auditor shall be nonpartisan.

SECTION 4. Professional Qualifications and Experience

The auditor shall possess adequate professional proficiency for the job, demonstrated by relevant certifications such as a CIA (Certified Internal Auditor), CPA (Certified Public Accountant) or have an advanced degree in a relevant field with at least five (5) years experience in the field of government auditing, evaluation, or analysis. The auditor shall have a bachelors degree in accounting, business administration, public administration or related field. If financial statement audits are performed, the auditor must be a CPA.

SECTION 5. Compensation

The auditor shall be compensated at a rate comparable to other similarly situated elected officials or as otherwise provided by statute.

SECTION 6. Funding

Sufficient funds shall be provided to carry out the responsibilities specified herein.

SECTION 7. Restrictions on Other Candidacy

Filing for another elective office over which the auditor has audit jurisdiction will be the same as a resignation, effective as of date of filing.

SECTION 8. Audit Scope, Standards and Schedule

The auditor shall have the authority and responsibility to conduct financial and performance audits or special studies of all phases of (NAME OF LOCAL GOVERNMENT) government in accordance with government auditing standards. Such audits may include financial, compliance, performance, and program results

auditing. The auditor shall consult with the (GOVERNING BODY/AUDIT COMMITTEE) regarding the selection of audit entities, but the final decision of what to audit shall remain with the auditor. The auditor shall furnish the (GOVERNING BODY) with a planned audit schedule by the beginning of each fiscal year.

Additionally, the auditor may modify the audit schedule or initiate and conduct any other audit deemed necessary to undertake.

SECTION 9. Access to Employees, Records and Property

The auditor shall have unrestricted access to employees, officials, records and reports, and as necessary, require all branches, departments, and officials of government to produce documents, files and other records.

SECTION 10. Audit Reports

1. Each audit will result in a written report containing relevant background information and findings and recommendations, and shall communicate results to the Audit Committee, Legislative Board and/or management. The report shall also be available for public examination.
2. The auditor shall submit each audit report to the legislative body/board and shall retain a copy as a permanent record. A copy shall also be filed with the clerk of record and/or the area public library.

SECTION 11. Responses to Audit Reports

The auditor shall furnish a final draft of each audit report to the audited entity for review and comment before it is released. The responsible official must respond in writing to the auditor's recommendations within _____ working days, or within the time frame specified by the auditor.

SECTION 12. External Audits

The auditor shall appoint external Certified Public Accountants to conduct certified financial statement audits, as specified by state or local law. The auditor shall coordinate and monitor the conduct of, and responses to, external financial statement audits. The auditor shall work toward the elimination of duplicative audit work through cooperation with state and federal and external auditors.

SECTION 13. Audit Committee

An audit committee shall be established in an advisory capacity to provide recommendations for the auditor's salary, work program, review of the audit function and hiring of external auditor. The committee shall consist of five (5) members, any one of whom is the auditor and two members from the governing body and two (2) members with audit credentials appointed by the auditor.

**MODEL CODE/ORDINANCE LANGUAGE TO IMPLEMENT
CHARTER PROVISIONS ESTABLISHING
AN ELECTED LOCAL GOVERNMENT AUDITOR**

AN ORDINANCE amending the Code of (ENTITY), by adding a new Chapter (NUMBER) entitled "Elected Audit Function," setting forth the specifics under which the audit agency of the (GOVERNMENT) auditor's office shall function.

The (GOVERNING BODY) ordains:

1. Accountability is inherent in the governing process of this nation. Officials and employees who manage public programs are obligated to justify to the public their methods and purposes in appropriating, applying, and using public resources.
2. Public officials, government managers, and private citizens want and need to know not only whether government funds are handled properly and in compliance with laws and regulations, but also whether public programs are achieving the purposes for which they were authorized and funded, and, whether they are doing so efficiently and economically.
3. An independent auditing function can provide objective information on the operations of government programs, assist managers in carrying out their responsibilities, and help ensure full accountability to the public.
4. An effective auditing function requires that audit results be accepted and used by public officials. Acceptance requires that the audit function be understood and recognized as valid, and that it be established on a firm foundation of professional competence.
5. Standards for the conduct and practice of governmental auditing have been developed by the Comptroller General of the United States.
6. The audit function in the (NAME OF ENTITY) approved by the voters through Charter amendment on (DATE), should adhere to these standards in order to ensure that public officials and employees understand the role and function of auditing, to lend consistency and credibility to ongoing audit work, and to provide a basis for monitoring and evaluating the work of audit staff.

NOW, THEREFORE the (GOVERNING BODY) directs:

The (GOVERNING BODY) hereby establishes a new Chapter (NUMBER) in the Code of the (NAME OF ENTITY), adding a new Chapter to be numbered, titled

and read as Chapter (NUMBER), (TITLE).

Chapter (NUMBER)
ELECTED AUDITOR

Sections:

1. *Independence*
2. *Scope of Audits*
3. *Audit Schedule*
4. *Access to Employees, Records and Property*
5. *Agency Response*
6. *Audit Reports*
7. *Report of Irregularities*
8. *Audit Follow-up*
9. *Contract Auditors, Consultants and Experts*
10. *Quality Assurance Reviews*

SECTION 1. Independence

1. An audit function is hereby created within the elected auditor's office, answerable directly to the auditor in accordance with Charter Section (NUMBER).
2. The audit function will adhere to government auditing standards in conducting its work and will be considered independent as defined by those standards.
3. If the audit function conducts an audit of an activity for which the elected auditor is or was responsible, the audit scope will state that the auditors are not organizationally independent with regard to the entity being audited.

SECTION 2. Scope of Audits

1. The auditor may conduct financial, performance and other audits of all agencies, offices, boards, activities, functions and agencies of the (NAME OF ENTITY) to independently determine whether:
 - a. activities and programs being implemented have been authorized by government Charter or Code, state law or applicable federal law or regulations;
 - b. activities and programs are being conducted as prescribed by management/governing body to accomplish the objectives intended by government Charter or Code, state law or applicable federal law or

regulations;

- c. activities or programs efficiently and effectively serve the purpose intended by government Charter, Code, state law or applicable federal law or regulations;
 - d. activities and programs are being conducted and funds expended in compliance with applicable laws;
 - e. revenues are being properly collected, deposited and accounted for;
 - f. resources, including funds, property and personnel, are adequately safeguarded, controlled and used in a faithful, effective and efficient manner;
 - g. financial and other reports are being provided that disclose fairly and fully all information that is required by law, that is necessary to ascertain the nature and scope of programs and activities and that is necessary to establish a proper basis for evaluating the programs and activities;
 - h. there are adequate operating and administrative procedures and practices, systems or accounting internal control systems and internal management controls which have been established by management; or
 - i. there are indications of fraud, abuse or illegal acts which need further investigation.
2. The auditor shall conduct his/her work in accordance with government auditing standards applicable to financial, performance or other activities of an audit organization.

SECTION 3. Audit Schedule

At the beginning of each calendar (fiscal) year, the auditor shall prepare a one to five year audit schedule to the legislative body/board (audit committee) for review and comment. The schedule shall include the proposed plan for auditing departments, offices, boards, activities, subcontractors and agencies for the period. This schedule may be amended during the period as the auditor may initiate and conduct any other audit deemed necessary.

SECTION 4. Access to Employees, Records and Property

All officers and employees of the (NAME OF ENTITY) shall furnish the auditor with unrestricted access to employees, information and records (including automated data) within their custody regarding powers, duties, activities, organization, property, financial transactions and methods of business required to conduct an audit or otherwise perform audit duties. In addition, they shall provide access for the auditor to inspect all property, equipment and facilities within their

custody. If such officers or employees fail to produce the aforementioned access and information, the auditor may initiate a search to be made and exhibits to be taken from any book, paper or record of any such official or employee, except as governed by statute, and every office having the custody of such records shall make a search and forward such requested exhibits to the auditor. Further, all contracts with outside contractors and subcontractors shall provide for auditor access to all financial and performance related records, property and equipment purchased in whole or in part with governmental funds and facilities.

The auditor shall not publicly disclose any information received during an audit that is considered proprietary in nature (confidential) by any local, state or federal law or regulation.

SECTION 5. Agency Response

A final draft of each audit report will be forwarded to the audited agency for review and comment before it is released. The agency must respond in writing specifying agreement with audit findings and recommendations or reasons for disagreement with findings and/or recommendations, plans for implementing solutions to issues identified and a time table to complete such activities. The response must be forwarded to the auditor within the time frame specified by the auditor. The auditor will include the full text of the agency's response within the final audit report.

SECTION 6. Audit Reports

1. Each audit will result in a written report containing relevant background information, findings and recommendations and shall communicate results to the appropriate officials.
2. The auditor will submit each audit report to the (GOVERNING BODY) and will retain a copy as a permanent record. Supporting workpapers shall be retained for at least _____ (greater than auditor's term of office). A copy shall be filed with the clerk of record and/or the area library.
3. If appropriate, the audit report shall contain the professional opinion of the auditor or the contract auditor concerning the financial statements issued by the agency or board or if the audit is an expanded scope audit, the report will contain the professional conclusions of the audit regarding the management activities audited.
4. The auditor shall include in the audit reports:
 - a. a precise statement of the scope encompassed by the audit;
 - b. a statement that the audit was performed in accordance with government auditing standards;
 - c. a statement that an examination for compliance with applicable laws,

- policies and regulations was conducted and presentation of the findings associated with that examination;
- d. a statement of the significant audit findings, including a statement of the underlying cause, evaluative criteria used and the current and prospective significance of the findings;
 - e. a statement that internal control systems were examined and a report of any material weaknesses found in the internal control systems;
 - f. statement of response submitted by the audited agency, board or agency relevant to the audit findings including, if possible, a concise statement of the corrective actions previously taken or contemplated as a result of the audit findings and a time table for their accomplishment; and
 - g. recommendations for additional necessary or desirable action.

SECTION 7. Report of Irregularities

If the auditor detects apparent violations of law or apparent instances of malfeasance or nonfeasance by an officer or employee or information that indicates wrongdoing may be reasonably anticipated, the auditor shall report the irregularities to the (PRESIDING OFFICER) of the (GOVERNING BOARD). If the irregularity is potentially criminal in nature, the auditor shall notify the prosecuting attorney, when appropriate in addition to those previously cited.

SECTION 8. Audit Follow-up

The auditor shall follow-up on audit recommendations as practical to determine if administrative managers are implementing corrective action.

The auditor may request periodic status reports from audited entities regarding actions taken to address reported deficiencies and audit recommendations.

SECTION 9. Contract Auditors, Consultants and Experts

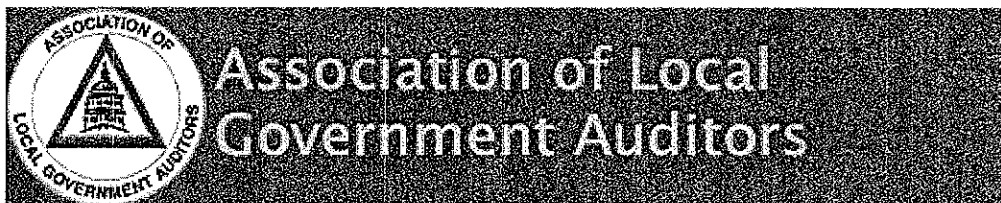
Within budget limitations, the auditor may obtain the services of Certified Public Accountants, qualified management consultants, or other professional experts necessary to perform the auditor's duties. An audit that is performed by contract must be conducted by persons who have no financial interests in the affairs of the governmental unit or its officers. The auditor will coordinate and monitor auditing performed by public accounting or other organizations employed under contract by the (NAME OF ENTITY) to assist with audit related activities.

Contracting for the external audit will follow (ENTITY)'s normal contracting processes. The auditor's selection of a certified public accounting firm for the annual financial audit must be approved by (GOVERNING BODY).

SECTION 10. Quality Assurance Reviews

The audit activities of the auditor's office shall be subject to a quality review in accordance with applicable government auditing standards by a professional, nonpartisan objective group utilizing guidelines endorsed by N.A.L.G.A. A copy of the written report of this independent review shall be furnished to each member of the (GOVERNING BODY).

The quality review will use applicable government auditing standards to evaluate the quality of audit effort and reporting. Specific quality review areas shall include staff qualifications, adequacy of planning and supervision, sufficiency of workpaper preparation and evidence, and the adequacy of systems for reviewing internal controls, fraud and abuse, program compliance, and automated systems. The quality review will also assess the form, distribution, timeliness, content, and presentation of audit reports. The government shall reimburse costs of the quality review from funds budgeted in the auditor's budget.



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Point/Counterpoint Elected vs. Appointed Auditors - September 2005

PDF

Mike Taylor, City Auditor of Stockton, CA and Ann-Marie Hogan, City Auditor of Berkeley, CA, attempted to agree to disagree for a Local Government Audit Quarterly column. In this quarterly discussion, they argue the question of "which is better, an elected auditor or an appointed auditor."

Point from Mike Taylor, CPA, CIA, Council-appointed City Auditor of Stockton, California:

Are localities better served by elected or appointed auditors? Ann-Marie and I have been asked to do battle over the question of which structure is better. For a number of reasons, this has not been an easy task. Once I began to build my case for an appointed auditor, I realized that many of the differences between appointed and elected auditors are not particularly significant. Many of the elected auditors I know don't fit my theories about elected auditors. And, I think that various factors in some localities do make an elected auditor a better choice. Having admitted to that up front, I'll state my case for an appointed auditor, and then explain why in some cases, an elected auditor may be a better structure.

Candidate Pool – When a locality seeks an auditor director, where do they look? For an elected position, candidates must reside in the locality. For an appointed position, the locality can recruit from as far as their advertising will go (think World Wide Web). The best person for the job may live within the shadow of city hall, but I think it's best to have a choice from as many qualified candidates as possible.

Governing Body Support – Ann-Marie actually suggested this one to me from the perspective of budget and salary support. In my experience, this has been a huge benefit of reporting to the City Council. I think there's another way that governing body support is a positive for appointed auditors, and that is the pressure to implement corrective action in response to audit findings. An appointed auditor who is and acts independent of management can turn to the governing body when management ignores audit findings. An elected auditor who is and acts independent of the organization runs the risk of becoming insignificant if the governing body and management ignore audit findings.

Reelection – Elections are about name recognition. It seems to me that one way for elected auditors to maintain name recognition is to issue audit reports that get media attention. Yes, appointed auditors can and do issue

reports that the media love. But, if an elected auditor is facing a challenger, it seems to me that the auditor might choose audits, and time the release of their report, based on the probability that the report will attract media attention (e.g. cell phone usage, travel expenses). Such topics might allow for campaigning along the lines of "cleaning up the mess in city hall," but not be of as much use to the organization as other audits.

Qualifications – Browse through the jobs page of the N.A.L.G.A. web site and you typically see positions that require a college degree, professional certification, several years experience, and a list of skills such as written and oral communications, leadership, and software proficiency. Elected auditors may be required to have a degree and in some cases a professional certification. Sometimes all that is required is to have remained alive for at least 18 years and be a resident of the locality. When making hiring decisions, the face-to-face interview is a valuable tool, yet most voters will be checking a box based on little more than a few sound bites and a paragraph in the voter guide.

Oversight – Okay, unless you have a board or council of micromanagers, the appointed auditor won't get much in the way of supervision. There will likely be some supervision, however. For me, the City Council reviews my performance every six months. Elected auditors answer to the people, and the people don't really schedule regular performance evaluations. What about poor performance? There are mechanisms for removing poor performing auditors, whether they are appointed or elected. But, it is much more difficult to remove a poor performer who is elected. The community must either recall the auditor or vote them out of office in the next election. Recalls are not easy and the next election may be 2 or 3 years away. If my performance falls far enough below expectation, the city council has the power to apply progressive discipline to correct the situation quickly, or send me on my way. How do the people apply progressive discipline to an elected auditor?

So, when might an elected auditor be better for a community than an appointed auditor? If a jurisdiction has a long history of an unstable or corrupt council, an appointed auditor may be ineffective. Those who try to make a difference may soon give up in frustration or be dismissed by the council. If the council is run by management rather than the other way around, the structure would not really be independent. It is also possible that a city council doesn't want any bad news getting out, so they muzzle the auditor. Under these circumstances, I would likely argue for an elected auditor.

I imagine Ann-Marie will take exception with some of what I've written. I look forward to seeing her comments. There is an area, however, where I expect that Ann-Marie and I would strongly agree. Both elected and appointed positions are preferable to internal audit structures as defined by GAS.

There are many fine internal auditors working in local government who

have done important work with no more management interference than elected and appointed auditors face. Structurally, however, they face greater risks. When auditors report to management, there is greater potential for being gagged, assigned less useful tasks, assigned non-audit activities, and eliminated during lean times. Also, auditors who report internally are at risk of a major shift in direction with turnover of one person (e.g. City Manager, Finance Director), where elected auditors are not and appointed auditors have several bosses that typically serve staggered terms.

As an organization, N.A.L.G.A. should advocate for the creation and maintenance of independent local government audit functions, both elected and appointed. Actually, N.A.L.G.A. does. If you haven't seen it, take a look at N.A.L.G.A.'s model legislation at <http://www.nalga.org/reports/modlegis.html>.

***Counter point from Ann-Marie Hogan, CIA, CGAP,
elected Auditor of Berkeley, California:***

As my esteemed colleague from the City of Stockton has noted, it was hard to talk us into point/counterpoint since we know that we pretty much agree with the yellow book on the subject: both elected and legislatively appointed auditors meet the standards for independence, all else being equal. I'll do my best to get a little contentious by starting with Mike's weakest arguments first:

Re-election

If an audit shop is headed by an auditor who would base the annual audit plan on the best way to support a re-election bid, then that shop is in big trouble. We are now talking about a fundamentally unethical individual who has no business being auditor of anything.

In the real world, development of the audit plan is a dynamic process involving the audit team, management, the legislative body, and the auditor's risk assessment. Personally, I've always been more worried about the legislatively appointed auditor who is unable to select those audits that have the most value because each legislator is lobbying for an audit that will support personal pet ideas or constituencies or make trouble for the opponents'.

Governing Body Support

I do have to agree with my own statement that a City Council is more likely to generously compensate an auditor who works for Council than an elected auditor. To raise the issue of ethics again, that would be a poor argument to make when the City Council asks one of the N.A.L.G.A. Advocacy team to educate them on the pros and cons of elected and appointed auditors.

My one further quibble here is with the risk of a truly independent elected auditor "becoming insignificant" if audit findings are ignored. The elected auditor has a freedom to "speak truth to power" directly and without censorship, whether to the press or in a public meeting. I don't think we need to worry too much about the powerlessness of the poor independent elected auditor, and I guess the support of our fellow auditors just becomes all the more important to the electeds.

Oversight

I agree that it might be harder to remove a poorly performing elected auditor. However, I've seen poorly performing appointed auditors and, more frequently, poorly performing, even abusive city/county managers who don't get removed from office because Council or the Supervisors just don't have the skeptical attitude or the political will to take action. Of course, we've perhaps more frequently seen the reverse: auditors and managers who are removed from office when they are doing a pretty good job in a difficult environment. This is why the political skills that some of the audit community is so shy about are very much needed by the appointed chief audit executive.

Candidate Pool and Qualifications

I agree with Mike that difficulty of ensuring a large pool of qualified candidates is an argument in favor of legislatively appointed, rather than elected, auditors. A further problem is that, when specific qualifications are required for auditors, the most usual is "must be a CPA", "must be a CPA or CIA" or even "must be a CPA or currently employed at the deputy level in that Auditor's office"! Many of our performance audit shops prefer to hire folks with non-traditional backgrounds, and possession of a CPA and audit experience is no guarantee that one has the management skills and the persuasiveness (read: political skills) to thrive as auditor in a small city or county government, so the qualifications requirement may sometimes actually be a negative.

As Mike and I decided in a recent N.A.L.G.A. Advocacy engagement, a very small jurisdiction (and one that is not a University town with a constant supply of public administration graduates) should probably not consider an elected auditor if it seems that the applicant pool might be too limited. The city council (and the city manager) took our advice, after much discussion, and ordained that the auditor be appointed by council and removed from office only by a super-majority.

In this particular case, there had been a move by city residents to establish an elected audit function; at one point (before our information was persuasively presented) the city manager wanted a manager-appointed auditor; finally, the manager recommended what the council perhaps wanted all along – a council appointment. This is a good illustration of a major factor in establishing the reporting relationship: if there is going to be an auditor, each player wants to be the appointing authority!

What to Do?

We just can't help reaching agreement that every city and county of a certain size should have an auditor who is either elected by the residents or appointed by the legislative body. In my opinion, the most significant step in creating the audit function is making sure that comprehensive legislation, based on the yellow book and the N.A.L.G.A. guidelines, is enacted to mitigate risks to independence on one hand and to quality control (competence) on the other. The audit shops in trouble that I've seen have frequently failed to take this important step.

{mos_sb_discuss:7}

Written by Mike Taylor and Ann-Marie Hogan



Mike Taylor, City Auditor of Stockton, CA and Ann-Marie Hogan, City Auditor of Berkeley, CA, attempted to agree to disagree for a Local Government Audit Quarterly column. In this quarterly discussion, they argue the question of "which is better, an elected auditor or an appointed auditor."

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