



THE CITY OF SAN DIEGO

OFFICE OF THE INDEPENDENT BUDGET ANALYST REPORT

Date Issued: September 24, 2020

IBA Report Number: 20-20

Audit Committee Meeting Date: September 30, 2020

Item Number: TBD

2020 City Auditor Appointment Process Status Update for Audit Committee

OVERVIEW

This report provides background information on the selection process for the City Auditor, as well as an update on the current process to appoint a new City Auditor. In addition to information on the appointment of the first independent City Auditor, the background section includes information on initial City Charter changes relating to City Auditor independence, as well as information on subsequent Charter changes that include removing the Mayor from the City Auditor appointment process. After the background section, we present summary information on the current appointment process that is underway.

BACKGROUND

City Auditor's Office Independence

The following paragraphs discuss how the first independent City Auditor was appointed, as well as the initial City Charter changes that made the Office of the City Auditor independent.

In October 2007, after working in consultation with the Audit Committee (as referenced in IBA report #08-19), the Mayor appointed Eduardo Luna as the City's Internal Auditor. At that time, the Internal Auditor function was not actually independent of the executive branch; but the City was in the process of developing a ballot measure to address the independence issue. Consequently, the October 2007 appointment took place in what was considered an interim period, before the voters could amend the City Charter to solidify such audit independence.

In June 2008 City voters passed Proposition C, which included City Charter establishment of both an independent City Auditor and an independent Audit Committee.¹ The City Auditor's office was made independent of the executive branch, with an exception for Mayoral involvement. This

¹ The June 2008 approval of Proposition C added City Charter section 39.2 ("Office of City Auditor") and Charter section 39.1 ("Audit Committee"), among other Charter changes.

exception provided that “[t]he City Auditor shall be appointed by the City Manager [Mayor], in consultation with the Audit Committee, and confirmed by the Council.” After the passage of Proposition C, Mr. Luna was subsequently appointed to the new independent City Auditor position in April 2009, reporting directly to the Audit Committee.

Other 2008 approved Charter provisions included that the City Auditor be a certified public accountant or certified internal auditor; serve under a 10-year term; and report directly to the Audit Committee. Additionally, the City Auditor can be removed for cause upon recommendation of the Audit Committee and by a vote of two-thirds of City Councilmembers. Furthermore, the Audit Committee, which oversees the work of the City Auditor, is designated as a five-member independent body appointed by the City Council. It consists of two members of the City Council and three members of the public who have qualifying experience and technical expertise.

Additional Independence for the Office of the City Auditor – Removing the Mayor from the Appointment Process

On July 24, 2019 Councilmember Sherman submitted a ballot proposal to the City Clerk to amend the City Auditor appointment process. The ballot proposal went through the Council Policy 000-21 (“Submission of Ballot Proposals”) requirements, and draft language was vetted by the Rules Committee, Audit Committee, and City Council. The resulting Charter amendment proposal that the City Council sent to the voters included the removal of the Mayor from the City Auditor appointment process to make that process fully independent of the executive branch.

The Charter amendment proposal was ultimately approved by City voters in March 2020. See attached ballot materials for Measure D (Charter Amendments Regarding Audit Committee and Selection and Term of City Auditor) for information on the ballot measure that was passed. The Charter amendments were chaptered by the California Secretary of State and added to the City Charter effective May 24, 2020.

In addition to removing the Mayor from the City Auditor appointment process, Measure D requires the Audit Committee to recommend to the City Council no fewer than three qualified candidates for consideration for City Auditor appointment. It also reduces the term of City Auditor appointment from 10 years to five years, with the possibility for reappointment to a second five-year term, among other City Charter modifications.

CURRENT APPOINTMENT PROCESS

Beginning the Recruitment Process

On June 17, 2020 the Audit Committee directed the IBA to work with the proper City departments to create a job posting and begin the City Auditor recruitment process. The Committee also formed a subcommittee to assist with the recruitment process, consisting of Audit Committee Public Members Stewart Halpern and Ricardo Valdivia.

The IBA’s Office began working on the recruitment process beginning with the job announcement, soliciting input from the City Attorney’s Office, City Auditor’s Office, Human Resources, and the recruitment subcommittee. After the job announcement was finalized, the IBA’s Office then worked with the Personnel Department to implement its posting on governmentjobs.com (sites

that pull this information include indeed.com and monster.com). The job announcement was posted by the Personnel Department on June 26, 2020.

Outreach efforts conducted by the IBA's Office included the following efforts for a total cost of \$1,125:

- Working with the Communications Department on a job posting for the City's LinkedIn page (completed June 29, 2020, at no cost)
- Working with Communications on a LinkedIn targeted posting – to reach a target audience with relevant characteristics (completed July 6, 2020, at a cost of \$500)
- Sending a job posting link to various contacts, including the former City Auditor
- Working with the City Auditor's Office on Association of Local Government Auditors (ALGA) posting (completed July 7, 2020, at no cost)
- Working with the National Association of State Budget Officers (NASBO) to post on their site (completed July 14, 2020, at no cost)
- Working with the National Association of State Auditors, Comptrollers and Treasurers (NASACT) to post in their weekly newsletter (began July 13, 2020, at no cost)
- Working with the City Auditor's Office to obtain an advertising package with the Institute of Internal Auditors (IIA) (completed July 16, 2020, at a cost of \$475)
 - This advertising package included a 30-day posting and an email blast to approximately 12,600 members who have chosen to receive such solicitations.
- Working on a Government Finance Officers Association (GFOA) four-week posting to their site (completed July 17, 2020, at a cost of \$150)

Evaluating Applications and Conducting Initial Interviews

The subcommittee/IBA team, including the two subcommittee members previously mentioned, the IBA, and an IBA staff member, worked together to determine how to proceed through the various steps in the process. Along the way, the IBA's Office solicited input from Human Resources on standard City processes and general recruitment issues. The IBA's Office also sought advice from the City Attorney's Office on numerous occasions.

A mechanism was created to receive applications and distribute them to the subcommittee members for their review. Applications were accepted until September 9, 2020. There were 36 applications received in total, including 15 from individuals who did not possess one of the certifications required by the City Charter – the Charter requires that the City Auditor be either a certified public accountant or certified internal auditor.

The subcommittee/IBA team members agreed on a numerical scoring mechanism to help focus attention on the most pertinent applicant qualities. This tool was utilized as a method to incorporate an objective measure into a subjective analysis. Once the applicants were scored by the individual subcommittee/IBA team members, the scores were compiled, and a list of the top applicants was discussed by the team to ensure the scoring was in line with individual team member and overall team conclusions.

The top applicants were then scheduled for interviews by the subcommittee/IBA team, which had worked together to refine interview questions that would provide insight into how well each candidate fit with desired qualities/characteristics included in the job announcement. Additionally,

the interview candidates were each asked to submit examples of an audit report and a risk assessment/audit workplan for their office.

After the interviews were conducted, a second scoring tool (expanded to include additional evaluation criteria) was utilized by individual team members to evaluate the interview candidates. Again, once interview candidates were scored by individual team members, the scores were compiled, and the team discussed and selected candidates to forward to the full Audit Committee for second-round interviews.

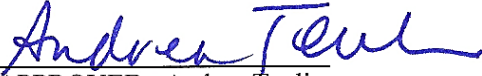
Next Steps

The City Charter requires that “[t]he Audit Committee must evaluate applicants for the position of City Auditor and recommend to the City Council no fewer than three qualified candidates for consideration[...].” On September 30 the Audit Committee is scheduled to conduct the second-round interviews and select which candidates to forward to the full City Council. These selections will be contingent on the results of background checks and reference checks that will be completed after the Audit Committee’s September 30th decision.²

Additionally, the Charter requires the Audit Committee to recommend the annual compensation of the City Auditor. The compensation issue will need to be considered by the Audit Committee during this appointment process. Including the process for City Council appointment, the City is targeting to fill this position by November 2020.



Lisa Byrne
Fiscal & Policy Analyst



APPROVED: Andrea Tevlin
Independent Budget Analyst

Attachment 1: Voter Pamphlet Materials for March 2020 Measure D (Charter Amendments Regarding Audit Committee and Selection and Term of City Auditor)

² Note that these background checks and reference checks do not include a criminal background check, which will be conducted after an appointment is made by the City Council. Thus, the Council appointment will be subject to the results of the criminal background check.

CITY OF SAN DIEGO

(This Measure will appear on the ballot in the following form.)

MEASURE D

CHARTER AMENDMENTS REGARDING AUDIT COMMITTEE AND SELECTION AND TERM OF CITY AUDITOR. Shall Charter sections 39.1 and 39.2 be amended to provide that the City Council appoints the City Auditor from at least three candidates recommended by the Audit Committee; the Auditor is limited to two five-year terms; the Council may appoint an interim Auditor; and public members of the screening committee for the Audit Committee serve until replaced; and make clarifying amendments?

This measure requires approval of a simple majority (50% plus 1) of those voting on the measure.
Full text of this measure follows the arguments.

OFFICIAL TITLE AND SUMMARY

BALLOT TITLE

Charter Amendments Regarding Audit Committee and Selection and Term of City Auditor

BALLOT SUMMARY

This measure would amend the San Diego City Charter (Charter) by amending Article V, sections 39.1 and 39.2, relating to the City of San Diego's (City) Audit Committee and the selection and term of office of the City Auditor (Auditor). The measure requires a majority vote for approval.

The Charter presently provides that the Auditor is appointed by the City Manager (the Mayor under the Strong Mayor form of government), in consultation with the Audit Committee, and confirmed by the City Council (Council). The Auditor must be a certified public accountant or certified internal auditor, and presently serves a ten-year term.

If approved, amendments provide that the Council will appoint the Auditor from at least three candidates evaluated and recommended by the Audit Committee, based on the minimum qualifications set forth in the Charter and other criteria determined by the Audit Committee. The Audit Committee may use staff from the Office of the Independent Budget Analyst and employ expert consultants, in accordance with City contracting rules, to assist in the process of evaluating Auditor applicants.

The amendments also provide that the Auditor will be limited to serving two five-year terms. If the Auditor vacates the office for any reason before the end of a term, then the principal assistant to the Auditor will serve as interim Auditor, if the principal assistant is eligible to serve and is confirmed by the Council. If the principal assistant is not eligible to serve or is not confirmed by the Council, then the Council may adopt procedures to fill the vacancy. An interim Auditor may be appointed to serve as the Auditor.

The Charter presently provides that the three public members of the Audit Committee are appointed by the Council from a pool of at least two candidates for each vacant position, and the candidates are recommended by a screening committee. The screening committee presently includes two outside financial experts appointed by the other members of the screening committee and confirmed by the Council. The amendments provide that the outside financial experts may serve on the screening committee until replaced by the Council. The amendments also provide that the screening committee will include the Councilmember serving as the Chair of the Audit Committee. The Independent Budget Analyst also serves on the committee. The Chief Financial Officer will be removed from the screening committee.

The measure also includes amendments that clarify language for legal purposes.

BALLOT SUMMARY (continued)

The Council proposed the measure and placed the measure on the ballot, following public hearings of the Council's Rules Committee, the Audit Committee, and the Council. If approved, the Charter amendments will take effect after they are chaptered by the California Secretary of State.

CITY ATTORNEY'S IMPARTIAL ANALYSIS

This measure seeks to change the way that the City Auditor (Auditor) is appointed, removing the Mayor from the appointment process, and to reduce the Auditor's term of office from ten years to five years, with the possibility of one reappointment to an additional term.

The Charter presently provides that the Auditor is appointed by the City Manager (the Mayor under the Strong Mayor form of government), in consultation with the Audit Committee, and confirmed by the City Council (Council). The Auditor presently serves a ten-year term. The Charter does not address whether the Auditor may be reappointed.

Under the proposed Charter amendments, the Council must appoint the Auditor, from no fewer than three qualified candidates recommended by the Audit Committee. The Mayor will no longer be involved in the appointment process. The Audit Committee will review applicant qualifications, and may use staff from the Independent Budget Analyst's office and employ expert consultants, complying with City contracting rules, to assist.

The measure also reduces the Auditor's term of office from ten years to five years. The Council may reappoint the Auditor to a second five-year term without considering other candidates, upon the Auditor's application and a favorable recommendation from the Audit Committee. The Auditor will be limited to serving a maximum of two five-year terms, or ten years in total.

The amendments also add provisions for an interim Auditor, which did not previously exist. If the Auditor vacates the office before the end of a term, the principal assistant to the Auditor will serve as interim Auditor, if eligible to serve and confirmed by the Council. If the principal assistant is not eligible to serve or not confirmed by the Council, then the Council may adopt procedures to fill the vacancy on an interim basis. An interim Auditor may serve as long as necessary to complete a formal recruitment and appoint a successor Auditor. The interim Auditor may apply to serve as the successor Auditor and, if appointed, may serve a full five-year term, with the opportunity to serve a second full five-year term.

The Charter presently provides that the Council appoints the three public members of the Audit Committee from a pool of at least two candidates for each vacant position, to be recommended by a screening committee. This committee includes two outside financial experts. The Charter does not specify how long these financial experts may serve on the screening committee. Amendments clarify that the financial experts may serve until replaced by the Council. Amendments remove the City's Chief Financial Officer from the screening committee, and provide that the Councilmember serving as Chair of the Audit Committee will serve on the screening committee.

The measure also includes clarifying language for legal purposes.

The amendments were considered by the Council's Rules Committee, the Audit Committee, and the Council, which placed the measure on the ballot. If approved, the Charter amendments will take effect after they are chaptered by the California Secretary of State.

FISCAL IMPACT ANALYSIS**MEASURE D: CHARTER AMENDMENTS REGARDING AUDIT COMMITTEE AND SELECTION AND TERM OF CITY AUDITOR**

This measure includes San Diego City Charter amendments which, among other Charter modifications, removes the Mayor as part of the City Auditor appointment process, and requires the Audit Committee to recommend to the City Council candidates for consideration for City Auditor appointment. It also reduces the term of City Auditor appointment from 10 years to five years, with the possibility for reappointment to a second five-year term. Because the total potential appointment period is still 10 years, it cannot be assumed with any confidence that the frequency of recruitments will increase. Thus, there is no fiscal impact projected for these Charter amendments.

ARGUMENT IN FAVOR OF MEASURE D

TAKES THE FOX OUT OF THE HENHOUSE

Currently, the Mayor selects the person who audits the Mayor's departments. That is like having the fox guard the henhouse. Prop D removes the fox and replaces it with a guard dog.

PROP D FIXES THE CURRENT FLAW IN THE CITY AUDITOR SELECTION PROCESS

Professional auditing standards require auditors to be independent from the entity they audit. The current broken selection process conflicts with these standards. Our City Auditor is chosen by the entity they examine - the Mayor. Prop D fixes this flawed process.

OFFERS COMPLETE INDEPENDENCE FROM THE MAYOR'S OFFICE

Currently, a mayoral staff member sits on the screening committee for the Audit Committee's non-elected public members. Prop D removes this mayoral staff member, making the Audit Committee completely independent from the Mayor.

GOOD GOVERNMENT REFORM

Prop D remains consistent with 2008's voter-approved Prop C, which established the current Audit Committee and the Office of the City Auditor. The reforms in Prop D offer complete independence from the Mayor and mayoral staff.

PROP X PROTECTS THE TAXPAYERS

The City Auditor will not be a rubber stamp for the Mayor. The City Auditor will be able to be completely objective and independent from the Mayor and the Mayor's departments while conducting the city's audits.

THE ASSOCIATION OF LOCAL GOVERNMENT AUDITORS (ALGA) SUPPORT THE MEASURE

In a letter sent to the City of San Diego by ALGA, "...ALGA applauds your move to enhance the independence of the audit function by changing the reporting relationship with the City Auditor."

"The administration shouldn't be in charge of choosing who is overseeing the administration. This ballot measure will help ensure this important position is truly independent"

Scott Sherman, San Diego City Councilmember and Chair of the Audit Committee

VOTE YES ON PROPOSITION D

SCOTT SHERMAN
Chair Audit Committee

JEN CAMPBELL
Vice Chair Audit Committee

APRIL BOLING
Certified Public Accountant/
Taxpayer Watchdog

ALAN SPENCER
Audit Committee Public Member

ARGUMENT AGAINST MEASURE D

No argument against the measure was filed in the office of the City Clerk.

FULL TEXT OF MEASURE D

ARTICLE V

EXECUTIVE AND ADMINISTRATIVE SERVICE

SECTION 39.1: AUDIT COMMITTEE

The Audit Committee shall be is an independent body consisting of five members. Notwithstanding any other Charter provision to the contrary, the Audit Committee shall members must be appointed as provided under this section. To ensure its independence, the Audit Committee shall must be composed of two members of the City Council and three members of the public. The two Councilmembers shall must be appointed by the City Council, one of whom shall will serve as Chair of the Audit Committee. The three public members of the Audit Committee shall must be appointed by the City Council from a pool of at least two candidates for each vacant position, to be recommended by a majority vote of a screening committee comprised composed of a the member of the City Council serving as the Chair of the Audit Committee, the Chief Financial Officer, the Independent Budget Analyst, and two outside financial experts appointed by the other three members of the screening committee and confirmed by the City Council. Each outside financial expert on the screening committee may serve until replaced by the City Council's appointment of a new financial expert to the screening committee. The City Council may waive the requirement for appointment of a public member of the Audit Committee from a pool of at least two candidates when a sitting incumbent applies, and is eligible for reappointment. Public members of the Audit Committee shall must possess the independence, experience, and technical expertise necessary to carry out the duties of the Audit Committee. This expertise includes but is not limited to knowledge of accounting, auditing, and financial reporting. The minimum professional standards for public members shall must include at least 10 years of experience as a certified public accountant or as a certified internal auditor, or 10 years of other professional financial or legal experience in audit management. The public members of the Audit Committee shall serve for terms of four years and until their successors have been appointed and qualified. Public members of the Audit Committee are limited to two full consecutive terms, with one term intervening before they become eligible for reappointment.

Notwithstanding any other provision of this section, a Appointments shall must be made so that not no more than one public member's term of office shall expire in any one year.

The Audit Committee shall have has oversight responsibility regarding the City's auditing, internal controls, and any other financial or business practices required of this Committee by this Charter. The Audit Committee must evaluate applicants for the position of City Auditor and recommend to the City Council no fewer than three qualified candidates for consideration, based on the minimum qualifications set forth in section 39.2 of this Charter and other criteria determined by the Audit Committee. The Audit Committee may use staff from the Office of the Independent Budget Analyst and employ expert consultants, in accordance with City contracting rules, to assist in the process of evaluating City Auditor applicants. The Audit Committee shall is also be responsible for directing and reviewing the work of the City Auditor, and the City Auditor shall must report directly to the Audit Committee. The Audit Committee shall recommends the annual compensation of the City Auditor and annual budget of the Office of City Auditor to the City Council and shall be responsible for conducts an annual performance review of the City Auditor. The Audit

FULL TEXT OF MEASURE D (CONTINUED)

Committee shall also recommends to the City Council the retention of the City's outside audit firm and, when appropriate, the removal of such firm. The Audit Committee shall must monitor the engagement of the City's outside auditor and resolve all disputes between City management and the outside auditor with regard to the presentation of the City's annual financial reports. All such disputes shall must be reported to the City Council. The City Council may specify additional responsibilities and duties of the Audit Committee by ordinance as necessary to carry into effect the provisions of this section.

SECTION 39.2: OFFICE OF THE CITY AUDITOR

The City Auditor shall must be appointed by the City Council, in consultation with from those candidates identified by the Audit Committee, in accordance with the process set forth in section 39.1 of this Charter, ~~and confirmed by the Council~~. The City Auditor shall must be a certified public accountant or certified internal auditor. The City Auditor shall serve is appointed for a term of ~~ten~~ five years. The City Council may reappoint the City Auditor to a second five-year term without considering other candidates, upon the City Auditor's application and a favorable recommendation from the Audit Committee. The City Auditor is limited to serving two full five-year terms or ten years in total. The City Auditor shall reports to and be is accountable to the Audit Committee.

Upon the recommendation of the Audit Committee, the City Auditor may be removed for cause by a vote of two-thirds of the members of the City Council. If the City Auditor vacates the office for any reason before the end of the City Auditor's term, then the principal assistant to the City Auditor will serve as interim City Auditor, if the principal assistant to the City Auditor is eligible to serve and is confirmed by the City Council. If the principal assistant is not eligible to serve or is not confirmed by the City Council, then the City Council may adopt procedures to fill the vacancy on an interim basis. An interim City Auditor may serve for that period of time necessary to complete a formal recruitment and appoint a successor City Auditor. An interim City Auditor may apply to serve as the City Auditor and, if appointed, may serve a full five-year term, with the opportunity to serve a second full five-year term, in accordance with this section.

The City Auditor shall ~~be~~ serve as the appointing authority of all City personnel authorized in the department through the normal annual budget and appropriation process of the City, and subject to the Civil Service provisions of this Charter.

The City Auditor shall must prepare annually an Audit Plan and conduct audits in accordance therewith and perform such other duties as may be required by ordinance or as provided by the Constitution and general laws of the State. The City Auditor shall must follow Government Auditing Standards. The City Auditor shall must have access to, and authority to examine any and all records, documents, systems, and files of the City and/or other property of any City department, office, or agency, whether created by the Charter or otherwise. It is the duty of any officer, employee, or agent of the City having control of such records to permit access to, and examination thereof, upon the request of the City Auditor or his or her authorized representative. It is also the duty of any such officer, employee, or agent to fully cooperate with the City Auditor, and to make full disclosure of all pertinent information. The City Auditor may investigate any material claim of financial fraud, waste, or impropriety within any City Department and for that purpose may summon any officer, agent, or employee of the City, any claimant, or other person, and examine

FULL TEXT OF MEASURE D (CONTINUED)

him or her upon oath or affirmation relative thereto. All City contracts with consultants, vendors, or agencies will be prepared with an adequate audit clause to allow the City Auditor access to the entity's records needed to verify compliance with the terms specified in the contract. Results of all audits and reports shall must be made available to the public in accordance with the requirements of the California Public Records Act.

END OF MEASURE