



## Denver City Council

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### Summary Finance Committee

**Date: Monday August, 14, 2006**

**3:30 PM**

**Council Conference Room**

**Committee Members Present: Boigon, Chair; Faatz, Vice-Chair; Brown, Garcia, Lehmann, MacKenzie, Wedgeworth**

**Other Members Present: Hancock, Johnson, Montero, Robb, Rodriguez**

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#### 1. **Recommendations from the Mayor's Financial Task Force: Proposed Charter Amendments**

##### Committee Action

With Councilwoman Faatz dissenting, the Committee supported filing a bill asking voters at the November 7, 2006 special municipal election to approve changing the City Charter to:

1. create a Department of Finance and a Manager of Finance with the latter serving as the City's chief financial officer (CFO)
2. transfer payroll and most other accounting powers and duties from the Auditor to the Department, while assuring that the Auditor has complete access to the "books" at all times;
3. authorize the Auditor to conduct financial and performance audits;
4. establish an Audit Committee composed of two each, external mayoral, Council and Auditor's Office appointees with the Committee chaired by the Auditor and authorized to supervise the annual independent audit of the City and perform other duties.

The Committee approved moving the proposal forward while negotiations continue on the remaining issues of contention between the Administration and the Auditor's Office:

- Whether the Audit Committee should approve the annual work plan of the Auditor's Office
- Whether the City Council should determine by ordinance the parameters for auditor review of contracts, i.e. a dollar threshold for review, standards for review, timeframes.

##### Summary of Discussion

Cole Finegan, City Attorney and Chief of Staff, and David Broadwell, City Attorney's Office, reviewed the following chart outlining areas of agreement and disagreement between the Administration and the Auditor's Office on the financial management reform proposal.

## Financial Management Charter Amendment Recommendations

Issue	Financial Mgmt. Task Force Recommendation	August 7 <sup>th</sup> Draft	Current Proposal August 13 <sup>th</sup>
<b>Scope of Financial Audits</b>	<p>Auditor conducts internal audit of City's financial systems and records.</p> <p>Auditor audits the performance of the City's finance and payment functions to assure that they are done according to "best practices".</p>	Consistent with Task Force Recommendation.	<p>Consistent with Task Force Recommendation.</p> <p>Also includes pre-transaction observation of disbursements.</p>
<b>Prevailing Wage</b>	Auditor audits compliance of contractors with prevailing wage ordinance.	Consistent with Task Force--the Auditor's role in prevailing wage enforcement would not change.	Consistent with Task Force--the Auditor's role in prevailing wage enforcement would not change.
<b>Audit Committee</b>	Institutionalize a 7-person Audit Committee, chaired by the City Auditor, with 2 persons appointed by the Auditor, 2 persons appointed by City Council, and 2 persons appointed by the Mayor (none of whom should be part of the Mayor's Executive Branch)	Consistent with Task Force Recommendation	<p>Conforms to Task Force recommendation with additional language to ensure that, other than the Auditor who will be the chair, no employees, officers or appointees of the City serve on the Committee. Also includes requirements to ensure members are qualified.</p>
<b>Resources</b>	<p>"With respect to the Auditor's budget, the decision-making authority is with the Council."</p> <p>Opening Letter: "The Auditor's budget may need additional resources in the next few years to meet the "robust" level of service.</p> <p>General Considerations: "The Task Force supports and recommends that sufficient resources (financial and personnel) be provided to the Auditor and Audit Committee to perform the functions identified above."</p>	Not specifically addressed	<p>Auditor's Office would have the same language as the Election Commission in terms of adequacy of resources to perform its task.</p> <p>The Administration recognizes the Task Force's intention and the appropriate need for a robust audit function within the City, including the potential that additional resources could be required to support the Auditor's work plan going forward.</p>

Issue	Financial Mgmt. Task Force Recommendation	August 7 <sup>th</sup> Draft	Current Proposal August 13 <sup>th</sup>
<b>Complaints</b>	Audit Committee should establish procedures for the receipt, retention and treatment of complaints regarding accounting, internal accounting controls, or external audit matters.	Not specifically addressed.	Consistent with Task Force recommendation.
<b>Purchasing</b>	The Task Force did not make recommendations regarding the Purchasing functions.	Placed Purchasing under the Chief Financial Officer of the City.	Leaves Purchasing Division as part of General Services.
<b>Counter Signature on Contracts</b>	<p>Audit Committee sets the dollar threshold for contracts requiring the countersignature of the Auditor, after consultation with the Auditor.”</p> <p>Auditor audits payments made to vendors, suppliers, and employees and pursuant to contracts to assure the payments were legally made.</p> <p>Auditor audits compliance of contractors with prevailing wage ordinance.</p> <p>Auditor recommends to the Audit Committee a dollar threshold for contracts requiring the countersignature of the Auditor.</p>	Auditor signs contracts above \$500,000 threshold as currently applies to City Council.	<p>Charter language would provide the following issues to be addressed in ordinance:</p> <ul style="list-style-type: none"> <li>• Timeframe for the Auditor to sign or provide notification of any potential issues and absent such notification, contracts would be deemed effective after time period has elapsed.</li> <li>• The dollar threshold for contracts requiring the countersignature of the Auditor.</li> <li>• Standards of review (the reasons for reviewing).</li> </ul> <p><b>NOTE:</b> the Auditor disagrees with having City Council establish the reasons by which an Auditor reviews contracts and a dollar threshold for when an Auditor countersigns contracts.</p>

Issue	Financial Mgmt. Task Force Recommendation	August 7 <sup>th</sup> Draft	Current Proposal August 13 <sup>th</sup>
<b>Scope of Performance Audits</b>	No specific recommendation, but discussion included reference to the potential benefits of expressed performance audit powers.	Not specifically addressed.	<p>Affirms the Auditor's ability to conduct performance audits in the Charter and requires that the Annual Work Plan for performance audits be presented to the Audit Committee for approval.</p> <p><b>NOTE:</b> Auditor disagrees with requiring approval of an annual work plan by any other body.</p> <p>Provides that an ordinance would establish clear criteria and process for performance audits including timing, scope, content and confidentiality.</p>
<b>Pre-Audit Functions</b>	CFO has the authority and responsibilities of the Office of the Controller to mirror prevailing practices, including Accounting (including Financial Reporting), Accounts Payable and Payroll, Accounts Receivable and External Auditor Relations, and staff to the Audit Committee.	Consistent with Task Force Recommendation and KPMG Recommendation	<p>Consistent with Task Force Recommendation and KPMG Recommendation.</p> <p>The Auditor would have complete access to the "books" at all times.</p> <p><b>NOTE</b> Auditor disagrees with this proposal and recommends retaining accounting controls and pre-audit functions.</p>

Auditor Dennis Gallagher summarized his continuing points of disagreement about the proposal including:

- restricting the Auditor's ability to review contracts, do performance and financial audits, and verify that payments made from the treasury are legal and appropriate.
- placing overly detailed and narrowly drawn procedures and restrictions in the Charter
- requiring pre-approval of audits conducted
- preventing review of payments to confirm that they are legal and appropriate, before the check is written.
- restricting countersigning contracts to provide an independent review of the legality and appropriateness of those contracts, especially regarding separation settlements & prevailing wage
- Failure to include whistleblower protections in ordinance

Denis Berckefeldt, Auditor's Office, presented the following alternative language proposed by the Auditor's office:

*On countersigning contracts:*

**5.2.1 (A)** The Auditor shall ~~authorize and register all warrants as provided in section 2.5.3(A) and countersign and register all contracts.~~

*Regarding to auditing payments:*

**5.2.1 (E) Auditing of demands for payment from the treasury.** Every demand upon the treasury of the City and County shall, before payment, be presented to the Auditor. The Auditor shall determine whether payment of the demand would be contrary to law or the rules and regulations of the City and County and for which proper appropriation has been made.

(i) The Auditor shall notify the Manager of Finance of any demand which does not comply with law or the rules and regulations of the City and County. No demand shall be approved or paid unless presented as required by this Charter.

*On the establishment of the Audit Committee:*

There shall be an Audit Committee chaired by the Auditor and consisting of the Auditor and six other members, two of who shall be appointed by the Mayor, the Council, and the Auditor respectively. With the exception of the Auditor, no member of the Audit Committee shall hold any other office or employment with the City and County while serving on the Audit Committee. Members of the Audit Committee shall be appointed on the basis of education or experience in accounting, auditing, financial management, or related fields of expertise.

Gary Reiff, Task Force Member, confirmed that the Administration's proposal reflects the recommendations of the Task Force. He cautioned that compromising on the contract review issue is of some concern in terms of attaining the efficiency envisioned by the Task Force in recommending consolidation of accounting functions. Robert Kuehler, KPMG, shared Mr. Reiff's concern about duplicating contract reviews by the both the Auditor's Office and the Department of Finance.

Councilmembers—with the exception of Councilwoman Faatz---supported moving the proposal forward pending continuing negotiation on the issues separating the Administration and the auditor's Office.

*Shelley Smith, Committee Staff*

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