

***METROPOLITAN GOVERNMENT OF  
NASHVILLE AND DAVIDSON  
COUNTY***



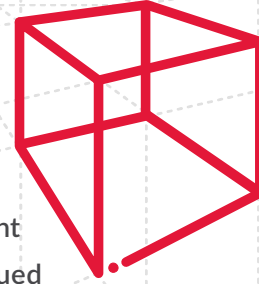
***METROPOLITAN NASHVILLE  
AUDIT COMMITTEE***

***WORKBOOK***

**April 11, 2017**

# Executive Perspectives on Top Risks for 2017

Board members and C-suite executives see a riskier environment for business in 2017 compared to the prior year, according to an annual survey from North Carolina State University's ERM Initiative and Protiviti. Among the many contributing factors: The impact of the U.K. Brexit vote, increased volatility in commodity markets, polarization surrounding the recent U.S. presidential election, terrorist events, asset bubbles in China, continued discussion about fair wages and income equality, and ongoing instability in the Middle East.



The overall global business context is perceived to be noticeably more risky in 2017.

Concerns about economic conditions top the list of risk issues for the coming year, followed closely by regulatory changes and scrutiny.

Cyberthreats, information security and privacy remain critical issues for organizations to address.

RISK ISSUE	2017*	2016*	YOY Trend
Economic conditions	6.61	5.83	↑
Regulatory changes and regulatory scrutiny	6.51	6.06	↑
Cyberthreats	5.91	5.80	↑
Rapid speed of disruptive innovations and new technologies	5.88	5.48	↑
Privacy/identity management and information security	5.87	5.55	↑
Succession challenges and ability to attract and retain top talent	5.76	5.63	↑
Volatility in global financial markets and currencies	5.67	5.33	↑
Organization's culture may not encourage timely identification and escalation of risk issues	5.66	5.30	↑
Resistance to change operations	5.63	5.40	↑
Sustaining customer loyalty and retention	5.62	5.28	↑

\* Scores are based on a 10-point scale, with "10" representing that the risk issue will have an extensive impact on the organization.

**About the Survey** This annual survey of board members and C-suite executives was conducted online in the fall of 2016. Each respondent was asked to rate 30 individual risk issues using a 10-point scale, where a score of 1 reflects "No Impact at All" and a score of 10 reflects "Extensive Impact" to their organization over the next year.

The full survey report, Executive Perspectives on Top Risks for 2017, may be accessed at [erm.ncsu.edu](http://erm.ncsu.edu) or [protiviti.com/toprisks](http://protiviti.com/toprisks). It includes detailed breakdowns of the results by respondent role, organization size, industry and other categories.

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NC STATE Poole College of Management  
Enterprise Risk Management Initiative



**METROPOLITAN NASHVILLE  
METROPOLITAN AUDIT COMMITTEE MEETING AGENDA  
April 11, 2017 4:00 p.m.**

**Committee Room 2  
205 Metropolitan Courthouse**

- I. Call Meeting to Order (Brack Reed - Committee Vice-Chairman)
- II. Election of Committee Chairman and Vice-Chairman
- III. Approval of Minutes for March 14, 2017, Meeting (Committee Chairman)
- IV. New Business
  - Discussion on Audit of Metro Human Relations Commission audit report issued April 5, 2017. (Nan Wen –Internal Auditor II)
  - Discussion on the Metropolitan Nashville Office of Internal Audit External Quality Control Review report issued April 7, 2017. (William Walker – Principal Auditor)
  - Discussion on request from Metropolitan General Sessions Court Presiding Judge Gale Robinson to amend the 2017 Internal Audit Work Plan to include an audit of the General Sessions Drug Court and related programs. (Mark Swann – Metropolitan Auditor)
  - Discussion on request from Council Member Bob Mendes to amend the 2017 Internal Audit Work Plan to include a performance audit of Metro Codes Department handling of short-term rental properties. (Mark Swann – Metropolitan Auditor)
  - Presentation of the Metropolitan Nashville Government Fiscal Year 2016 Letter of Recommendations to Management. (Crosslin)
  - Presentation of the Metropolitan Nashville Government Fiscal Year Schedules of Expenditures of Federal and State Awards and Reports Required by the Single Audit Act as Amended and the Uniform Guidance. (Crosslin)
  - Presentation of Internal Audit Report Recommendations Corrective Action Status as of April 7, 2017. (Mark Swann – Metropolitan Auditor)
  - Discussion on case files processing and internal audit limitation within the judicial system. (Mark Swann – Metropolitan Auditor)
- V. Unfinished Business
  - Discussion on internal audit legislation. (John Cooper - Council Member)
- VI. Other Business
  - Follow-up on FY 2016 Comprehensive Annual Financial Report (Committee Chairman)
- VII. Internal Audit Project Status (Mark Swann – Metropolitan Auditor)
- VIII. Other Administrative Matters (Mark Swann – Metropolitan Auditor)

**METROPOLITAN NASHVILLE  
METROPOLITAN AUDIT COMMITTEE MEETING AGENDA  
April 11, 2017 4:00 p.m.**

- FY2017 budget status
- FY2018 budget improvements

IX. Consideration of Items for Future Meetings (Committee Chairman)

- Metropolitan Auditor Annual Performance Review

X. Adjournment of public meeting – Next Meeting Tuesday, July 11, 2017.

XI. Executive session agenda. (Committee Chairman)

- Discussion of pending or ongoing audits or audit related investigations.

Note: Upon a majority vote of committee members in attendance for the public portion of the meeting, the Metropolitan Nashville Audit Committee may hold confidential, nonpublic executive sessions to discuss the following items (T.C.A. § 9-3-405<sup>1</sup>):

1. Items deemed not subject to public inspection under T.C.A. §§ 10-7-503<sup>2</sup> and 10-7-504<sup>3</sup> and all other matters designated as confidential or privileged under this code;
2. Current or pending litigation and pending legal controversies;
3. Pending or ongoing audits or audit related investigations;
4. Information protected by federal law; and
5. Matters involving information under T.C.A. § 9-3-406<sup>4</sup> where the informant has requested anonymity.



To request an accommodation, please contact Mark Swann at (615)862-6158.

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<sup>1</sup> T.C.A. § 9-3-405(d). Establishment of audit committee, Notice requirements, Open meetings, Confidential, nonpublic executive session.

<sup>2</sup> T.C.A. § 10-7-503. Records open to public inspection, Schedule of reasonable charges, Costs.

<sup>3</sup> T.C.A. § 10-7-504. Confidential records.

<sup>4</sup> T.C.A. § 9-3-406. Establishment of process for confidential reporting of suspected illegal, improper, wasteful or fraudulent activity, Retaliatory activities prohibited.

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**METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY  
METROPOLITAN AUDIT COMMITTEE MEETING**

**DRAFT  
March 14, 2017**

On Tuesday, March 14, 2017, at 4:00 p.m., the Metropolitan Nashville Audit Committee met in the Metropolitan Courthouse, 2<sup>nd</sup> Floor, Committee Room 2. The following people attended the meeting:

Committee Members

Bob Brannon, Chairman  
David Briley, Vice-Mayor  
John Cooper, Council Member  
Bob Mendes, Council Member  
Brack Reed, Chamber of Commerce

Others

Theresa Costonis, Department of Law  
Jim Shulman, Council Member  
Kim McDonial, Deputy Finance Director  
Chris Taylor, Captain, Parks Police  
Ted Ciuba, Office of Internal Audit  
James Carson, Office of Internal Audit

Committee Member Not Present

Talia Lomax-O'dneal, Director of Finance

*Quorum present? Yes*

**CALL MEETING TO ORDER**

Mr. Bob Brannon called the meeting to order.

**APPROVAL OF MINUTES**

A motion to approve the December 13, 2017, meeting minutes was made, seconded, and carried.

**NEW BUSINESS**

Discussion on Audit of Park Police

Mr. James Carson summarized the scope, observations, and recommendations of the audit. Questions concerning the Park Police's progress towards implementing the audit recommendations were asked. Mr. Mark Swann stated progress is being made in implementing the recommendations, though some audit recommendation corrective action completion dates are "ongoing."

Mr. Bob Mendes requested if the Office of Internal Audit performs followed up on the achievement of audit report recommendations' corrective action plans based upon proposed completion dates. Mr. Swann replied that the Office of Internal Audit follows-up on open recommendations annually. Mr. Bob Mendes suggested that this should be done semi-annually.

Mr. Mendes requested a formal audit recommendation implementation reporting system be developed for the Committee's benefit. It is suggested that such a system could take the form of an excel spreadsheet that tracks prior audit recommendations, proposed completion dates, and progress towards achieving said recommendations. Also, Mr. Mendes recommended that the term "ongoing" be phased out and replaced with a specific proposed completion/implementation date. Mr. Swann replied a high-level report on the status of recommendations is in the Office of Internal Audit 2016 Performance Report provided to the Committee at the start of the meeting.



The Office of Internal Audit does have a follow-up system, and a report of all outstanding items is available if the Committee wants to review the report.

**A motion** that a formal audit recommendation implementation status report is provided to the Committee was made, seconded, and carried.

Discussion on request from the Metropolitan Nashville Council Members Jim Shulman, Nick Leonardo, and Scott Davis for the Office of Internal Audit to conduct a performance and financial audit of matters stemming from the lease and purchase agreement with Autumn Assisted Living Partners, Inc. and the purchase agreement with Vision Real Estate Investment Corporation

Mr. Swann indicated that there was a lack of internal financial controls; resulting in, among other things, management making cash payments for goods and services, in some instances, due to an inability to obtain financial credit. Mr. Swann states that due to an overall lack of basic financial documentation, an audit would be difficult to conduct. Therefore, to move the process forward, it is suggested that the proposed engagement be classified as an agreed-upon procedures engagement.

**A motion** to amend the Office of Internal Audit Annual Work Plan to include an agreed-upon procedure audit engagement related to the lease and purchase agreement with Autumn Assisted Living Partners, Inc. and the purchase agreement with Vision Real Estate Investment Corporation was made, seconded, and carried.

Mr. Jim Shulman had concerns on how meaningful the engagement results can be when the expected documentation is not available. In addition, he was interested in how the Office of Internal Audit is coordinating with the Finance Department's Office of Financial Accountability. Mr. Swann stated that the Office of Internal Audit did coordinate with the Finance Department and they have limited their efforts to immediate cash flow requirements to provide care and safety to the residents at the facility.

Discussion ensued on how poor financial accounting control practices have been enabled to exist, with the theme being how the taxpayers can have confidence that their money is being spent where management claims. It is proposed that in the likely event that the Office of Internal Audit is unable to account for every spent dollar, then the engagement focus on if traceable expenditures generally meet expectations. Emphasis will be placed upon determining whether expected expenses are greater than revenue plus Hospital Authority subsidies.

Mr. Swann stated the Office of Internal Audit is receiving cooperation from various banks, vendors, employees, and service providers towards piecing together a paper trail.

Questions were raised regarding how to prevent such situations from occurring in the future, including the pros and cons of privatization; whether the Finance Department can structure subsequent contracts in certain ways to mitigate such risks in the future; and, in general, how to create a climate of greater accountability.

Ms. Kim McDonald stated the process for privatization in this instance was unusual, in part, due to a condition that the entity was to be purchased within two years; which explains, in part, why outcomes that are more desirable were not achieved.

Mr. Swann suggested continuing with the agreed-upon procedures audit engagement, with the council members making the audit request as the client.

#### Discussion of the Office of Internal Audit Recommended 2017 Work Plan

Mr. Swann referenced the recommended 2017 Internal Audit Work Plan on Committee Workbook pages 19 and 20 for the Committee's consideration for approval.

Mr. Mendes asked if a formal enterprise risk management process within the Metropolitan Nashville Government was implemented as discussed last year. Mr. Swann stated \$50,000 was appropriated in the fiscal year 2017 Department of Law budget to pilot an enterprise risk management initiative. However, the funds were redirected to help pay for the Hospital Authority Board governance review to address risks within that entity. Mr. Mendes requested Ms. Theresa Costonis communicate to the Department of Law Director, Mr. Jon Cooper, that this initiative was discussed at the Audit Committee meeting.

Mr. David Briley asked if the Committee can look into instances where private sector costs are paid by the public sector, as such cases where a private contractor excavates a portion of a road or right-of-way, for whatever reason, and then does a substandard job repairing the excavation, thus depreciating the value of the public infrastructure. Mr. John Cooper suggested a review could inspect the quality of the repair work to determine if net damage exists and if so, make recommendations for how the Metropolitan Nashville Government can protect itself. Ms. Costonis offered that current franchise fees, wherein larger telecommunication companies pay five percentage of gross revenue are intended to defray some of this cost impairment.

Mr. Briley requested a written assessment concerning the limits to auditing the General Sessions Courts. Mr. Swann stated that his understanding is that the executive branch has the authority to audit the judicial branch if Metropolitan Nashville Government funds the staff or program within the judicial branch. Mr. Swann further offers that a previous Tennessee State attorney General opinion held that so long as the audit engagement is advisory and not prescriptive, an audit is not an infringement upon the "separation of powers."

Mr. Briley noted that there are several opportunities for potential audits. For example, a recent local media story indicates persons within the Clerks' Office have the ability to email the Sheriff's Office and eliminate another person's jail term, "per judge X." Particular areas of concern include 1) informal/non-traceable communication between judges and their parole officers; 2) document tracking, in general; and 3) an overall lack of adequate oversight and accountability.

A request was made for Mr. Swann to research these concerns and how they could be addressed through potential internal audit engagements.

**A motion** to approve the recommended Office of Internal Audit 2017 Annual Work Plan as presented by the Metropolitan Auditor was made, seconded, and carried.

#### **UNFINISHED BUSINESS**

##### Discussion on Internal Audit Legislation

Mr. Swann provided the Committee a hand-out that is a recommended amendment to Council Member Shulman's proposed ordinance which is up for a second reading on Tuesday, March 21, 2017. This is an attempt to conflate the proposed ordinances (BL2016-159) introduced by

Mr. John Cooper last year and the proposed ordinance (BL2017-581) introduced by Council Member Shulman.

Discussions involved revisions to the wording of the proposed legislation related to employee reporting of instances of intentional illegal, intentional fraudulent, or intentional improper use of government funds, and the need for access to records, and the scope of audit services.

**A motion** to approve the recommended ordinance amendment as provided to the Committee was made, seconded, and carried.

#### **OTHER ADMINISTRATIVE MATTERS**

**A motion** to approve the Metropolitan Nashville Office of Internal Audit Performance Report for February 1, 2016, through January 31, 2017, along with the accompanying transmittal to the Metropolitan Council was made, seconded, and carried.

Mr. Swann reviewed the proposed Office of Internal Audit budget improvements and stated that all auditor positions are filled with the recent hire of Mr. Ted Ciuba.

Mr. Bob Brannon was formally recognized for 25 years of Committee volunteer service.

The meeting concluded after 90 minutes at 5:30 p.m.

Respectfully submitted to the Metropolitan Nashville Audit Committee.

Mark Swann  
Secretary, Metropolitan Nashville Audit Committee

**METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY  
METROPOLITAN AUDIT COMMITTEE MEETING**

**DRAFT  
December 13, 2016**

On Tuesday December 13, at 4:00 p.m., the Metropolitan Nashville Audit Committee met in the Metropolitan Courthouse, 2<sup>nd</sup> Floor, Committee Room 2. The following people attended the meeting:

Committee Members

Bob Brannon, Chairman  
David Briley, Vice-Mayor  
John Cooper, Council Member  
Talia Lomax-O'dneal, Director of Finance  
Bob Mendes, Council Member

Others

Mark Swann, Metropolitan Auditor  
Phil Carr, Chief Accountant  
Tom Eddlemon, Treasurer  
Mark Macy, Nashville Public Works  
Chip Knauf, Nashville Public Works  
Tara Ladd, Department of Law  
Rachelle Gallimore-Scruggs, Office of Conservatorship Management  
Ron Taylor, Overflow Abatement Program Director  
Dell Crosslin, Crosslin & Associates  
John Crosslin, Crosslin & Associates  
David Hunt, Crosslin & Associates  
Angie Hoake, Crosslin & Associates  
Mary Cole, Office of Internal Audit  
Laura Henry, Office of Internal Audit  
Nan Wen, Office of Internal Audit

*Quorum present? Yes*

**CALL MEETING TO ORDER**

Mr. Bob Brannon called the meeting to order.

**APPROVAL OF MINUTES**

A motion to approve November 17, 2016, meeting minutes was made, seconded, and carried.

**NEW BUSINESS**

Audit of the Conservatorship Management

Ms. Nan Wen discussed the primary objectives and conclusions of the audit. Ms. Lomax-O'dneal asked if pending legislation would affect the Office of Conservatorship Management. Ms. Gallimore-Scruggs advised no. A discussion ensued over the nature and type cases the office reviews. Ms. Gallimore-Scruggs explained the difference between the Care of Property cases vs Care of Person cases. Mr. Briley asked how this program was funded and if any other jurisdictions have a similar function. Ms. Lomax-O'dneal advised the program is funded through the general fund. Ms. Gallimore-Scruggs advised that the Metropolitan Nashville Government is the first to offer this type oversight. There is a recognition that there is a need due to reported abuse. Mr. Mendes pointed out that the genesis for this office came from issues related to

conservatorships in Nashville a couple of years ago. He stated that he remembered Judge Kennedy not having enough resources to ensure fiduciary responsibilities were being met.

#### Audit of the Metropolitan Nashville Public Schools Performance Reporting Process

Ms. Laura Henry discussed the primary objectives and conclusions of the audit. A discussion ensued over the categories of information in the report that were deemed confidential and the reasons this information was restricted from public purview. It was determined that the confidential classification was appropriate but that it would be helpful to inform the public the reasons why certain information was excluded from the public. A discussion was also made on the number of employees involved in the data integrity group, the ability of school staff to change grades, and the length of time that Metropolitan Nashville Public Schools stated was needed to implement the report's recommendations. Mr. Mendes asked if grades could be modified without detection. Simply stated, Mr. Clay, Mr. Swann, and Ms. Henry answered yes and that the recommendations within the audit will help remedy this issue. Mr. Mendes asked if the recommendations could be implemented sooner, preferably by the next school year, given the importance of the recommendations. Mr. Clay advised that Metropolitan Nashville Public Schools would do their best and keep the Office of Internal Audit abreast of their progress. Mr. Cooper asked if there was a financial incentives for grades to be modified. Mr. Clay advised if there are any they would be very limited. Mr. Clay advised he would need to research the question further and report back to the audit committee. Mr. Clay advised the report had been presented to the Metropolitan Nashville Public Schools Board.

#### Audit of the Public Works Traffic Signalization Improvement Project

Ms. Mary Cole discussed the primary objectives and conclusions of the audit. A discussion ensued regarding the nature of the Traffic Signalization Improvement project. Mr. Knauf advised this is the second largest project of its type in the United States. The project was completed on time and under budget. The software and hardware for this project have been put in place to facilitate the next phase of implementing an advance traffic management system. Mr. Cooper asked if the system could be hacked. Mr. Knauf advised that they have been working closely with the Information Technology Services Department regarding security controls. Mr. Briley asked if traffic congestion had been significantly reduces as a result of this project. Mr. Knauf advised they have not received the post-project completion reports yet but that he expects significant reduction in delays, fuel consumption, and emissions. Ms. Lomax-O'dneal suggested the report should be distributed publically and not be strictly an internal document. Mr. Mendes advised he has noticed improvements in the West End Corridor.

#### Follow Up on the Debt Finance Audit

The discussion ensued around issuance cost with particular focus on the cost of underwriters. Mr. Cooper advised he was concerned that the data used to determine if underwriter costs were reasonable may have been limited. Mr. Swann advised there were many variables that went into such fees and that comparing apples to apples in this type analysis was complex. Experis, who conducted the audit, concluded that the fees appeared reasonable based on their professional judgment. The Office of Internal audit also did work to assess the reasonableness of issuance cost and found such cost to be reasonable. Mr. Swann advised more work could be done, if desired. Mr. Cooper asked if a meeting could be set up with Experis to view their work. Mr. Swann advised yes. Mr. Briley advised that the State also provides oversight over all debt that we issue. A discussion ensued on the type of oversight this entailed.

Discussion of the Metropolitan Water Services Clean Water Nashville Overflow Abatement Program.

Mr. John Crosslin discussed the primary objectives, scope and conclusions of the audit. A discussion ensued over the remediation plan, which has still not been approved by the Environmental Protection Agency. The State of Tennessee's requirements in this area are more restrictive than the Environmental Protection Agency's. The reason the remediation plan has not been approved is that while our plan meets the Environmental Protection Agency's standards, they do not meet the State's requirements that are more restrictive. The approval of our remediation plan could be positively impacted if the State of Tennessee adopts the Environmental Protection Agency's guidelines.

External Auditor Presentation of the Comprehensive Financial Annual Report for Fiscal Year 2016

Mr. David Hunt discussed the primary objectives, methodologies and conclusions of the fiscal year 2016 financial audit. This information was included in the presentation handout "Audit Results for FY2016 Financial Statements" distributed to the Committee. Crosslin and Associates is still working on the Metropolitan Nashville Public Schools Internal School Funds audit, Single Audit, Management Letter and Data Collection form. A discussion ensued over Statement of Governmental Accounting Standards (GASB) 45 and unfunded other post-employment benefits (OPEB) amounts. Additional conversation over Metropolitan Nashville General Hospital revenue streams from outside agencies and its going concern status also ensued.

A motion was made to accept the audit of the Comprehensive Annual Financial Statements. The motion was seconded and carried.

**UNFINISHED BUSINESS**

Update on Internal Audit Legislation

Mr. Swann advised he and the Legal Department had been working on some of the language of the legislation. A discussion ensued regarding the Metropolitan Hotline.

**INTERNAL AUDIT PROJECT STATUS**

Mr. Swann gave a status of audit projects and investigations.

**OTHER ADMINISTRATIVE MATTERS**

Mr. Swann advised the Office of Internal Audit had one employee retire and was in the process of recruiting another auditor.

The public meeting adjourned after approximately 1 hour and 45 minutes.

Respectfully submitted to the Metropolitan Nashville Audit Committee.

Mark Swann  
Secretary, Metropolitan Nashville Audit Committee



## EXECUTIVE SUMMARY

April 5, 2017



### Why We Did This Audit

The Metropolitan Nashville Government's Director of Finance requested this audit due to indicators of inconsistent compliance with Metropolitan Nashville Government's fiscal management policy.

### What We Recommend

The Metro Human Relations Commission Board should:

- Establish policy for its executive office to follow Metro policy and rules consistently
- Establish controls on financial activities
- Improve records keeping in the complaint handling process

For more information on this or any of our reports, email  
Mark.Swann@nashville.gov

# Audit of Human Relations Commission

## BACKGROUND

The mission of the Human Relations Commission is to protect and promote personal dignity of all people by protecting and promoting their safety, health, security, peace, and general welfare.

### Exhibit 1 – Human Relations Commission Major Expenditures

Expenditure Category	FY 2015	FY 2016	FY 2017 *
Personnel	\$272,852	\$292,336	\$129,610
Building Rent	32,415	32,707	13,628
Professional Service	1,491	37,525	1,287
Advertising & Promotion	8,431	15,003	3,001
Host & Hostess	4,694	18,490	1,278
Communication	3,891	4,341	1,685
Printing/Binding	1,444	4,329	169
Computer Software & Hardware	2,001	3,681	(917)
Subscription, Registration & Dues	2,253	3,201	400
Travel/Parking	4,217	2,519	817
Other Expenditures	2,963	4,070	1,211
<b>Total</b>	<b>\$336,652</b>	<b>\$418,202</b>	<b>\$152,169</b>

Source: Metropolitan Nashville Government EnterpriseOne Financial System

\*: As of November 21, 2016.

## OBJECTIVES AND SCOPE

This audit covers financial activities of Human Relations from July 1, 2012, to December 31, 2016, and operational activities from July 1, 2015. Audit objectives were to ascertain whether:

- Controls were in place to ensure that the financial activities of Metro Human Relations Commission follow applicable Metro policies.
- Operational activities at the Human Relations Commission conform to its mission stipulated by Metro Code of Law.

## WHAT WE FOUND

The Metro Human Relations Commission activities conform to its established mission. However, the office does not always record complete information for complaint cases, and lacks controls to ensure compliance with Metro applicable policies.



## APPENDIX A – MANAGEMENT RESPONSE AND CORRECTIVE ACTION PLAN

We believe that operational management is in a unique position to best understand their operations and may be able to identify more innovative and effective approaches, and we encourage them to do so when providing their response to our recommendations.

Recommendation	Concurrence and Corrective Action Plan	Proposed Completion Date
<i>Recommendations for management of Metro Human Relations Commission to:</i>		
<p><b>A.1</b> Either revise its current Rules and Procedures or adopt a separate Office Administrative Policy, for its executive office to comply with all Metropolitan Nashville Government’s fiscal management policies, information security policies, and Civil Service Rules.</p>	<p><b>Agree.</b> The Executive Director, with consultation from the Executive Committee of the Commission, will draft and implement an Office Administrative Policy Manual that will provide clear procedures to comply with Metropolitan Nashville Government's fiscal management policies, information security policies, and Civil Service Rules.</p>	<p>September 4, 2017</p>
<p><b>A.2</b> Establish a procedure to ensure that every new administration of the executive office should acknowledge the Administrative Policy, and its compliance with Metropolitan Nashville Government’s policies.</p>	<p><b>Agree.</b> The Commission will adopt a procedure to ensure that the Office Administrative Policy Manual is updated each year, and that a copy is maintained by the Board Chair and provided to future executives.</p>	<p>September 4, 2017</p>
<p><b>B.1</b> Consistently record case information required by the Rules and Procedures such as case descriptions and actions taken.</p>	<p><b>Agree.</b> The Commission will review and amend Rules and Procedures, if needed. Commission staff, at the direction of the Executive Director, will review the current methods for recording complaint information and ensure that they meet Commission Rules and Procedures.</p>	<p>Review by August 14, 2017.</p> <p>Revisions and/or amendments by December 4, 2017.</p>



## Association of Local Government Auditors

April 6, 2017

Mark Swann, CPA, CIA, CISA, ACDA  
Metropolitan Auditor  
Metropolitan Government of Nashville and Davidson County  
404 James Robertson Parkway, Suite 190  
Nashville, Tennessee 37219-6300

Dear Mr. Swann,

We have completed a peer review of the Metropolitan Government of Nashville and Davidson County Metropolitan Auditor's Office for the period January 1, 2014 through December 31, 2016. In conducting our review, we followed the standards and guidelines contained in the *Peer Review Guide* published by the Association of Local Government Auditors (ALGA).

We reviewed the internal quality control system of your audit organization and conducted tests in order to determine whether your internal quality control system operated to provide reasonable assurance of compliance with *Government Auditing Standards* issued by the Comptroller General of the United States. Our procedures included:

- Reviewing the audit organization's written policies and procedures.
- Reviewing internal monitoring procedures.
- Reviewing a sample of audit engagements and working papers.
- Reviewing documents related to independence, training, and development of auditing staff.
- Interviewing auditing staff and management to assess their understanding of, and compliance with, relevant quality control policies and procedures.

Due to variances in individual performance and judgment, compliance does not imply adherence to standards in every case, but does imply adherence in most situations.

Based on the results of our review, it is our opinion that the Metropolitan Government of Nashville and Davidson County Metropolitan Auditor's Office internal quality control system was suitably designed and operating effectively to provide reasonable assurance of compliance with *Government Auditing Standards* for audits during the period January 1, 2014 through December 31, 2016.

Sincerely,

Jay Poole, CPA, CIA, CFE, CGMA  
City Auditor  
Chesapeake, VA

Ricardo Silveira, CPA, CGAP  
Senior Auditor  
Fairfax County, VA

April Jordan, CFE, CLEA  
Staff Auditor II  
Shreveport, LA

## Swann, Mark (Internal Audit)

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**From:** Hassell, Warner (G.S. Court)  
**Sent:** Wednesday, March 22, 2017 12:17 PM  
**To:** Swann, Mark (Internal Audit)  
**Cc:** Robinson, Judge Gale (G.S. Court); Lomax-O'dneal, Talia (Finance Director's Office); Kelley, Zachary (Finance Director's Office)  
**Subject:** FW: Independent Audit Request of General Sessions Court Presiding Judge Gale Robinson

Mark,

Judge Robinson wanted me to provide a clarification of this audit request of last week. The "related programs to General Sessions Drug Court" in his request refers specifically to the Cherished Hearts-Sex Trafficking program and the ACT program (Drug Court related program for certain Drug/Alcohol related offenders but less intensive than Drug Court). The Drug Court Judge oversees these programs and has a separate docket that deals with these 2 programs in addition to the regular Drug Court Docket. We can discuss in more detail later.

Thanks,

**Warner Hassell**  
**Court Administrator**  
**Metropolitan General Sessions Court**  
**408 2nd Ave. N. Suite 1140**  
**P.O. Box 196300**  
**Nashville, TN 37219-6300**  
**Phone: 615-862-8317**

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**From:** Hassell, Warner (G.S. Court)  
**Sent:** Wednesday, March 15, 2017 11:43 AM  
**To:** Judges - General Sessions <Judges-GeneralSessions@jis.nashville.org>; Lomax-O'dneal, Talia (Finance Director's Office) <talia.lomaxodneal@nashville.gov>; Riebeling, Richard (Mayor's Office) <Richard.Riebeling@nashville.gov>; Swann, Mark (Internal Audit) <Mark.Swann@nashville.gov>; Jameson, Mike (Council Office) <Mike.Jameson@nashville.gov>; Briley, David (Vice Mayor) <David.Briley@nashville.gov>; Cooper, Jon (Legal) <Jon.Cooper@nashville.gov>; Barry, Megan (Mayor) <Megan.Barry@nashville.gov>  
**Cc:** Gross, Cynthia (Legal) <Cynthia.Gross@nashville.gov>; Crim, Jennifer (Legal) <Jennifer.Crim@nashville.gov>  
**Subject:** Independent Audit Request of General Sessions Court Presiding Judge Gale Robinson

Per the request of Presiding Judge Gale Robinson, we are requesting an independent audit of the General Sessions Drug Court and related programs to Drug Court. Also, we are requesting an independent audit of the Davidson County General Sessions Drug Court Foundation. Since such Foundation is not part of the Metropolitan Government, we will be sending a separate request to the head of the Foundation's Board of Directors.

**Warner Hassell**  
**Court Administrator**  
**Metropolitan General Sessions Court**  
**408 2nd Ave. N. Suite 1140**

## Swann, Mark (Internal Audit)

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**From:** Mendes, Bob (Council Member)  
**Sent:** Friday, March 17, 2017 9:22 AM  
**To:** Swann, Mark (Internal Audit)  
**Subject:** Performance Audit request

Mark,

Following up on our emails yesterday, please consider this email a request for your office to conduct a performance audit of how the Metro Codes department handles certain functions related to short term rental properties in Nashville.

I understand that a performance audit is defined as an independent examination of a program, function, operation or the management systems and procedures of a governmental entity to assess whether the entity is achieving economy, efficiency and effectiveness in the employment of available resources.

As far as scope, my request is that your office:

1. examine the procedures employed by the Codes department in accepting and reviewing short term rental permit applications, and in issuing short term rental permits;
2. examine the effectiveness of the Codes department in ensuring that short term rental permit applications fully comply with all applicable Metro Codes, rules, and regulations prior to issuance of a permit;
3. examine an appropriate sample of the applications for issued Type 1 short term rental permits to determine the effectiveness of the Codes department in ensuring that all such short term rental permit applications fully complied with all applicable Metro Codes, rules, and regulations prior to issuance of a permit;
4. examine an appropriate sample of the affidavits or other sworn statements provided in support of short term rental permit applications to determine the effectiveness of the Codes department in ensuring that such affidavits fully comply with all applicable Metro Codes, rules, and regulations; and
5. take all steps reasonably required to examine these matters.

For these requests, when I refer to anything related to applying for a short term rental permit, I intend to also include anything related to renewing, or reapplying for, a short term rental permit. Also, I recommend that your office interview Council Director Jameson and any other employees of that office that you deem appropriate regarding these matters.

At this time, I am intentionally limiting the scope of this request to issues related to the permit application and renewal process. I am also keeping the scope focused on only the application and renewal process in the hope that your office is able to begin work on this matter soon. The short term rental industry continues to develop rapidly. My belief is that certain actors in the market are adapting to find schemes to work around our laws more quickly than our government has been able to act. It is important for our neighborhoods that this work begin quickly. That said, I know your office is busy with other important work. I will need to defer to you about how quickly this work can be started.

Please let me know any questions you have about this request.

Thanks, Mark. I appreciate all that you do for Nashville.

Bob



**Open Audit Recommendation Implementation Status  
As of April 7, 2017**

Project Name	Issue Date		Recommendation Title	Completion Date	Revised Date	Age in Days
Industrial Development Board	12/16/2013		A.1 - Maintain a Tracking List of Economic Incentives	3/15/2014		1,119
Industrial Development Board	12/16/2013		B.1 - Request Written Job Specific Procedures	3/15/2014		1,119
Industrial Development Board	12/16/2013		B.2 - Develop a Set of Written Policies and Procedures	3/15/2014		1,119
Industrial Development Board	12/16/2013		D.1 - Ensure Payment in Lieu of Taxes Agreements are submitted to the M	3/15/2014		1,119
ITS - Telecommunications Primary Government	7/12/2013	CJ	A.3	12/9/2013	9/30/2015	555
ITS - Telecommunications Primary Government	7/12/2013	CJ	B.1	6/30/2014	10/31/2015	524
ITS - Telecommunications Primary Government	7/12/2013	CJ	D.1 -	6/30/2014	11/30/2015	494
ITS - Telecommunications Primary Government	7/12/2013	CJ	D.2 -	6/30/2014	11/30/2015	494
ITS - Telecommunications Primary Government	7/12/2013	CJ	D.3 -	6/30/2014	11/30/2015	494
ITS - Telecommunications Primary Government	7/12/2013	CJ	E.1 -	6/30/2014	12/31/2015	463
ITS - Telecommunications Primary Government	7/12/2013	CJ	E.3 -	6/30/2014	12/31/2015	463
ITS - Telecommunications Primary Government	7/12/2013	CJ	E.3 -	6/30/2014	12/31/2015	463
Metro Permitting and Licensing System Upgrade	8/31/2015		Interim Report II - B: Metropolitan Nashville Information Security Policies	1/4/2016		459
Metro Permitting and Licensing System Upgrade	8/31/2015		Interim Report II - C: Complete Definition of User Roles, Groups and Perm	1/4/2016		459
Metro Permitting and Licensing System Upgrade	8/31/2015		Interim Report III - A: Formalize User Testing Plans	1/4/2016		459
Public Works Parking Facilities Management	6/26/2015		C.2 – Expansion of Revenues	1/31/2016		432
Public Works Parking Facilities Management	6/26/2015		C.3 – Expansion of Revenues	1/31/2016		432
ITS - Telecommunications Primary Government	7/12/2013	CJ	C.1	1/9/2014	3/31/2016	372
ITS - Telecommunications Primary Government	7/12/2013	CJ	C.2	1/9/2014	3/31/2016	372
ITS - Telecommunications Primary Government	7/12/2013	CJ	C.3	1/9/2014	3/31/2016	372
Assessor of Property	6/24/2014		Experis A.3 Review PILOTS	10/31/2014	7/1/2016	280
Finance - Credit Card Activity	7/18/2016		A.1 - Improve Compliance with Credit Card Procedures	7/31/2016		250
Finance - Credit Card Activity	7/18/2016		A.2 - Improve Compliance with Credit Card Procedures	7/31/2016		250

C - Confidential Recommendation

CJ - Confidential Criminal Justice Information System Recommendation

**Open Audit Recommendation Implementation Status  
As of April 7, 2017**

Project Name	Issue Date		Recommendation Title	Completion Date	Revised Date	Age in Days
Assessor of Property	6/24/2014		C.1-Formal Approval of all Exempt Properties	10/1/2014	8/1/2016	249
Assessor of Property	6/24/2014		Experis A.2 Address Digital Mapping	11/30/2014	8/1/2016	249
Assessor of Property	6/24/2014		Experis C - Reputational Risk	11/30/2014	8/1/2016	249
Assessor of Property	6/24/2014		A.3 Application Controls over AssessPro	11/30/2014	9/1/2016	218
Register of Deeds	4/17/2012		H.7 – Document Technology System Control Weaknesses	12/1/2012	11/30/2016	128
ITS - Information Security Management	11/11/2008	C	D -	12/31/2008	12/31/2016	97
Radio Shop Operations	11/2/2015	CJ	SME C.2 -	12/1/2015	12/31/2016	97
Radio Shop Operations	11/2/2015	CJ	SME D.3 -	1/1/2016	12/31/2016	97
Fuel Supply Management	10/26/2012		D – Systems Conformity	7/1/2013	1/23/2017	74
Parks and Recreation Maintenance Operations	11/5/2015		B – Work Order System	1/31/2017		66
Radio Shop Operations	11/2/2015	CJ	SME B.2 -	5/1/2016	1/31/2017	66
Juvenile Court	3/31/2016		F. 1 WEX Fuel Statement is not being reconciled by Fuel Coordinator	6/1/2016	2/20/2017	46
Nashville Fair Grounds	11/23/2016		G.1 - Review of Accounts Receivable	3/31/2017	2/28/2017	38
Radio Shop Operations	11/2/2015	CJ	SME B.3 -	5/1/2016	2/28/2017	38
Nashville Fair Grounds	11/23/2016		D - Controls over Recreational Vehicle Parking	12/31/2016	3/1/2017	37
Nashville Fair Grounds	11/23/2016		E - Untimely Depositing and Recording of Cash Receipts	12/31/2016	3/1/2017	37
Juvenile Court	3/31/2016		G.1 - Leave Request	9/1/2016	3/1/2017	37
Nashville Fair Grounds	11/23/2016		G.2 - Review of Accounts Receivable	3/31/2017	3/14/2017	24
Radio Shop Operations	11/2/2015	CJ	SME A.7 -	5/1/2016	3/31/2017	7
ITS - PKI Infrastructure	10/19/2012	CJ	17.	8/31/2013	4/15/2017	(8)
Radio Shop Operations	11/2/2015	CJ	B.1 -	5/1/2016	4/28/2017	(21)
Public Works Traffic Signal Timing Optimization Project	12/8/2016		A.1 – Project Success Criteria	4/30/2017		(23)
Public Works Traffic Signal Timing Optimization Project	12/8/2016		A.2 – Project Success Criteria	4/30/2017		(23)

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As of April 7, 2017**

Project Name	Issue Date		Recommendation Title	Completion Date	Revised Date	Age in Days
Metro Water Services Cash Collections	12/22/2014		A.4 Segregation of Duties	12/1/2015	4/30/2017	(23)
ITS - Microsoft Exchange Management - Confidential	10/5/2016	CJ	A.4	6/30/2017	4/30/2017	(23)
Beer Board	4/24/2013		B.1 - Leveraging of Available Technology	9/30/2013	4/30/2017	(23)
Public Works Traffic Signal Timing Optimization Project	12/8/2016		B.1 – Physical Access to Traffic Signal Controller Cabinets	4/30/2017		(23)
MNPS Performance Audit	2/10/2015		Recommendation 12-B.1	6/1/2016	5/1/2017	(24)
Farmer's Market	8/18/2016		A.1 - Leveraging of Technology	6/1/2017	6/1/2017	(55)
Finance Debt Issuance	11/1/2016		A – Internal Controls Documentation	6/30/2017		(84)
MNPS Student Information Systems	12/14/2016		B.2-Establish a procedure to reconcile grade changes recorded in the stud	6/30/2017		(84)
Parks Police	2/24/2017		C - Fuel Monitoring	6/30/2017		(84)
Parks Police	2/24/2017	C	E -	6/30/2017		(84)
MNPS Student Information Systems	12/14/2016		E.1-Develop and implement district-wide employee separation policies ar	6/30/2017		(84)
Nashville Fair Grounds	11/23/2016		A - Leveraging of Technology	7/1/2017	7/1/2017	(85)
Parks and Recreation Maintenance Operations	11/5/2015		C.1 – Documentation of Safety Training	3/31/2016	7/1/2017	(85)
Parks Police	2/24/2017		D - Sick and Vacation Time Balances	7/1/2017		(85)
MNPS Performance Audit	2/10/2015		Recommendation 10-C.1	7/1/2015	7/1/2017	(85)
MNPS Performance Audit	2/10/2015		Recommendation 10-G.2	7/1/2015	7/1/2017	(85)
MNPS Performance Audit	2/10/2015		Recommendation 3-A.1	7/1/2015	7/1/2017	(85)
MNPS Performance Audit	2/10/2015		Recommendation 4-C.1	7/1/2015	7/1/2017	(85)
ITS - PKI Infrastructure	10/19/2012	CJ	14.	8/31/2013	7/15/2017	(99)
ITS - PKI Infrastructure	10/19/2012	CJ	15.	8/31/2013	7/15/2017	(99)
Radio Shop Operations	11/2/2015	CJ	A.2 -	5/1/2016	7/17/2017	(101)
Radio Shop Operations	11/2/2015	CJ	C.1 -	5/1/2016	7/31/2017	(115)
Radio Shop Operations	11/2/2015	CJ	C.2 -	7/1/2016	7/31/2017	(115)

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**Open Audit Recommendation Implementation Status  
As of April 7, 2017**

Project Name	Issue Date		Recommendation Title	Completion Date	Revised Date	Age in Days
ITS - Active Directory Service	4/18/2011	CJ	C.4 –	2/5/2015	7/31/2017	(115)
Radio Shop Operations	11/2/2015		E.1– Inventory Tracking	11/1/2016	7/31/2017	(115)
Radio Shop Operations	11/2/2015	CJ	SME A.1 -	1/1/2016	7/31/2017	(115)
Radio Shop Operations	11/2/2015	CJ	SME A.2 -	7/1/2016	7/31/2017	(115)
Radio Shop Operations	11/2/2015	CJ	SME A.3 -	7/1/2016	7/31/2017	(115)
Radio Shop Operations	11/2/2015	CJ	SME B.6 -	6/1/2016	7/31/2017	(115)
Radio Shop Operations	11/2/2015	CJ	SME C.4 -	1/1/2016	7/31/2017	(115)
Radio Shop Operations	11/2/2015	CJ	SME C.6 -	6/1/2016	7/31/2017	(115)
Radio Shop Operations	11/2/2015	CJ	SME C.8 -	6/1/2016	7/31/2017	(115)
Radio Shop Operations	11/2/2015	CJ	SME C.9 -	7/1/2016	7/31/2017	(115)
Radio Shop Operations	11/2/2015	CJ	SME D.1 -	7/1/2016	7/31/2017	(115)
MNPS Performance Audit	2/10/2015		Recommendation 8-K.1	7/1/2015	8/1/2017	(116)
Human Relations Commission	4/5/2017		A.1 - Establish Controls over Financial Resources	9/4/2017		(150)
Human Relations Commission	4/5/2017		A.2 - Establish Controls Over Financial Resources	9/4/2017		(150)
MNPS Student Information Systems	12/14/2016		B.1-Clarify in the Grading procedure or records retention schedule	9/29/2017		(175)
MNPS Student Information Systems	12/14/2016		C.1-Establish monitoring procedures to ensure data accuracy controls exist	9/29/2017		(175)
MNPS Student Information Systems	12/14/2016		D.1-Adopt a formal district-wide application change control procedure for	9/29/2017		(175)
MNPS Student Information Systems	12/14/2016		E.2-Establish a district-wide integrated data governing framework	9/29/2017		(175)
MNPS Student Information Systems	12/14/2016		E.4-Remove data warehouse maintenance activities from the development	9/29/2017		(175)
Historical Commission	1/26/2015		A.2.8 Web applications	12/31/2015	10/1/2017	(177)
MNPS Performance Audit	2/10/2015		Recommendation 7-E.1	7/1/2015	12/1/2017	(238)
Human Relations Commission			B.1 - Improve Documentation for Complaints Handling Process	12/4/2017		(241)
MTA Procure To Pay	8/10/2012		B.2 – Accounting and Purchasing Systems Conflicting Vendor Files	12/31/2012	12/15/2017	(252)

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As of April 7, 2017**

Project Name	Issue Date		Recommendation Title	Completion Date	Revised Date	Age in Days
MNPS Student Information Systems	12/14/2016		A.1-Establish a procedure to review and analyze error trends captured by	12/29/2017		(266)
Metro Water Services Cash Collections	12/22/2014		C.1 Permitting Area Documentation	12/1/2015	12/29/2017	(266)
MNPS Student Information Systems	12/14/2016		E.5-Develop an annual training program for all employees	12/29/2017		(266)
Radio Shop Operations	11/2/2015	CJ	A.1 -	5/1/2016	12/31/2017	(268)
Clerk and Master	3/18/2016		A.1 - Odyssey Case Management Management System Financial Manager	12/31/2016	12/31/2017	(268)
Historical Commission	1/26/2015		A.2.5 Record presentations	12/31/2015	12/31/2017	(268)
Assessor of Property	6/24/2014	C	A.1	12/31/2015	1/1/2018	(269)
Assessor of Property	6/24/2014	C	A.7	12/31/2015	1/1/2018	(269)
Traffic & Parking Citation Process	6/18/2010		N – No Viable Receivable System to Determine Outstanding Traffic Violati	12/31/2010	1/1/2018	(269)
Parks Police	2/24/2017		A.1 - Weapons Inventory	1/15/2018		(283)
MPHD Medical Examiner's Office	4/14/2015		A.1-Medical Examiner's Office Solicitation	6/30/2018	6/30/2018	(449)
MPHD Medical Examiner's Office	4/14/2015		C.1 Contract Monitoring	6/30/2018	6/30/2018	(449)

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**STATE OF TENNESSEE**  
**OFFICE OF THE**  
**ATTORNEY GENERAL**  
**PO BOX 20207**  
**NASHVILLE, TENNESSEE 37202**

March 18, 2010

Opinion No. 10-35

Performance Audit of the State Trial Courts for the 20<sup>th</sup> Judicial District

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**QUESTIONS**

1. Does the Metropolitan Government of Nashville and Davidson County (“Metro”) have the authority to conduct a performance audit of the State Trial Courts for Davidson County as described in Metro’s Request for Proposal 10-02 (“RFP”), as amended February 2, 2010?
2. May the audit, if authorized, include state employees paid solely or partially by the State of Tennessee?
3. If Metro is authorized to conduct the audit, are there any limitations to that authority because of the separation of powers clause of the Tennessee Constitution?
4. Is the RFP, as written, so overbroad in the scope and nature of the performance audit as would require its withdrawal, with a new RFP being issued within any legal restrictions that may be identified in your opinion to questions 1-3?
5. What, if any, effect would there be on the legal opinions issued above if the findings and recommendations resulting from the RFP were advisory only and, therefore, non-binding on the trial court operations?

**OPINIONS**

1. Metro has the authority to conduct a performance audit of the physical space that Metro provides to the trial courts, programs that Metro funds or partially funds for the trial courts, and the personnel whom Metro funds or partially funds to administer the trial courts and their programs. If a trial court official or employee is not funded by Metro and is not performing an activity associated with a function or program funded by Metro, we believe that Metro would be without authority to conduct a performance audit in this instance.

2. If a trial court official or employee is paid by the State (solely or partially, as long as the other source of compensation is not Metro) and the official or employee is not performing an activity associated with a function or program funded by Metro, we believe that Metro would be without authority to conduct a performance audit in this instance. Thus, for example, we think Metro lacks authority to conduct an evaluation of the operating effectiveness of the core functions performed by trial court judges, who are elected state officials. To the extent the trial

court judges supervise personnel or programs that are funded, in whole or in part, by Metro, we think that Metro may conduct a performance audit with respect to these personnel and programs, subject to the constraints of the separation of powers clause. If a trial court official or employee is paid partially by the State, but also paid partially by Metro, the audit may include those officials and employees, again subject to the constraints of the separation of powers clause.

3. The proposed performance audit, at least on its face, appears to be administrative in nature and, therefore, not constitutionally impermissible. With that said, if the performance audit of those programs and personnel funded by Metro that are supervised by the trial court judges were to be implemented in such a manner that frustrated or interfered with the adjudicatory function of the trial court judges, such an implementation would be constitutionally impermissible. Moreover, even if the proposed performance audit is implemented in a purely administrative manner, the trial courts' inherent powers may be invoked to prevent an aspect of the audit upon a showing of reasonable necessity by clear, cogent, and convincing proof.

4. Withdrawal of the RFP, in light of this opinion, appears to be a policy or business decision of Metro to be made in consultation with its legal advisors.

5. Our analysis as to Metro's authority to conduct the performance audit is not affected by whether the findings and recommendations resulting from the audit are advisory only and, therefore, non-binding on the trial court operations. But, we do believe that the trial courts' ability to successfully invoke their inherent authority to prevent an aspect of the audit would be affected. If the findings and recommendations of the performance audit are advisory and non-binding, a showing of reasonable necessity by clear, cogent, and convincing proof would be more difficult to demonstrate.

### ANALYSIS

This opinion concerns a performance audit of the Trial Courts for the 20<sup>th</sup> Judicial District as set forth in RFP 10-02 issued by Metro as amended February 2, 2010. The RFP proposes an audit to "include analysis of Criminal Courts (6 judges), Circuit Courts (8 judges) and Chancery Courts (4 judges) as well as the following additional functions that are part of the Trial Courts: Probation, Community Corrections (felony offender diversion program), Drug Court (outpatient and inpatient treatment), Forensic Drug Testing Unit, Jury Duty and Parenting Education Program." RFP at pg. D-4. The RFP states that the performance audit "will use established criteria as a basis for conducting objective analysis in order to make recommendations to improve performance, reduce costs, facilitate decision making and contribute to public accountability. The final product will consist of an audit report that details all criteria used, analysis performed and includes the recommendations referred to above." *Id.* The scope of services of the proposed audit includes the following requirements:

Evaluate the overall organizational design structure of the Trial Courts with respect to best practices and operational effectiveness.

Compare the Criminal Courts, Circuit Courts and Chancery Courts operations to best practices, peer organizations and established criteria.

For each significant area of operations of the Trial Courts, determine how employee performance and efficiency is monitored.

For each significant area of operations of the Trial Courts, determine whether staffing levels are appropriate or should be adjusted when compared to best practices, peer organizations and established criteria.

For the Criminal Courts, Circuit Courts and Chancery Courts, evaluate the operating effectiveness and costs of providing all significant functions and compare to best practices, peer organizations and established criteria.

Identify strengths and weaknesses of all operational areas of the Trial Courts and describe significant contributing factors.

Identify any instances noted of non-compliance with laws and regulations, fraud and illegal acts in the Trial Courts.

RFP at pp. D-4 & D-5. Metro amended the RFP on February 2, 2010, to include questions from prospective bidders and Metro's responses. This document clarifies that the Criminal Court Clerk, Circuit Court Clerk, and Clerk and Master are not included in the audit. The performance audit is to be conducted by an external contractor who would be required to follow the Field Work Standards for Performance Audits as outlined by *Government Auditing Standards*, July 2007 Revision, which is issued by the Comptroller General of the United States. RFP at pp. D-5 & D-6. According to these standards, "[p]erformance audits provide objective analysis so that management and those charged with governance and oversight can use the information to improve program performance and operations, reduce costs, facilitate decision making by parties with responsibility to oversee and initiate corrective action, and contribute to public accountability." RFP at pg. D-5.

The trial judges for the 20<sup>th</sup> Judicial District have adopted a resolution that stays the performance audit but agrees to cooperate with a financial audit of the following:

Policies, procedures and overall control environment related to expenditures made by the State Trial Courts.

Policies, procedures and overall control environment related [to] the payroll cycle at the State Trial Courts.

Policies, procedure[s], control environment and contractual compliance with any grant contracts received and administered by the State Trial Courts.

Resolution; Entrance Conference Agenda dated February 11, 2010, at pg. 1. The RFP indicates that Metro budgeted approximately \$9.8 million to support the State Trial Courts in fiscal year 2009-2010, and this figure appears to include 172 budgeted personnel positions. RFP at pg. D-7. The trial judges' resolution states they will "cooperate fully and completely in providing

necessary books, records and information for the Fiscal Audit.” But the trial judges and Metro have agreed the performance audit will not proceed pending issuance of this opinion.

The threshold question is whether Metro is authorized to conduct the proposed performance audit. It is well established in Tennessee that cities and counties have only those powers expressly granted by or necessarily implied from state statutes. *City of Lebanon v. Baird*, 756 S.W.2d 236, 241 (Tenn. 1988); *Bayless v. Knox County*, 199 Tenn. 268, 286 S.W.2d 579, 585 (Tenn. 1956). A metropolitan government is no different in this regard. *Entertainer 118 v. Metropolitan Sexually Oriented Bus. Licensing Bd.*, 2009 WL 2486195\*2 (Tenn. Ct. App.) (citing *Haines v. Metropolitan Gov’t of Davidson County*, 32 F.Supp.2d 991, 994 (M.D. Tenn. 1998)). Article XI, Section 9, of the Tennessee Constitution authorizes consolidated local governments like Metro, but this constitutional provision is not self-executing and requires implementing legislative enactments. *Frazer v. Carr*, 210 Tenn. 565, 360 S.W.2d 449 (Tenn. 1962). Accordingly, pursuant to the authority granted by Article XI, Section 9, the legislature enacted the statutes governing the consolidation of county and city governments; these statutes are codified at Tenn. Code Ann. §§ 7-1-101, *et seq.* The sources of authority for consolidated governments are set forth in Tenn. Code Ann. § 7-1-102(c):

After consolidation of a county and a municipal corporation or corporations under § 7-1-103, no functions of the governing bodies of the county and the municipal corporation, or of the officers thereof, shall be retained and continued, unless chapters 1-3 of this title or the charter of the metropolitan government expressly so provide, or unless such retention and continuation are required by the Constitution of Tennessee. After the consolidation, no officer or agency of the county or of the municipal corporation shall retain any right, power, duty or obligation, unless chapters 1-3 of this title or the charter of the metropolitan government expressly so provide, or unless such retention and continuation are required by the Constitution of Tennessee.

Thus, Metro’s sources of authority are the Tennessee Constitution, chapters 1-3 of Title 7 of the Tennessee Code (and any subsequent legislative acts applying to Metro), and prior functions of the city and county retained by the Metro Charter. *Entertainer 118*, 2009 WL 2486195\*3. In considering these sources of authority, we particularly note that Metro’s authority includes any and all powers that cities and counties are authorized or required to exercise under the Constitution and general laws of this state. *See* Tenn. Code Ann. § 7-2-108(a)(1).

Having identified the sources of Metro’s authority, we address whether these sources provide Metro with express or implied authority to conduct a performance audit of the resources that Metro provides to the trial courts in Davidson County. These resources include the physical space that Metro provides to the trial courts, programs that Metro funds or partially funds for the trial courts, and the personnel whom Metro funds or partially funds to administer the trial courts and their programs.

With respect to the physical space that Metro provides to the trial courts, Tenn. Code Ann. § 7-3-101 provides:

Any metropolitan government created and established pursuant to chapters 1-3 of this title shall acquire and succeed to all rights, obligations, duties and privileges of the county and of the cities consolidating; and, without the necessity or formality of deed, bill of sale or other instrument of transfer, the metropolitan government shall be and become the owner of all property previously belonging to the county and cities.

In considering the “rights, obligations, duties and privileges of the county” that Metro “acquire[s] and succeed[s] to” by virtue of Tenn. Code Ann. § 7-3-101, we initially observe that county buildings, including the courthouse, are to be erected and kept in order and repair, at the expense of the county, under the direction of the county legislative body. Tenn. Code Ann. § 5-7-106; *Driver v. Thompson*, 49 Tenn. App. 646, 358 S.W.2d 477 (1956). Further, we note that Tenn. Code Ann. § 5-7-101 provides:

Each county may acquire and hold property for county purposes, and make all contracts necessary or expedient for the management, control and improvement thereof, and for the better exercise of its civil and political powers, and may make any order for the disposition of its property.

In light of these provisions, we think that Metro clearly has authority to issue an RFP for a performance audit of the trial courts of the 20<sup>th</sup> Judicial District to the extent that the audit considers the functioning of the physical space that Metro provides to the trial courts, because the resulting contract would be “necessary or expedient for the management, control and improvement” of its property and “for the better exercise of [Metro’s] civil and political powers.” See Tenn. Code Ann. § 5-7-101.

We also think Metro has authority to conduct a performance audit of the programs that Metro funds or partially funds for the trial courts for the 20<sup>th</sup> Judicial District. A municipality is expressly authorized to expend money of the municipality for lawful purposes. Tenn. Code Ann. § 6-2-201(7). Similarly, a county is expressly authorized to expend money of the county for lawful purposes. See Tenn. Code Ann. § 5-1-118(a)(1). By virtue of Tenn. Code Ann. § 7-2-108(a)(1), Metro is likewise authorized to expend money of Metro for lawful purposes. We think that a performance audit that examines the trial court programs and functions that Metro funds or partially funds is consistent with its obligation to expend money for lawful purposes. See *Board of Educ. of Memphis City Schs. v. Shelby County*, 207 Tenn. 330, 359, 339 S.W.2d 569 (1960) (“[I]t [is] the plain duty of any [school] board to exercise every legal means for the protection and preservation of funds that may belong to the school system it operates.”); *Wadsworth v. Board of Sup'rs of Livingston County*, 124 N.Y.S. 334 (1910) (county possesses inherent authority to perform acts to preserve or benefit the corporate property of the county entrusted to it).

Finally, we think Metro has authority to conduct a performance audit of personnel whom Metro funds or partially funds to administer the trial courts and their programs. The Tennessee Supreme Court has stated that “a municipality has the inherent authority to investigate the activities of its several departments and employees.” *Leahy v. City of Knoxville*, 193 Tenn. 242, 245 S.W.2d 772 (1945). We note that private actions of employees were at issue in *Leahy*;

thus, a performance audit of personnel whom Metro funds or partially funds to administer the trial courts and their programs certainly appears to fall within Metro's authority. *See* 20 C.J.S. Counties § 224 (2009) (county has inherent authority to deny the use of county property to any county officer if such county property is used by the officer in a wasteful, negligent, or ineffective manner).

In sum, we think Metro has the authority to conduct a performance audit of the physical space that Metro provides to the trial courts, programs that Metro funds or partially funds for the trial courts, and the personnel whom Metro funds or partially funds to administer the trial courts and their programs. We recognize that certain trial court positions are not funded, in whole or in part, by Metro. If a trial court official or employee is not funded by Metro and is not performing an activity associated with a function or program funded by Metro, we believe that Metro would be without authority to conduct a performance audit in this instance. For example, we think Metro lacks authority to conduct an evaluation of the operating effectiveness of the core functions performed by trial court judges, who are elected state officials.<sup>1</sup> To the extent the trial court judges supervise personnel or programs that are funded, in whole or in part, by Metro, we think that Metro may conduct a performance audit with respect to these personnel and programs, if the performance audit of such personnel or programs does not frustrate or interfere with the adjudicative function of the courts, as explained below.

The Tennessee Constitution, Article II, Section 1, states that “[t]he powers of the Government shall be divided into three distinct departments: the Legislative, Executive, and Judicial,”<sup>2</sup> and Article II, Section 2, provides that “[n]o person or persons belonging to one of these departments shall exercise any of the powers properly belonging to either of the others, except in cases herein directed or permitted.” The Constitution does not define in express terms what are legislative, executive, or judicial powers, but the Tennessee Supreme Court has said that the legislative power is to make, order, and repeal laws; the executive power is to administer and enforce laws; and the judicial power is to interpret and apply laws. *Underwood v. State*, 529 S.W.2d 45, 47 (Tenn. 1975); *Richardson v. Young*, 125 S.W. 664, 668 (Tenn. 1909).

On several occasions, the Tennessee Supreme Court has observed that the three branches of government are interdependent. *State v. Mallard*, 40 S.W.3d 473, 481 (Tenn. 2001); *Petition of Burson*, 909 S.W.2d 768, 774 (Tenn. 1995); *Underwood*, 529 S.W.2d at 47; *Richardson*, 125 S.W. at 668.

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<sup>1</sup> While the trial court judges of the 20<sup>th</sup> Judicial District are elected by the voters of Davidson County, it is well established that circuit judges and chancellors, no matter where elected or by whom, are officers for the state at large, and not merely for their own circuits or divisions. *McCulley v. State*, 102 Tenn. 509, 53 S.W. 134 (1899); *see Mid-South Milling Co., Inc. v. Loret Farms, Inc.*, 521 S.W.2d 586, 590 (Tenn. 1975) (Tennessee has only one circuit court); *Metropolitan Dev. and Hous. Agency v. Brown Stove Works, Inc.*, 637 S.W.2d 876, 879 (Tenn. Ct. App. 1982) (Tennessee has only one chancery court).

<sup>2</sup> These three departments or functions are recognized by local governments, as well. *See Lotspeich v. Mayor and Alderman of Town of Morristown*, 141 Tenn. 113, 119-122, 207 S.W. 719, 721 (1918); *Johnson v. Brice*, 112 Tenn. 59, 69-70, 83 S.W. 791, 793-94 (1903).



Despite the clear expression of the separation of powers doctrine in Article II and elsewhere, however, “it is impossible to preserve perfectly the ‘theoretical lines of demarcation between the executive, legislative and judicial branches of government.’ Indeed there is, by necessity, a certain amount of overlap because the three branches of government are interdependent.”

*Mallard*, 40 S.W.3d at 481 (quoting *Petition of Burson*, 909 S.W.2d 768, 774 (Tenn. 1995)); see also *Anderson County Quarterly Court v. Judges of the 28th Judicial Circuit*, 579 S.W.2d 875, 878 (Tenn. Ct. App. 1978): (“[U]nless ... [the three branches of government] be so far connected and blended as to give each a constitutional control over the others, the degree of separation which the maxim requires, as essential to a free government, can never in practice be duly maintained.”) (citation omitted).

Accordingly, the Tennessee Supreme Court has found that there must be a frustration or interference with the adjudicative function of the courts for there to be an impermissible encroachment on the judicial branch. For instance, the Court found in *Mallard* that an evidentiary statute unconstitutionally encroached on the authority of the judiciary to control court practice and procedure. The Court observed that the judiciary’s inherent power includes the power to hear facts, decide issues of fact made by the pleadings, and to decide questions of law. As an essential corollary to this observation, the Court further stated that any determination of what evidence is relevant to a fact in litigation is a power that is entrusted solely to the care and exercise of the judiciary. Consequently, the Court concluded that any legislative enactment that purports to remove the discretion of a trial judge in making determinations of logical or legal relevancy impairs the independent operation of the judicial branch of the government and no such measure can be permitted to stand. *Mallard*, 40 S.W.3d at 483.

In contrast to *Mallard*, the Court in *Underwood* found that a statute permitting one who has successfully defended a criminal charge to have all public records of the case expunged upon filing a petition is not a violation of the separation of powers doctrine. The Court observed that the making and keeping of records of court proceedings requires the cooperative action of the judicial, the legislative, and the executive branches of the government. The Court determined that the statute was not unconstitutional because it did not frustrate or interfere with the adjudicative function of the court. The Court found the instant statute to be “no less administrative nor any more encroaching than dozens of other record regulating statutes found throughout the Code.” *Underwood*, 529 S.W.2d at 47.

While *Mallard* and *Underwood* addressed legislative encroachment upon the judicial branch, as opposed to executive encroachment upon the judicial branch, these cases are instructive here. Administrative governmental actions, as opposed to those that impinge on court practice and procedure, generally do not frustrate or interfere with the adjudicatory function of the courts and therefore are constitutionally permissible. See *Mallard*, 40 S.W.3d at 483; *Underwood*, 529 S.W.2d at 47. With that said, the court in *Anderson County Quarterly Court v. Judges of the 28th Judicial Circuit*, 579 S.W.2d 875 (Tenn. Ct. App. 1978) recognized that courts do have inherent powers included within the scope of their jurisdiction that include the administration of the courts. As the court observed, these inherent powers have been invoked to support a court’s authority to determine the necessity and choice of court employees, to mandate

modernizing, remodeling and air conditioning of a courthouse, and in some instances to control courthouse space. *Id.* at 879. Thus, there are occasions when the courts' inherent powers may be successfully invoked where the administration of the court is concerned. But, the use of inherent powers is limited by the requirement that the court asserting the power must establish reasonable necessity by "clear, cogent and convincing proof." *Id.* at 881.

The RFP for the proposed performance audit, at least on its face, appears to be administrative in nature and, therefore, not constitutionally impermissible. If the performance audit of those programs and personnel funded by Metro that are supervised by the trial court judges were to be implemented in such a manner that did frustrate or interfere with the adjudicatory function of the trial court judges, such an implementation would be constitutionally impermissible. Moreover, even if the proposed performance audit is implemented in a purely administrative manner, the trial courts' inherent powers may be invoked to prevent an aspect of the audit upon a showing of reasonable necessity by clear, cogent, and convincing proof. Whether this showing could be made would be influenced by whether the findings and recommendations of the performance audit are advisory and non-binding. If they are, a showing of reasonable necessity by clear, cogent, and convincing proof would be more difficult to demonstrate.

ROBERT E. COOPER, JR.  
Attorney General and Reporter

MICHAEL E. MOORE  
Solicitor General

LAURA KIDWELL  
Senior Counsel

Requested by:

Honorable Mark J. Fishburn  
Presiding Judge, 20<sup>th</sup> Judicial District  
408 2<sup>nd</sup> Avenue North, Suite 5130  
Nashville, TN 37201



2.24.300 - Division of metropolitan audit.

- A. There shall be, as an independent agency of the metropolitan government, a division of metropolitan audit, the director of which is designated as the metropolitan auditor. The metropolitan auditor shall be a person:
  - 1. With a well founded reputation in government or public finance and the audit function as may be exhibited by a record of exceptional performance for at least five years as a financial officer of a government or business;
  - 2. Who has, through education and experience as an accountant, auditor, CFO, controller or principal accounting officer of a governmental entity or private business an understanding of Generally Accepted Accounting Principles, Governmental Auditing Standards Board standards, financial statements, internal controls and procedures for financial reporting, and the audit functions of a governmental entity.
- B. The metropolitan auditor shall be appointed by a majority vote of the council from a list of three persons recommended by the audit committee whom the audit committee deems best qualified and available to fill the position. If the council deems that the persons recommended by the audit committee to serve as metropolitan auditor are not suitable and/or qualified, the council shall reject the names submitted and the audit committee shall recommend three additional persons deemed qualified and available to fill the position. The metropolitan auditor shall serve a term of eight years but shall be subject to removal for cause during the term by a vote of four members of the audit committee. The first term of the metropolitan auditor will end on June 30, 2014, regardless of whether the full eight years has been served. A vacancy occurring during a term shall be filled temporarily with a qualified acting metropolitan auditor by the majority vote of the audit committee. The filling of the vacancy for the remainder of a term and for any new term shall be filled by a majority vote of the council through the process provided in this section. The compensation for the metropolitan auditor shall be established as part of the general pay plan provided by Section 12.10 of the Metropolitan Charter.
- C. The metropolitan auditor shall conduct, or cause to be conducted financial, performance and other audit services following Government Auditing Standards established by the United States Government Accountability Office, and the metropolitan auditor shall follow the independent and other professional standards established and published under Government Auditing Standards.
- D. The metropolitan auditor shall appoint and remove, subject to the civil service provisions of article 12 of this Charter, all officers and employees of the division.
- E. There shall be a metropolitan audit committee which shall be composed of six members, as follows: The vice-mayor and the director of finance shall be members by virtue of their official positions. Two members of the metropolitan county council shall be selected by that body from its membership to serve a two-year term. One member shall be selected by the Nashville Area Chamber of Commerce to serve a four-year term. One member shall be selected by the Nashville Chapter of the Tennessee Society of Certified Public Accountants to serve a four-year term except that the member first selected shall serve a two year term. Members shall be eligible to succeed themselves. The General Provisions of Article 11, Chapter 1, of this Charter shall be applicable to the audit committee unless otherwise specified in this section.
- F. The audit committee will oversee the annual audit plan, fix the compensation of the metropolitan auditor, and review and evaluate at least annually the performance of the metropolitan auditor.
- G. All audit reports issued by the metropolitan auditor are public documents and shall at all times, during business hours, be open for personal inspection by any citizen of Tennessee.

(Ord. BL2007-1318 § 2, 2007)

H. Access to Records and Personnel.

To the extent permitted by the Metropolitan Charter the Division of Metropolitan Audit, with strict accountability for confidential and safeguarding records and information, shall have access to all Metropolitan Government's records, agreements, information systems, physical properties, and personnel. Such authority shall include but is not limited to, the ability to review, research, and conduct interviews, along with the ability to have access to any and all necessary documentation as described in this subsection. To the extent permitted by the Metropolitan Charter, all Metropolitan Government departments, boards, commissions, officers, agencies, or offices, along with all entities contracting with the Metropolitan Government shall co-operate fully with the Metropolitan Auditor during any such review or request to the fullest extent of applicable law. Any failure to cooperate with the Metropolitan Auditor shall be reported to the Audit Committee, Finance Director, Director of Law, and the Metropolitan Council.

I. Other Audit Services.

1. In addition to financial or performance services, the Division of Metropolitan Audit shall establish a process by which suspected illegal, improper, wasteful, or fraudulent activity could be reported. The Metropolitan Auditor shall investigate, or cause to be investigated, all activity reported by this process. The disposition of all reports shall be communicated to the Metropolitan Nashville Audit Committee, Metropolitan Mayor, and Department of Law.

2. No employees of the Metropolitan Government or its agencies shall suffer any retaliatory action for reporting to or cooperating with the Division of Metropolitan Audit or the Audit Committee as contemplated in TCA 9-3-406 and TCA 50-1-304.

3. It shall be the duty of employees of the Metropolitan Government or its agencies to report any known act of intentional illegal, intentional fraudulent, or intentional improper use of government funds.

J. Notice of Instance of Fraud, Waste, and Abuse.

All reports of unlawful conduct completed in accordance with the State of Tennessee Local Government Instances of Fraud Reporting Act involving Metropolitan Government departments, boards, commissions, officers, or agencies shall be communicated in a timely manner to the Metropolitan Auditor. Such reports shall also be communicated to the office of the Comptroller of the Treasury if so required by state law.

K. Notice of Audit Activities.

The engagement plans and final reports for all financial, performance, and other audit activities conducted on behalf of Metropolitan Government departments, boards, commissions, officers, agencies, or offices shall be communicated in a timely manner to the Metropolitan Auditor.

L. Scope of Services.

To the extent permitted by the Metropolitan Charter the Division of Metropolitan Audit is authorized to conduct financial audits, performance audits, or other audit services including investigation and disposition of reported incidents of fraud as contemplated above in subsection I of this section and the Metropolitan Charter, concerning any department, board, commission, officer, agency, or office of the Metropolitan Government which receives direct services from or to which funds are appropriated by the Metropolitan Government or which the Metropolitan Government provides a guarantee for long-term indebtedness. Departments, boards, commissions, officers, agencies, and offices of the Metropolitan Government means those entities which encompass all of the governmental and corporate functions previously performed by Davidson County and the City of Nashville existing at the formation of the Metropolitan Government, and any public entity whose existence is created or authorized by the Metropolitan Charter or the Metropolitan Council.

(Ord. BL2017-581)



# Comprehensive Annual Financial Report For the Year Ended June 30, 2016

The Metropolitan Government of Nashville and Davidson County  
Nashville, Tennessee



Megan Barry, Mayor

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**Summary of Hotel Occupancy Tax Audit Results  
As of April 7, 2017**

Fiscal Year	Number of Audits	Total Hotel Revenue	Total Tax Reported	Tax Underpaid	Penalty & Interest	Tax Overpaid
2013	18	\$ 63,740,705	\$ 5,385,583	\$ 37,849	\$ 14,974	\$ 30,766
2014	29	\$ 182,368,581	\$ 14,242,187	\$ 351,732	\$ 123,638	\$ 60,308
2015	14	\$ 42,664,158	\$ 2,849,694	\$ 100,166	\$ 37,551	\$ 11,382
2016	15	\$ 195,849,557	\$ 14,150,449	\$ 106,816	\$ 40,036	\$ 24,072
2017	2	\$ 26,697,797	\$ 1,948,212	\$ 6,714	\$ 1,587	\$ 6,404
Grand Total	76	\$ 484,623,001	\$ 36,627,914	\$ 596,564	\$ 216,199	\$ 126,528
Fiscal Year	Percent of Tax Underpayment	Net Claims				
2013	-0.7%	\$ 22,058				
2014	-2.5%	\$ 415,061				
2015	-3.5%	\$ 126,335				
2016	-0.8%	\$ 122,781				
2017	-0.3%	\$ 1,897				
Total	-1.6%	\$ 688,132				

New Hotline Provider Starting January 12, 2017 (5 Year Agreement)

**Metro Nashville Red Flag  
Fraud, Waste, and Abuse Hotline**

**Call 877-647-3335**

**or**

**<https://login.redflagreporting.com/>  
Use Client Code: Metro**





**Office of Internal Audit Budget versus Actual**  
**GSD General Fund as of April 7, 2017**  
**FY 2017 Approved Budget**

	<b>FY 2017 Budget</b>	<b>Actual As of April 7, 2017</b>	<b>Difference</b>	<b>Notes</b>
Total Salaries & Fringe	\$ 1,079,500	701,638	\$ 377,862	
Other Expenses				
Professional & Purchased Services	125,100	14,621	110,479	Peer Review \$7,000; HR Hiring \$20,000
Building Rent Parkway Towers	55,500	36,742	18,758	
Other Expenses	71,900	54,402	17,498	
Internal Service Fees	50,900	50,900	-	Information Technology
<b>TOTAL EXPENSES</b>	<b>\$ 1,382,900</b>	<b>\$ 858,303</b>	<b>\$ 524,597</b>	
30003 General Fund 4% Reserve	\$ 8,725	\$ -	\$ 8,725	

**Office of Internal Audit Budget History**

<b>For the year ending June 30,</b>	<b>Co-sourcing Audit Budget</b>	<b>Total Budget</b>	<b>Co-sourcing Percent of Budget</b>	<b>FTE</b>
<b>2008</b>	<b>\$ 500,000</b>	<b>\$ 1,477,000</b>	<b>34%</b>	<b>10</b>
2009	231,000	1,481,600	16%	13
2010	112,000	1,262,000	9%	12
2011	234,000	1,359,800	17%	11
2012	165,000	1,265,400	13%	10
2013	156,200	1,277,900	12%	10
2014	60,200	1,179,300	5%	10
2015	45,100	1,214,900	4%	10
2016	75,100	1,290,400	6%	10
2017	125,100	1,382,900	9%	10

**Recommended to OMB FY 2018 Budget**

<b>Area of Need</b>	<b>FY 2018 Amount Requested</b>
Professional & Purchased Services	\$ 125,000
Administrative Assistant	63,100
Staff Career Ladder	10,000
Software Inflation	2,000
Rent Equipment	1,000
<b>Total</b>	<b>\$ 201,100</b>

# Metropolitan Nashville Office of Internal Audit

## Executive Team

**Mark Swann**  
CPA, CIA, CISA, ACDA  
Metropolitan Auditor  
X26158

## Project and Office Management Leadership

**Qian Yuan**  
MS-Computer  
Science, CIA, CISA,  
ACDA  
Principal Auditor  
x26111

**William (Bill) Walker**  
CPA, CIA  
Principal Auditor  
x26714

Project Quality , Milestone/Project Budget Monitoring , Hotline Support , Training  
Plans, GAGAS Compliance , Office Support , etc

## Audit Talent Pool

**Seth Hatfield**  
Macc, CPA, CIA, CFE  
Senior Auditor  
x79672

**James Carson**  
MBA, CIA, CFE  
Senior Auditor  
X26430

**Mary Cole**  
Macc, CPA,CFE,  
CGFM  
Senior Auditor  
X26407

**Innocent Dargbey**  
MS-Finance, MBA,  
CPA  
Senior Auditor  
x79671

**Laura Henry**  
Macc, CFE  
Auditor II  
x26456

**Nan Wen**  
MS-Info Sys, MS-  
Acctg, CPA  
Auditor II  
x26429

**Ted Ciuba**  
MS-Finance, MBA  
Auditor I  
x26286

**METROPOLITAN NASHVILLE AUDIT COMMITTEE  
2017 MEETING PLAN**

<b>Meeting Date</b>	<b>Proposed Agenda Topics</b>
February 28, 2017 (Tuesday)	<ul style="list-style-type: none"> <li>• Office of Internal Audit Annual Performance Report</li> <li>• Internal Audit Annual Work Plan approval</li> <li>• Internal Audit issued report discussion</li> <li>• Follow-up Comprehensive Annual Financial Report, Single Audit Report, and Management Letter</li> </ul>
April 11, 2017 (Tuesday)	<ul style="list-style-type: none"> <li>• External Audit Single Audit and Management Letter presentation</li> <li>• Information Security Program Update</li> <li>• Internal Audit issued report discussion</li> <li>• Follow-up Comprehensive Annual Financial Report</li> </ul>
July 11, 2017 (Tuesday)	<ul style="list-style-type: none"> <li>• External Audit plan and required communications</li> <li>• Internal Audit issued report discussion</li> <li>• Metropolitan Auditor performance review</li> <li>• Follow-up Comprehensive Annual Financial Report, Single Audit Report, and Management Letter</li> </ul>
September 12, 2017 (Tuesday)	<ul style="list-style-type: none"> <li>• Metropolitan Audit Committee self-assessment</li> <li>• Bylaws annual review</li> <li>• Internal Audit issued report discussion</li> <li>• External Audit Comprehensive Annual Financial Report Audit Progress Executive Session</li> </ul>
November 16, 2017 (Thursday)	<ul style="list-style-type: none"> <li>• Internal Audit issued report discussion</li> <li>• External Audit Comprehensive Annual Financial Report Audit Progress Executive Session</li> </ul>
December 12, 2017 (Tuesday)	<ul style="list-style-type: none"> <li>• External Audit Comprehensive Annual Financial Report</li> <li>• Internal Audit issued report discussion</li> </ul>





**Office of Internal Audit  
2017 Approved Internal Audit Work Plan Status**

<b>*Co-source</b>	<b>CY 2016 Audits In Progress</b>	<b>Plan Hours</b>	<b>Actual Hours</b>	<b>Status</b>
1	Sports Authority – 1 <sup>st</sup> Tennessee Field Construction Contract	100	56	In-Progress
2	Metro Parks and Recreation – Park Police	40	3	Completed
3*	Human Resource Department - Hiring Process	60	34	In-Progress
4	Health Department – Compliance and Operational Audit	100	70	In-Progress
5	Office of Property Assessor	200	105	In-Progress
6	Human Relations Commission	200	260	Completed
<b>CY 2017 New Audit Areas</b>				
1	Hotel Occupancy Tax Audits	500	412	In-Progress
2	Metro-wide Occupational Safety Program	800	359	In-Progress
3	Autumn Hills Assisted Living Contract	800	435	In-Progress
4	General Services - Fleet Operations	800	446	In-Progress
5	Metropolitan Development and Housing Agency – Development Project Financing Process (Tax Incremental Financing / Public-Private Financing)	800		
6	Hospital Authority – General Hospital Purchase to Pay Process	800		
7*	Finance – Purchasing Division	800		
8	Metropolitan Nashville Public Schools – Credit Card Purchases Review	400		
9	Metro Water Services – Payroll Process	800		
10	Barnes Fund for Affordable Housing	800		
11	Office of Family Safety	800		
12	Metropolitan Transit Authority - Revenue Collection Process	800		
13	Health and Educational Facilities Board	400		
14	General Sessions Court – Traffic Safety Education Department	800		
15	Airport Authority - Purchase to Pay Process	800		
16	Metro-wide Customer Service Performance	800		
17	Metro Water Services - Storm Water Revenue	800		
18	Metro-wide Software License/Subscription Monitoring	800		
19	Unusual Financial Transactions Review (payables, credit card, fuel card, time entry, top ten travel, etc.)	800		

**Office of Internal Audit  
2017 Approved Internal Audit Work Plan Status**

		<b>Plan Hours</b>	<b>Actual Hours</b>	<b>Status</b>
20*	Davidson County Sheriff Office – Information Security (Active Directory Services, Email Services, Network, End Nodes, Remote Access)	100		
21*	Information Technology Services – Information Back-up and Recovery	100		
22*	Metropolitan Nashville Public Schools – Information Security (Active Directory Services, Email Services, Network, End Nodes, Remote Access)	100		
23*	Health Department – Information Technology Governance	100		
24*	Office of Internal Audit Peer Review (Association of Local Government Auditors)	100	70	Completed
<b>Fraud, Waste, and Abuse Investigations and Hotline Support</b>				
	Fraud, Waste, and Abuse Investigations and Hotline Support	1,200	0	
	<b>Grand Total</b>	<b>16,500</b>	<b>2,250</b>	
	<b>Total Budget Direct Hours In Plan Year</b>	<b>11,500</b>	<b>2,250</b>	<b>20%</b>

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# Metropolitan Audit Committee

Metropolitan Code of Laws Section 2.24.300

Term-varied

6 Members

	<u>Date of Appt.</u>	<u>Term Exp.</u>
<b>Mr. Robert C. Brannon</b> 173 Jefferson Square Nashville, TN 37215- (615) 385-2491      bbrannon@associatedpackaging.com Representing: TSCPA, Nashville Chapter	<b>2/2/2013</b>	<b>3/20/2017</b>
<b>Vice Mayor David Briley</b> One Public Square, Suite 204 Nashville, TN 37201- (615) 880-3357      david.briley@nashville.gov Representing:	<b>9/1/2015</b>	<b>8/31/2019</b>
<b>Mr. John Cooper</b> 3925 Woodlawn Drive Nashville, TN 37205- (615) 969-4444      CooperAtLarge@nashville.gov Representing: Metro Council	<b>10/20/2015</b>	<b>9/30/2017</b>
<b>Ms. Talia Lomax-O'dneal</b> One Public Square, Suite 106 Nashville, TN 37201- (615) 862-6151      talia.lomaxodneal@nashville.gov Representing: Director of Finance	<b>10/1/2015</b>	
<b>Mr. Bob Mendes</b> One Public Square, Suite 204 Nashville, TN 37201- (615) 756-3533      bob.mendes@nashville.gov Representing: Metro Council	<b>10/20/2015</b>	<b>9/30/2017</b>
<b>Mr. Brack Reed</b> 511 Union Street, Suite 1400 Nashville, TN 37219- (615) 770-8494      brack_reed@gspnet.com Representing: Nashville Area Chamber of Commerce	<b>2/20/2015</b>	<b>3/20/2019</b>

Printed 09-May-16

**Metropolitan Clerk's Office**



**METROPOLITAN GOVERNMENT OF  
NASHVILLE AND DAVIDSON COUNTY  
METROPOLITAN NASHVILLE AUDIT COMMITTEE BYLAWS**

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**PURPOSE**

The Metropolitan Nashville Audit Committee is to ensure that the Metropolitan Government of Nashville and Davidson County (Metropolitan Nashville Government) has effective, efficient, and sustainable internal controls over its major risks.

**SCOPE**

The Metropolitan Nashville Audit Committee (Committee) is authorized to conduct financial audits, performance audits, or other audit services, including disposition of fraud incidents, concerning any department, board, commission, officer, agency, or office of the Metropolitan Nashville Government. Departments, boards, commissions, officers, agencies, and offices of the Metropolitan Nashville Government means those entities which encompass all of the governmental and corporate functions previously performed by Davidson County and the City of Nashville existing at the formation of the Metropolitan Nashville Government, and any public entity whose existence is created or authorized by the Metropolitan Charter or the Metropolitan County Council.

**RESPONSIBILITIES**

Financial Statements

- While the financial statement audit engagement is ongoing meet in executive session with the external auditor near the mid-point of the audit engagement and prior to final issuance of the comprehensive annual financial report, to review progress, including any difficulties encountered, with the audit engagement and follow-up as appropriate.
- Review final audit reports and accept, or not accept, the audit results.
- Review with Metropolitan Nashville Government management and the external auditors all matters requiring communication to the Committee under generally accepted auditing standards.

Risk Management and Internal Control

- Understand the scope of internal and external auditors' reviews of internal controls over financial reporting and government service activities, and obtain reports on significant observations and recommendations, together with department, board, commission, officer, agency, or office management's responses.
- Engage with the Metropolitan Auditor in performing a Metropolitan Nashville Government entity-wide risk assessment to form an audit work plan.
- Meet with auditee after issuance of audit report by Metropolitan Auditor to discuss observations. Hold follow-up to monitor corrective actions implemented by auditee.



**METROPOLITAN GOVERNMENT OF  
NASHVILLE AND DAVIDSON COUNTY  
METROPOLITAN NASHVILLE AUDIT COMMITTEE BYLAWS**

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Internal Audit

- Review and approve the internal audit work plan and all major changes to the plan.
- Review and approve the Division of Metropolitan Audit Bylaws annually.
- Assure continued independence of the Metropolitan Auditor. Ensure there are no unjustified restrictions or limitations to the discharge of internal audit responsibilities.
- Review annually the activities, staffing, and organizational structure of the internal audit function.
- Review the effectiveness of the internal audit function, including compliance with generally accepted government auditing standards.
- Recommend the appointment of the Metropolitan Auditor.
- For cause remove the Metropolitan Auditor.
- At least once per year, review the performance of the Metropolitan Auditor and concur with the annual compensation and salary adjustment.

Reporting Responsibilities

- Issue an annual report to the Metropolitan Nashville Council and Mayor regarding Committee activities, issues, and related recommendations.
- Provide an open avenue of communication between internal audit, the external auditors, and department, board, commission, officer, agency, or office management.
- Review any other government issued reports related to committee responsibilities.

Other Responsibilities

- Ensure committee members undergo appropriate orientation upon appointment.
- Review and assess the adequacy of the committee bylaws annually, requesting approval for proposed changes, and ensuring appropriate disclosure as may be required by law or regulation.
- Annually confirm that all responsibilities outlined in these bylaws have been carried out.

**COMPOSITION**

The composition and selection of committee members will follow the provisions provided in Metropolitan Code of Law, Section 2.24.300(E) Division of Metropolitan Audit.

**METROPOLITAN GOVERNMENT OF  
NASHVILLE AND DAVIDSON COUNTY  
METROPOLITAN NASHVILLE AUDIT COMMITTEE BYLAWS**

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**MEETINGS**

The Committee will meet at least once per quarter, with authority to convene additional meetings, as circumstances require. The Committee will invite members of department, board, commission, officer, agency, or office management, auditors or others to attend meetings and provide pertinent information as necessary. Meeting agendas along with appropriate briefing materials will be prepared and provided in advance to members by the Metropolitan Auditor. Minutes will be prepared by the Metropolitan Auditor.



**METROPOLITAN GOVERNMENT OF  
NASHVILLE AND DAVIDSON COUNTY  
DIVISION OF METROPOLITAN AUDIT BYLAWS**

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**PURPOSE**

The Division of Metropolitan Audit, commonly referred to as the Metropolitan Nashville Office of Internal Audit, is an independent appraisal agency established to ensure and enhance the integrity, equality, accountability, effectiveness, and efficiency of service activities, and to pursue an atmosphere of honesty and mutual trust within the Metropolitan Government of Nashville and Davidson County (Metropolitan Nashville Government.)

**SCOPE**

The Metropolitan Auditor is authorized to conduct financial audits, performance audits, or other audit services, including disposition of fraud incidents, concerning any department, board, commission, officer, agency, or office of the Metropolitan Nashville Government. Departments, boards, commissions, officers, agencies, and offices of the Metropolitan Nashville Government means those entities which encompass all of the governmental and corporate functions previously performed by Davidson County and the City of Nashville existing at the formation of the Metropolitan Nashville Government, and any public entity whose existence is created or authorized by the Metropolitan Charter or the Metropolitan County Council.

The Metropolitan Auditor shall conduct financial, performance, or other audit services in order to independently and objectively determine whether:

- Risks, including safety, environment, fiscal, information technology, and fraud, are appropriately identified and managed.
- Programs, plans, and objectives are achieved.
- Significant financial, managerial, and operating information is accurate, reliable, and timely.
- Activities and programs are being conducted in compliance with policies, standards, procedures, and applicable local, state, and federal laws or regulations.
- Resources are acquired economically, used efficiently, and protected adequately.
- Quality and continuous improvement are fostered in Metropolitan Nashville Government's control environment.
- Interaction with the various governance groups occurs as needed.
- External auditors' proposed audit scope and approach supplement internal audit efforts.
- Activities indicate fraud, abuse, or illegal acts which need further investigation.
- Computer-based systems incorporate adequate controls.

**METROPOLITAN GOVERNMENT OF  
NASHVILLE AND DAVIDSON COUNTY  
DIVISION OF METROPOLITAN AUDIT BYLAWS**

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The Metropolitan Auditor shall have authority to:

- Review the effectiveness of internal controls for monitoring compliance with laws and regulations.
- Review the observations of any examinations by regulatory agencies, and any auditor observation.
- Review the process for communicating the code of conduct to Metropolitan Nashville Government personnel.
- Obtain regular updates from department, board, commission, officer, agency, or office management regarding compliance matters.

The Metropolitan Auditor shall have authority to accept requests from management to perform special administrative reviews, special projects, and advisory services.

## **AUDIT SCHEDULE**

At the beginning of each calendar year, the Metropolitan Auditor shall submit a twelve-month internal audit work plan to the Metropolitan Nashville Audit Committee for review and approval. The schedule shall include the proposed plan for auditing departments, boards, commissions, officers, agencies, offices, activities, systems, processes, and subcontractors for the subsequent twelve months. This plan may be amended during the period after review with the Metropolitan Nashville Audit Committee. Additionally, the Metropolitan Auditor may independently initiate and conduct any other audit deemed necessary with subsequent approval by the Metropolitan Nashville Audit Committee.

The internal audit work plan will ensure audit activities have been directed toward the highest exposure to risk and toward increasing efficiency, economy, and effectiveness of programs. In the selection of audit areas and audit objectives, the determination of audit scope and the timing of audit work, the auditor will consult, as needed, with federal and state auditors, external auditors, and other Metropolitan Nashville Government monitoring functions so that the desirable audit coverage is provided, and audit effort is properly coordinated.

## **REPORT OF IRREGULARITIES**

If during an audit, the auditor becomes aware of fraud, abuse, or illegal acts, the Metropolitan Auditor shall report the irregularities to the Metropolitan Nashville Audit Committee, Department of Law, Mayor and Tennessee Comptroller of the Treasury. If it appears that the irregularity is criminal in nature, the Metropolitan Auditor shall notify the appropriate authority in addition to those officials previously cited.

**METROPOLITAN GOVERNMENT OF  
NASHVILLE AND DAVIDSON COUNTY  
DIVISION OF METROPOLITAN AUDIT BYLAWS**

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**ACCESS TO EMPLOYEES, RECORDS AND PROPERTY**

To the extent allowed by applicable law the Metropolitan Nashville Office of Internal Audit personnel shall have full access to all Metropolitan Nashville Government records, agreements, information systems, properties, and personnel. Accordingly, Metropolitan Nashville Government or any of its related entities' officials, employees, consultants, and contractors shall furnish any requested Metropolitan Nashville Government information and records within their custody and respond to any questions regarding such information and records.

Metropolitan Nashville Office of Internal Audit personnel are individually responsible and accountable for maintaining the confidentiality of the information they receive during the course of their work and complying with any other regulatory requirements necessitated by their being granted such access. Metropolitan Nashville Office of Internal Audit personnel shall not publicly disclose any information received during an audit that is considered confidential in nature by any local, state, or federal law or regulation.

**AGENCY RESPONSE**

A final draft of the audit report will be forwarded to the audited department, board, commission, officer, agency, or office director or his/her designee for review and comment regarding factual content before it is released to the Metropolitan Nashville Audit Committee. The audit entity must respond in writing, and specify agreement with audit observations and recommendations or reasons for disagreement with observations and/or recommendations, plans for implementing solutions to issues identified, and a timetable to complete such activities. The response must be forwarded to the Metropolitan Auditor within fifteen business days of issuance of the final draft audit report. The Metropolitan Auditor will include the response in the report. If no response is received, the Metropolitan Auditor will note that fact in the transmittal letter and will release the audit report. Any subsequent responses shall be distributed to those who received the audit report.

**AUDIT FOLLOW-UP**

The Metropolitan Auditor shall follow-up on audit recommendations as practicable to determine whether corrective action has been implemented. The Metropolitan Auditor may request periodic status reports from audited entities regarding actions taken to address reported audit concerns and recommendations.

**REPORTS TO METROPOLITAN AUDIT COMMITTEE**

Each audit will result in a written report containing relevant background information and observations and recommendations, and shall communicate results to the Metropolitan Nashville Audit Committee, the Mayor and the audited department, board, commission, officer, agency, or

**METROPOLITAN GOVERNMENT OF  
NASHVILLE AND DAVIDSON COUNTY  
DIVISION OF METROPOLITAN AUDIT BYLAWS**

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office. Subject to applicable local, state, or federal laws, the report shall also be available for public examination.

The Metropolitan Auditor shall submit each audit report to the Metropolitan Nashville Audit Committee and shall retain a copy as a permanent record. A copy will be posted on the Metropolitan Nashville Office of Internal Audit's internet site.

**ANNUAL REPORT**

The Metropolitan Auditor shall submit an annual report to the Metropolitan Nashville Audit Committee, during the first quarter of each calendar year, indicating audits completed, major concerns, corrective actions taken, and significant observations that have not been fully addressed by audited department, board, commission, officer, agency, or office management. Additionally, the report will indicate whether there are any unwarranted restrictions on the staffing of the internal audit activity or on access by internal auditors to organization records, agreements, information systems, properties, or personnel.

**CONTRACT AUDITORS, CONSULTANTS, AND EXPERTS**

Within budget limitations, the Metropolitan Auditor may obtain the services of qualified financial or management consultants, or other professional experts necessary to perform the Metropolitan 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 entity under review. The Metropolitan Auditor will coordinate and monitor auditing performed by public accounting or other organizations employed under contract by the Metropolitan Nashville Office of Internal Audit.

**INDEPENDENCE**

To provide for the independence of the Metropolitan Nashville Office of Internal Audit, its personnel report to the Metropolitan Auditor, who reports administratively and functionally to the Metropolitan Nashville Audit Committee as established in the Metropolitan Nashville Code of Law, Section 2.24.300 Division of Metropolitan Audit.

In all matters relating to audit work, the Metropolitan Nashville Office of Internal Audit and the audit staff should be free from personal, external, and organizational impairments to independence and must avoid the appearance of such impairments of independence. The Metropolitan Auditor and audit staff have neither direct authority over nor responsibility for, any of the activities reviewed.

**METROPOLITAN GOVERNMENT OF  
NASHVILLE AND DAVIDSON COUNTY  
DIVISION OF METROPOLITAN AUDIT BYLAWS**

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**STANDARDS OF AUDIT PRACTICE**

The Metropolitan Auditor shall conduct work in accordance with Government Auditing Standards established by the United States Government Accountability Office.

**FUNDING**

The Metropolitan Nashville Office of Internal Audit shall submit budget proposals, in accordance with procedures established by the Metropolitan Nashville Government Director of Finance that are sufficient to carry out the responsibilities and functions established in the Metropolitan Code of Law, Section 2.24.300 Division of Metropolitan Audit.

**RECORDS**

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

**REASSESSMENT**

The Division of Metropolitan Audit Bylaws will be reviewed and reassessed annually by the Metropolitan Nashville Audit Committee.





2.24.300 - Division of metropolitan audit.

- A. There shall be, as an independent agency of the metropolitan government, a division of metropolitan audit, the director of which is designated as the metropolitan auditor. The metropolitan auditor shall be a person:
  - 1. With a well founded reputation in government or public finance and the audit function as may be exhibited by a record of exceptional performance for at least five years as a financial officer of a government or business;
  - 2. Who has, through education and experience as an accountant, auditor, CFO, controller or principal accounting officer of a governmental entity or private business an understanding of Generally Accepted Accounting Principles, Governmental Auditing Standards Board standards, financial statements, internal controls and procedures for financial reporting, and the audit functions of a governmental entity.
- B. The metropolitan auditor shall be appointed by a majority vote of the council from a list of three persons recommended by the audit committee whom the audit committee deems best qualified and available to fill the position. If the council deems that the persons recommended by the audit committee to serve as metropolitan auditor are not suitable and/or qualified, the council shall reject the names submitted and the audit committee shall recommend three additional persons deemed qualified and available to fill the position. The metropolitan auditor shall serve a term of eight years but shall be subject to removal for cause during the term by a vote of four members of the audit committee. The first term of the metropolitan auditor will end on June 30, 2014, regardless of whether the full eight years has been served. A vacancy occurring during a term shall be filled temporarily with a qualified acting metropolitan auditor by the majority vote of the audit committee. The filling of the vacancy for the remainder of a term and for any new term shall be filled by a majority vote of the council through the process provided in this section. The compensation for the metropolitan auditor shall be established as part of the general pay plan provided by Section 12.10 of the Metropolitan Charter.
- C. The metropolitan auditor shall conduct, or cause to be conducted financial, performance and other audit services following Government Auditing Standards established by the United States Government Accountability Office, and the metropolitan auditor shall follow the independent and other professional standards established and published under Government Auditing Standards.
- D. The metropolitan auditor shall appoint and remove, subject to the civil service provisions of article 12 of this Charter, all officers and employees of the division.
- E. There shall be a metropolitan audit committee which shall be composed of six members, as follows: The vice-mayor and the director of finance shall be members by virtue of their official positions. Two members of the metropolitan county council shall be selected by that body from its membership to serve a two-year term. One member shall be selected by the Nashville Area Chamber of Commerce to serve a four-year term. One member shall be selected by the Nashville Chapter of the Tennessee Society of Certified Public Accountants to serve a four-year term except that the member first selected shall serve a two year term. Members shall be eligible to succeed themselves. The General Provisions of Article 11, Chapter 1, of this Charter shall be applicable to the audit committee unless otherwise specified in this section.
- F. The audit committee will oversee the annual audit plan, fix the compensation of the metropolitan auditor, and review and evaluate at least annually the performance of the metropolitan auditor.
- G. All audit reports issued by the metropolitan auditor are public documents and shall at all times, during business hours, be open for personal inspection by any citizen of Tennessee.

(Ord. BL2007-1318 § 2, 2007)

H. Access to Records and Personnel.

To the extent permitted by the Metropolitan Charter the Division of Metropolitan Audit, with strict accountability for confidential and safeguarding records and information, shall have access to all Metropolitan Government's records, agreements, information systems, physical properties, and personnel. Such authority shall include but is not limited to, the ability to review, research, and conduct interviews, along with the ability to have access to any and all necessary documentation as described in this subsection. To the extent permitted by the Metropolitan Charter, all Metropolitan Government departments, boards, commissions, officers, agencies, or offices, along with all entities contracting with the Metropolitan Government shall co-operate fully with the Metropolitan Auditor during any such review or request to the fullest extent of applicable law. Any failure to cooperate with the Metropolitan Auditor shall be reported to the Audit Committee, Finance Director, Director of Law, and the Metropolitan Council.

I. Other Audit Services.

1. In addition to financial or performance services, the Division of Metropolitan Audit shall establish a process by which suspected illegal, improper, wasteful, or fraudulent activity could be reported. The Metropolitan Auditor shall investigate, or cause to be investigated, all activity reported by this process. The disposition of all reports shall be communicated to the Metropolitan Nashville Audit Committee, Metropolitan Mayor, and Department of Law.

2. No employees of the Metropolitan Government or its agencies shall suffer any retaliatory action for reporting to or cooperating with the Division of Metropolitan Audit or the Audit Committee as contemplated in TCA 9-3-406 and TCA 50-1-304.

3. It shall be the duty of employees of the Metropolitan Government or its agencies to report any known act of intentional illegal, intentional fraudulent, or intentional improper use of government funds.

J. Notice of Instance of Fraud, Waste, and Abuse.

All reports of unlawful conduct completed in accordance with the State of Tennessee Local Government Instances of Fraud Reporting Act involving Metropolitan Government departments, boards, commissions, officers, or agencies shall be communicated in a timely manner to the Metropolitan Auditor. Such reports shall also be communicated to the office of the Comptroller of the Treasury if so required by state law.

K. Notice of Audit Activities.

The engagement plans and final reports for all financial, performance, and other audit activities conducted on behalf of Metropolitan Government departments, boards, commissions, officers, agencies, or offices shall be communicated in a timely manner to the Metropolitan Auditor.

L. Scope of Services.

To the extent permitted by the Metropolitan Charter the Division of Metropolitan Audit is authorized to conduct financial audits, performance audits, or other audit services including investigation and disposition of reported incidents of fraud as contemplated above in subsection I of this section and the Metropolitan Charter, concerning any department, board, commission, officer, agency, or office of the Metropolitan Government which receives direct services from or to which funds are appropriated by the Metropolitan Government or which the Metropolitan Government provides a guarantee for long-term indebtedness. Departments, boards, commissions, officers, agencies, and offices of the Metropolitan Government means those entities which encompass all of the governmental and corporate functions previously performed by Davidson County and the City of Nashville existing at the formation of the Metropolitan Government, and any public entity whose existence is created or authorized by the Metropolitan Charter or the Metropolitan Council.

(Ord. BL2017-581)



**Sec. 8.121. - Division of metropolitan audit.**

- A.** There shall be, as an independent agency of the metropolitan government, a division of metropolitan audit, the director of which is designated as the metropolitan auditor. The metropolitan auditor shall be a person:
1. With a well founded reputation in government or public finance and the audit function as may be exhibited by a record of exceptional performance for at least five (5) years as a financial officer of a government or business;
  2. Who has, through education and experience as an accountant, auditor, CFO, controller or principal accounting officer of a governmental entity or private business an understanding of Generally Accepted Accounting Principles, Governmental Auditing Standards Board standards, financial statements, internal controls and procedures for financial reporting, and the audit functions of a governmental entity.
- B.** The metropolitan auditor shall be appointed by a majority vote of the council from a list of three (3) persons recommended by the audit committee whom the audit committee deems best qualified and available to fill the position. If the council deems that the persons recommended by the audit committee to serve as metropolitan auditor are not suitable and/or qualified, the council shall reject the names submitted and the audit committee shall recommend three (3) additional persons deemed qualified and available to fill the position. The metropolitan auditor shall serve a term of eight (8) years but shall be subject to removal for cause during the term by a vote of four (4) members of the audit committee. The first term of the metropolitan auditor will end on June 30, 2014, regardless of whether the full eight (8) years has been served. A vacancy occurring during a term shall be filled temporarily with a qualified acting metropolitan auditor by the majority vote of the audit committee. The filling of the vacancy for the remainder of a term and for any new term shall be filled by a majority vote of the council through the process provided in this section.
- C.** The metropolitan auditor shall conduct, or cause to be conducted financial, performance and other audit services following Government Auditing Standards established by the United States Government Accountability Office, and the metropolitan auditor shall follow the independence and other professional standards established and published under Government Auditing Standards.
- D.** The metropolitan auditor shall appoint and remove, subject to the civil service provisions of article 12 of this Charter, all officers and employees of the division.
- E.** There shall be a metropolitan audit committee which shall be composed of six (6) members, as follows: The vice mayor and the director of finance shall be members by virtue of their official positions. Two (2) members of the metropolitan county council shall be selected by that body from its membership to serve a two (2) year term. One (1) member shall be selected by the Nashville Area Chamber of Commerce to serve a four (4) year term. One (1) member shall be selected by the Nashville Chapter of the Tennessee Society of Certified Public Accountants to serve a four (4) year term except that the member first selected shall serve a two (2) year term. Members shall be eligible to succeed themselves. The general provisions of article 11, chapter 1, of this Charter shall be applicable to the audit committee unless otherwise specified in this section.
- F.** The audit committee will oversee the annual audit plan and will review and evaluate at least annually the performance of the metropolitan auditor.
- G.** All audit reports issued by the metropolitan auditor are public documents and shall at all times, during business hours, be open for personal inspection by any citizen of Tennessee.

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*(Added by Amdt. 3 to referendum petition approved November 7, 2006)*

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**METROPOLITAN GOVERNMENT OF NASHVILLE  
AND DAVIDSON COUNTY  
METROPOLITAN AUDIT COMMITTEE**

**SELECTED METRO CHARTER and CODE SECTIONS RELATED TO AUDIT**

*Council*

*Metro Charter Section 3.06 – Authority and power of the council.*

“...the council is authorized by resolution passed by a three-fourths (3/4ths) majority of its entire membership and not subject to veto power of the mayor to **conduct investigations** by the whole council or any of its committees; to employ and compensate personnel necessary for such purpose; and to make appropriations therefore.

*Metro Charter Section 6.15 – The Budgets and Financial Matters, Post audit.*

“The council shall provide annually for an **independent audit** of the accounts and other evidences of financial transactions of the metropolitan government and of its every department, office and agency.”

“The independent audit shall be made by a firm chosen by a three member **audit board**. This board shall consist of the presiding officer of the council, the chairman of the finance committee of the council, and the chairman of the metropolitan board of education.”

“The council may at any time **order an examination or special audit** of any department, office or agency of the government.”

*Metro Code 2.04.033 – Metropolitan Council*

“Members of the **council** office shall have **full access to books, records and reports** of all departments, boards, commissions and agencies of the metropolitan government.”

*Mayor and Department of Metropolitan Finance*

*Metro Charter Section 5.03 – Power and authority of mayor.*

“The mayor shall be authorized at any reasonable time to **examine and inspect** the books, records, and official papers of any department, board, commission, officer or agency of the metropolitan government; and to attend the meeting of any board or commission and make suggestions thereto.”

*Metro Charter Section 8.103 – Department of Metropolitan Finance, Same-Powers and duties.*

“Periodically **inspect and audit** the accounts and records of **financial transactions** maintained in each department, office and agency of the metropolitan government.”

*Metro Code 2.24.020 Director of finance--Powers and duties.*

“The powers, duties and compensation of the director of finance shall be those set out Sections 8.102 and 8.103 of the Metropolitan Charter and as may be provided by ordinance consistent with the Metropolitan Charter.”



**METROPOLITAN GOVERNMENT OF NASHVILLE  
AND DAVIDSON COUNTY  
METROPOLITAN AUDIT COMMITTEE**

**SELECTED METRO CHARTER and CODE SECTIONS RELATED TO AUDIT**

***Division of Metropolitan Audit***

***Metro Charter Section 8.121*** – *Related Fiscal Provisions, Division of metropolitan audit; and Metro Code 2.24.300 Division of metropolitan audit.*

(A) “There shall, be as an independent agency of the metropolitan government, a division of metropolitan audit, the director which is designated as the metropolitan auditor....”

(C) “The metropolitan auditor shall conduct, or cause to be conducted **financial, performance and other audit services** following **Government Auditing Standards** established by the United States Government Accountability Office, and the metropolitan auditor shall follow the independence and other professional standards established and published under Government Auditing Standards.”

(F) “The **audit committee** will **oversee the annual audit plan** and will review and evaluate annually the performance of the metropolitan auditor.”

***Tennessee Code Annotated***

***T.C.A. 9-3-405 Establishment of audit committee***

(a) “**Local governments are encouraged to consider establishing an audit committee.**”

(b) “The governing body of the local government shall create the audit committee. The audit committee members shall be external to management and may be members of the governing body, citizens from within the boundaries of the local government, or a combination of both. **Members of the audit committee shall be selected by the legislative body. The audit committee shall establish responsibilities and duties that are stated in a resolution approved by the legislative body. The responsibilities and duties, at a minimum, shall address financial and other reporting practices, internal control, compliance with laws and regulations, and ethics.** The resolution creating the duties and responsibilities of the audit committee shall be submitted to the comptroller prior to approval by the legislative body...if an audit committee was created by a legislative body whose charter requires charter changes to be approved in a referendum, and if such actions occurred and were approved in a referendum prior to January 1, 2011, then such an audit committee shall be considered created pursuant to this part.”

(c) “...shall abide by the notice requirements adhered to by the local government...”

(d) “...the audit committee may hold confidential, non-public executive sessions to discuss the following items...”

- (1) Items deemed not subject to public inspection under §§ 10-7-503 and 10-7-504, and all other matters designated as confidential or privileged under this code;
- (2) Current or pending litigation and pending legal controversies;
- (3) Pending or ongoing audits or audit related investigations;

**METROPOLITAN GOVERNMENT OF NASHVILLE  
AND DAVIDSON COUNTY  
METROPOLITAN AUDIT COMMITTEE**

**SELECTED METRO CHARTER and CODE SECTIONS RELATED TO AUDIT**

- (4) Information protected by federal law; and
- (5) Matters involving information under § 9-3-406 where the informant has requested anonymity.

***T.C.A. 9-3-406***

(a) An **audit committee** created pursuant to this chapter shall **establish a process** by which employees, taxpayers or other **citizens may confidentially report suspected illegal, improper, wasteful or fraudulent activity.** The detailed information received pursuant to such a report of illegal, improper, wasteful or fraudulent activity or any investigation of this activity, except those matters disclosed in the final reports, shall be considered audit working papers and **shall be confidential under the provisions of title 10, chapter 7."**

***T.C.A. 4-3-304***

(9) Establish minimum standards for the performance of audits by the internal audit staffs of local governments, special taxing districts, utility districts, political subdivisions, state departments, boards, commissions, institutions, agencies, authorities or other entities of the state. These standards, which shall be established by the comptroller of the treasury, shall include "Standards for the Professional Practice of Internal Auditing" published by the Institute of Internal Auditors, Inc., or such other standards as may be approved by the comptroller of the treasury. All audit reports issued by such internal audit staffs shall include a statement that the audit was conducted pursuant to these standards.

Notwithstanding any law to the contrary, working papers created, obtained or compiled by an internal audit staff are confidential and are therefore not an open record pursuant to title 10, chapter 7. "Working papers" includes, but is not limited to, auditee records, intra-agency and interagency communications, draft reports, schedules, notes, memoranda and all other records relating to an audit or investigation by internal audit staff.

***T.C.A. 8-4-501-505***

**Local Government Instances of Fraud Reporting Act**

**8-4-503 (a)** A public official with knowledge based upon available information that reasonably causes the public official to believe that unlawful conduct has occurred shall report the information in a reasonable amount of time (defined as not exceeding 5 working days in definition) to the office of the comptroller if the treasury.

**8-4-505** The detailed information received and generated pursuant to this part shall be considered confidential working papers of the comptroller of the treasury and is therefore **not an open record pursuant to title 10, chapter 7.**

**METROPOLITAN GOVERNMENT OF NASHVILLE  
AND DAVIDSON COUNTY  
METROPOLITAN AUDIT COMMITTEE**

**SELECTED METRO CHARTER and CODE SECTIONS RELATED TO AUDIT  
T.C.A. 4-18-101 False Claims Act**

**4-18-103. Liability for violations.**

(a) Any person who commits any of the following acts shall be liable to the state or to the political subdivision for three (3) times the amount of damages that the state or the political subdivision sustains because of the act of that person. A person who commits any of the following acts shall also be liable to the state or to the political subdivision for the costs of a civil action brought to recover any of those penalties or damages, and shall be liable to the state or political subdivision for a civil penalty of not less than two thousand five hundred dollars (\$2,500) and not more than ten thousand dollars (\$10,000) for each false claim:

- (1) Knowingly presents or causes to be presented to an officer or employee of the state or of any political subdivision thereof, a false claim for payment or approval;
  - (2) Knowingly makes, uses, or causes to be made or used a false record or statement to get a false claim paid or approved by the state or by any political subdivision;
  - (3) Conspires to defraud the state or any political subdivision by getting a false claim allowed or paid by the state or by any political subdivision;
  - (4) Has possession, custody, or control of public property or money used or to be used by the state or by any political subdivision and knowingly delivers or causes to be delivered less property than the amount for which the person receives a certificate or receipt;
  - (5) Is authorized to make or deliver a document certifying receipt of property used or to be used by the state or by any political subdivision and knowingly makes or delivers a receipt that falsely represents the property used or to be used;
  - (6) Knowingly buys, or receives as a pledge of an obligation or debt, public property from any person who lawfully may not sell or pledge the property;
  - (7) Knowingly makes, uses, or causes to be made or used a false record or statement to conceal, avoid, or decrease an obligation to pay or transmit money or property to the state or to any political subdivision;
  - (8) Is a beneficiary of an inadvertent submission of a false claim to the state or a political subdivision, subsequently discovers the falsity of the claim, and fails to disclose the false claim to the state or the political subdivision within a reasonable time after discovery of the false claim; or
  - (9) Knowingly makes, uses, or causes to be made or used any false or fraudulent conduct, representation, or practice in order to procure anything of value directly or indirectly from the state or any political subdivision.
- (e) This section does not apply to claims, records, or statements made pursuant to workers' compensation claims.

**METROPOLITAN GOVERNMENT OF NASHVILLE  
AND DAVIDSON COUNTY  
METROPOLITAN AUDIT COMMITTEE**

**SELECTED METRO CHARTER and CODE SECTIONS RELATED TO AUDIT**

(f) This section does not apply to claims, records, or statements made under any statute applicable to any tax administered by the department of revenue.

**4-18-104. Investigation and prosecution.**

(b) (1) The *prosecuting authority of a political subdivision shall diligently investigate violations under § 4-18-103 involving political subdivision funds*. If the prosecuting authority finds that a person has violated or is violating § 4-18-103, the prosecuting authority may bring a civil action under this section against that person.

(c) (1) *A person may bring a civil action for a violation of this chapter for the person and either for the state of Tennessee in the name of the state, if any state funds are involved, or for a political subdivision in the name of the political subdivision, if political subdivision funds are involved, or for both the state and political subdivision if state and political subdivision funds are involved. The person bringing the action shall be referred to as the qui tam plaintiff*. Once filed, the action may be dismissed only with the written consent of the court, taking into account the best interests of the parties involved and the public purposes behind this chapter.

(B) For purposes of subdivision (d)(3)(A), "*original source*" means an individual, who has *direct and independent knowledge of the information on which the allegations are based*, who voluntarily provided the information to the state or political subdivision before filing an action based on that information, and whose information provided the basis or catalyst for the investigation, hearing, audit, or report that led to the public disclosure as described in subdivision (d)(3)(A).

(2) If the state or *political subdivision proceeds* with an action brought by a qui tam plaintiff under subsection (c), *the qui tam plaintiff shall, subject to subdivisions (g)(4) and (5), receive at least twenty-five percent (25%) but not more than thirty-three percent (33%) of the proceeds* of the action or settlement of the claim, depending upon the extent to which the qui tam plaintiff substantially contributed to the prosecution of the action. ...

(3) If the state or *political subdivision does not proceed with an action* under subsection (c), the qui tam plaintiff shall, subject to subdivisions (g)(4) and (5), receive an amount that the court decides is reasonable for collecting the civil penalty and damages on behalf of the government. The amount shall be *not less than thirty-five percent (35%) and not more than fifty percent (50%)* of the proceeds of the action or settlement and shall be paid out of these proceeds.

***Other Related Provisions***

**Charter Appendix Two, Electric Power Board, Article 42, 12**

“With reference to the properties, rights, and interests of the metropolitan government, to be acquired by or operated under the provisions of this article, as is herein otherwise provided, all agreements, contracts, transfers and conveyances in connection therewith, shall be made and executed, and **all such properties shall be acquired, held, owned and transferred and conveyed in the name of the Metropolitan Government of Nashville and Davidson County,** ...”

**METROPOLITAN GOVERNMENT OF NASHVILLE  
AND DAVIDSON COUNTY  
METROPOLITAN AUDIT COMMITTEE**

**SELECTED METRO CHARTER and CODE SECTIONS RELATED TO AUDIT**

**Charter Appendix Two, Electric Power Board, Article 42, 18**

“That said electric power board of the metropolitan government shall have **exclusive management and control of the operation** of said electric power plan and/or distribution system. ....”

**Charter Appendix Two, Electric Power Board, Article 42, 24**

“That **neither the mayor, the metropolitan council, nor any other officer, department board or commission of the metropolitan government, shall have or exercise and authority whatsoever over the electric power board created under the terms and provisions of this Charter**, other and except to the extent herein expressly provided, and the provisions of this article shall prevail over any conflicting provisions appearing in any other article in this Charter.”

**Charter Appendix Four, Transit Authority, Article 64, 6 (f)**

“The metropolitan treasurer shall keep accurate records and books dealing with the separate accounts of metropolitan transit authority.... Such books and records shall be **open to inspection and examination by accountants or auditors** of the metropolitan government as all books and records of the metropolitan treasurer are inspected.”

“The books and records of the secretary of the authority likewise shall be **open to inspection and examination by the accountants or auditors** of the metropolitan government.”

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# Metropolitan Nashville Audit Committee

## Executive Session Checklist

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- The published agenda must disclose the general nature of the items to be discussed in executive session.  
See, T.C.A. §9-3-405(f)
- All business which is public in nature shall be conducted first.  
See, T.C.A. §9-3-405(g)(1)
- During the regular public session committee must vote to go into private executive session. Must obtain a majority to be successful.  
See, T.C.A. §9-3-405(d)
- Chair must announce during the public portion of the meeting that no business other than the matters stated generally on the published agenda shall be considered during the confidential executive session.  
See, T.C.A. §9-3-405(e)
- Adjourn the public portion of the meeting.  
See, T.C.A. §9-3-405(g)(2)
- Only individuals whose presence is reasonably necessary in order for the committee to carry out its executive session responsibilities may attend the portion of the executive session relevant to that person's presence.  
See, T.C.A. §9-3-405(h)

## Permissible Executive Session Subject Matter

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1. Items deemed not subject to public inspection under §§ 10-7-503 and 10-7-54, and all other matters designated as confidential or privileged under this code
2. Current or pending litigation and pending legal controversies
3. Pending or ongoing audits or audit related investigations
4. Information protected by federal law
5. Matters involving information under § 9-3-406 where the informant has requested anonymity  
See, T.C.A. § 9-3-405(d)