WORK SESSION AGENDA

Monday, August 14, 2023 at 1:00 PM

Council Chambers

Mayor Ken Miyagishima

Mayor Pro Tem Kasandra Gandara

Councilors
Tessa Abeyta
Becki Graham
Johana Bencomo
Becky Corran
Yvonne Flores

CITY HALL
P.O. BOX 20000
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CITY OF LAS CRUCES

If you need an accommodation for a disability to enable you to fully participate in this event please contact us 72 hours before this event at 541-2115/V or 541-2182/TTY.

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Council Work Session Summary

Meeting: Work Session - Aug 14 2023

TITLE: FY23 ANNUAL INTERNAL AUDIT REPORT.

PURPOSE(S) OF DISCUSSION: ☒ Inform/Update ☐ Direction/Guidance ☐ Legislative Development/Policy

BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS:

In accordance with the Accountability in Government Ordinance and Internal Audit's Mission and Strategic Business Plan, the FY23 Annual Internal Audit Report and the FY23 Ethics Survey were completed. A presentation has been prepared to inform City Council of the Internal Audit Office's FY23 activities and the FY23 Ethics Survey results.

SUPPORT INFORMATION:

FY23 Annual Internal Audit Report
FY23 Ethics Survey Historical Summary

PLAN(S):

Department Strategic Business Plan

COMMITTEE/BOARD REVIEW:

None

CITY OF LAS CRUCES

FISCAL YEAR 2022-2023
INTERNAL AUDIT OFFICE
ANNUAL REPORT

Prepared by the
Internal Audit Office
August 4, 2023

OVERVIEW

In accordance with the Accountability in Government Ordinance and the Institute of Internal Auditor's (IIA) International Standards for the Professional Practice of Internal Auditing (Standards), the Internal Audit Office (IAO) is presenting the FY23 Annual Internal Audit Report to provide a summary of IAO's performance for the fiscal year. The IAO's function helps to support the City's Vision, Mission, and Organizational Values of fiscal responsibility and transparency as outlined in the City's Strategic Plan. The IAO is committed to helping provide assurance to City management that business objectives are being met and risks are effectively managed in order to achieve the City's strategic goals.

CITY OF LAS CRUCES OVERSIGHT COMMITTEE

LCMC Chapter 2, Art. III, Division 6, Accountability in Government ordinance was created to further the mission of the City and align Internal Audit with best practices. Sec. 2-179 of the Accountability in Government Ordinance creates the City of Las Cruces Oversight Committee (OSC). The OSC consists of five members. Three members are residents of the City of Las Cruces who are not employed by the City or in a direct contractual relationship with the City and are appointed for staggered 3-year terms. At least one committee member shall be a certified public accountant or auditor; at least one committee member shall have law enforcement or a legal background; and at least one committee member shall have experience or background in professional management or business. The remaining two committee members are comprised of the Mayor and one councilor who are appointed annually by the Council and serve as non-voting, ex-officio members.

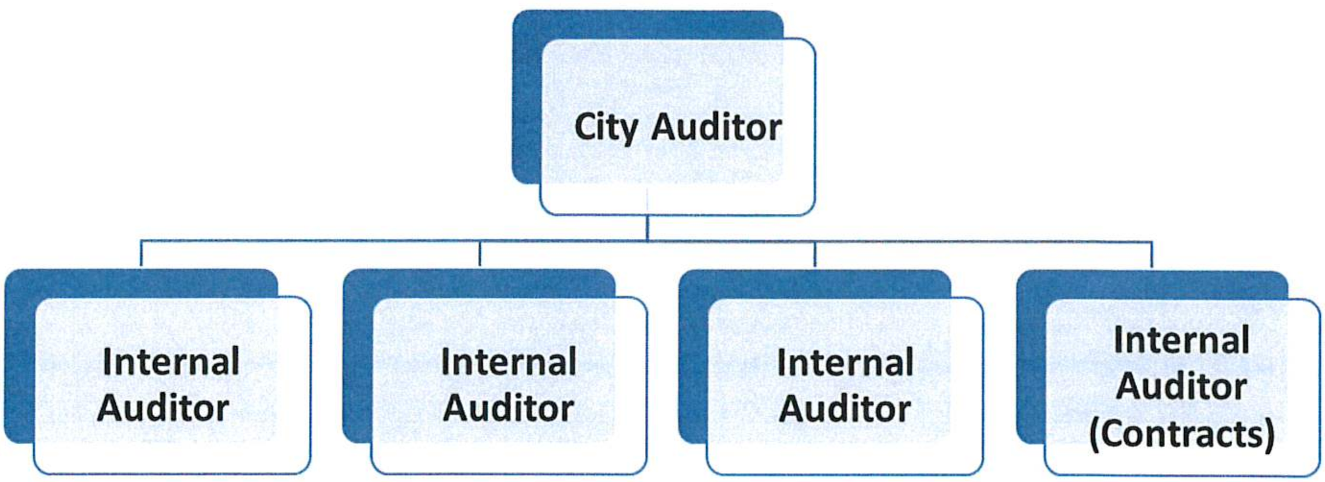
City of Las Cruces Oversight Committee

Name	Term Expiration	Position
Kieran Ryan	October 1, 2020 - September 30, 2023	Voting Member
Charles Tucker	October 1, 2021 - September 30, 2024	Voting Member
Jack Eakman	October 1, 2022 - September 30, 2025	Voting Member
Mayor Ken Miyagishima	October 1, 2022 - September 30, 2023	Ex-Officio Non-Voting Member
Councilor Tessa Abeyta	October 1, 2022 - September 30, 2023	Ex-Officio Non-Voting Member

The IAO is required to provide the OSC copies of all completed audit reports for review prior to being published. The OSC may provide comments for inclusion in the final reports. The OSC may also lend advice to the City Auditor regarding technical issues and provide recommendations for priorities and potential areas for audit.

INTERNAL AUDIT OFFICE ORGANIZATIONAL CHART

The IAO is comprised of five positions: one City Auditor and four Internal Auditors, one of which focuses on contract compliance. One Internal Auditor position was vacant from July 2022 to April 2023 and was filled late April 2023.



COMPLETED AUDITS AND OTHER AUDIT PROJECTS

In FY23, the IAO issued a variety of reports to include three scheduled audits, two unscheduled strategic reviews, and three hotline complaint investigations. Three scheduled audits were completed to draft report form in FY23 and will be finalized and issued in FY24. Lastly, four additional FY23 scheduled audits were in process at the close of the fiscal year and will be completed in FY24.

SUMMARY OF COMPLETED AUDIT REPORTS

Juvenile Citation Program (JCP) Audit

The JCP Audit focused on compliance with the New Mexico Children, Youth & Family Department (CYFD) eligibility and background check requirements as well as the reimbursement activities for both JCP and Families and Youth, Inc. (FYI), the subcontractor that administers the Juvenile Assessment Reporting Center (JARC). Test work confirmed background checks were completed and participant eligibility requirements were met. However, we identified billing errors and noted missing documentation, which prohibited our ability to verify appropriateness. We also found follow up activities were not submitted and a budget deficit was not identified timely, which resulted in monies not being reimbursed by CYFD. Lastly, documentation submitted by FYI to JCP was not received by the deadline outlined in the agreement.

Fair Labor Standards Act (FLSA) – Payroll and Training Requirements Audit

The FLSA Payroll and Training Requirements Audit evaluated the City's policies, procedures, and internal controls related to payroll activities involving FLSA as well determining compliance with the City's mandatory FLSA training requirements. Overall, we found that internal controls were functioning properly. However, we did find areas where processes could be improved. We identified only two time entry errors in the sample tested that negatively affected FLSA calculations. We also found other payroll-related errors and areas of non-compliance that did not affect FLSA calculations. Lastly, we found non-compliance with the FLSA training requirements.

NOTE: Payroll-related findings have either been corrected or are in process.

Municipal Court Indigent Defense Services Audit

The Municipal Court Indigent Defense Services Audit focused on the Court's policies and procedures related to the billing and payment processes for indigent defense services. We found non-compliance with the City Charter's requirement to include procedures by ordinance for the appointment of attorneys. We noted that Resolutions related to indigency determinations and the fee authorized to pay Court appointed attorneys were outdated and were being not followed. We confirmed the Court did not have documented policies and procedures for the billing and payment processes for indigent defense services and did not issue professional service agreements to the Court appointed attorneys. Lastly, we identified various calculation, payment, and documentation errors in the transactions reviewed.

NOTE: Several corrective actions are in process or have been completed, to include the repayment of an overpayment identified in the transaction sample tested.

Additional FY23 scheduled audits (DRAFT) completed, but not issued:

- Rincon Hills Park Contract Compliance Audit
- City Wide Travel
- Las Cruces Utilities Customers Deposits and Refunds

FY23 Scheduled Audits in process:

- City Wide Leases
- Employee Benefits and Payroll Corrections
- City Wide P-Card and D-Card Transactions with Wex Card Follow Up
- Sponsorships of Non-City Events

SUMMARY OF COMPLETED STRATEGIC REVIEWS

Second Compliance Review of ARPA Funding Eligibility Process

A second compliance review of the revised eligibility process was completed for 20 of the original 21 applications submitted for the ARPA funding awarded to the City in 2021. We found that the eligibility process followed was sufficiently documented to support clear and transparent eligibility determinations.

Payroll Issues for Municipal Court Judge II

A review was conducted to determine the employment and pay status for the (former) Municipal Court Judge II. The appointment of Judge II was confirmed and MUNIS records showed only one payroll check had been issued for the first week in office. Judge II was subsequently placed on Administrative Leave with Pay and payroll was processed for three additional pay periods. Our review of payroll records noted errors related to the rate of pay, a pay code, and the federal tax exemption used to process the payroll. Lastly, we found that Judge II was assigned to a Position Control Number in MUNIS that was not consistently used for the Judge II position.

NOTE: At the Judge II's request, all three pay periods were reimbursed to the City.

SUMMARY OF COMPLETED HOTLINE INVESTIGATONS

Hotline Case # 141 - Theft of Goods / Services (Unsubstantiated)

An anonymous complaint reported employees used City equipment and parts while "on the clock" to set up gas service lines for free at two locations. Based on evidence obtained, we found the allegations to be Unsubstantiated. MUNIS work orders and payment receipts confirmed gas lines and meters were installed and the appropriate fees for the work performed had been received prior to the work being completed.

Hotline Case # 159 – Theft of Time (Substantiated)

An anonymous complaint reported an employee improperly received a salary increase. Based on evidence obtained, we found the allegation to be Substantiated. MUNIS payroll records confirmed the pay increase was received and was contrary to the Las Cruces Municipal Code and City Charter.

NOTE: The monies due to the City have been repaid in full.

Hotline Case # 192 – Fraud (Unsubstantiated)

An anonymous complaint reported an employee for not following the Travel Policy. We found this allegation to be Unsubstantiated. In accordance with the Travel Policy, "Requests to travel not in compliance with this City policy require the signature of the City Manager." Based on the evidence obtained, we identified areas of Travel Policy non-compliance where verbal and written approval was granted.

ANONYMOUS HOTLINE REPORTING SYSTEM

CMP 2.4 Hotline Service is a policy that provides City employees with a confidential method to have an objective, third-party reporting option. The Hotline Committee is comprised of the two Assistant City Managers, the City Attorney, and the City Auditor. The IAO is responsible for managing the City's anonymous hotline reporting system.

The IAO is responsible for disseminating all incoming complaints to the appropriate Department for review and response to the City Manager's Office, as determined by the Hotline Committee; communicating with the complainant to obtain additional information as needed; and updating the system to indicate management's final determination.

For FY23, 95 complaints were reported via the hotline system.

- 64 Complaints have been closed.
- 31 Complaints are in process.

POLICE AUDITOR CONTRACT

Effective March 2021, the City awarded a Professional Services Agreement for police auditor services. Duties of the police auditor include audits of all completed formal, internal, and hotline investigations completed by LCPD Internal Affairs (IA) and all closed litigation cases involving law enforcement.

The IAO is responsible for the management of the City's police auditor contract, to include monitoring the timeliness of completed police auditor's reports and reviewing and approving the police auditor's monthly invoices.

For FY23, final reports were issued for 27 LCPD IA cases and 1 closed litigation.

CITY-WIDE FY23 ETHICS SURVEY

Since 2014, the IAO has been responsible for conducting an annual City-wide Ethics Survey. The FY23 Ethics Survey was open from May 4 to May 19, 2023. Responses were received from 393 employees.

The FY23 Ethics Survey included 25 questions.

- Questions 1 – 22 provided a choice of 5 standard answer options:
    - Strongly Agree
    - Agree
    - Do Not Know/Not Sure
    - Disagree
    - Strongly Disagree

- Questions 23 - 25 were opened ended questions that provided employees the opportunity share comments or concerns.

Ethics survey results were reviewed and discussed with the City Manager's Office and information obtained from the survey was considered in the Risk Assessment process completed for the FY24 Annual Internal Audit Plan.

INTERNAL AUDIT OFFICE PERFORMANCE MEASURES

During FY23, the Internal Audit Office (IAO) was a program in the line of business of the City's Attorney's Office as well as the Office of the City Manager. The City Auditor manages the program and previously reported to the City Attorney but now reports directly to the City Manager. The mission of the IOA is to provide compliance and assurance services to City Council, the City Manager, and all organizational units of the City, so the public will be confident that City government is protecting valuable resources and operating ethically, effectively, efficiently, and transparently.

The IAO's four outputs for FY23 are measured as follows:

- **By 2023, 80% of the annual audit plan will be completed by the end of the fiscal year.**

  This performance measure was met for FY23.

  Although approximately 59% of the FY22/FY23 plan was completed or was in process at the end of the fiscal year, audit resources were used to complete five additional projects: two unscheduled strategic reviews and three hotline complaint investigations. As such, these substitutions equate to an 88% completion rate.

  NOTE: Annual audit plans are designed to accommodate a 100% staffing level for the fiscal year. For the majority of FY23, the IAO was not fully staffed. Currently, the IAO is fully staffed and we continue to have high expectations of meeting or exceeding our performance goals each year.

- **By 2022, 50% of employees will successfully complete ethics training.**

  This performance measure was not met for FY23.

  Ethics training is one of the Human Resources Core Compliance Training topics required of all City employees at hire and on an annual basis. Employees obtain Ethics Training at orientation and via the City's LMS system, an online learning portal.

  As of June 30, 2023, there were 1,698 employees and LMS recorded Ethics training for 833 employees (49%).

- **By 2022, 75% of City employees surveyed will report that they agree or strongly agree that they work in an ethical climate.**

  This performance measure was met for FY23.

  The FY23 City-Wide Ethics Survey revealed that 77% of employees who completed the survey reported they agree or strongly agree that they work in an ethical climate.

- **Internal Audit will report audit recommendations provided to City Departments and agreed upon timeframes.**

  This performance measure was met for FY23.

  The IAO makes recommendations to correct deficiencies, prevent recurrence, and alleviate adverse effects on operations. Recommendations provide guidance and corrective actions for consideration by management to mitigate risk and enhance performance. When opportunities for cost recovery are identified, the IAO will make recommendations for collection or repayment of monies due to the City.

  Recommendation acceptance, the person(s) responsible for corrective action, and implementation timeframes are determined by management. This information is included in all final audit reports.

FY23 Completed Audit Projects	**Recommendations**
Juvenile Citation Program (JCP) Audit	9
FLSA Payroll and Training Requirements Audit	12
Municipal Court Indigent Defense Services Audit	15
2nd Compliance Review of ARPA Funding Eligibility Process	0
Payroll Issues for Municipal Court Judge II	2
Hotline Case # 141 - Theft of Goods / Services (Unsubstantiated)	0
Hotline Case # 159 - Theft of Time (Substantiated)	3
Hotline Case # 192 - Fraud (Unsubstantiated)	5
TOTAL:	**46**

INTERNAL AUDIT OFFICE STAFF BIOS

VIOLA M. PEREA – CITY AUDITOR

Viola has over 20 years of audit and accounting experience, the majority of which has been in the public sector. She has worked for the City of Las Cruces Internal Audit Office for 12 years and was promoted to City Auditor in November 2020. Viola holds a Bachelor of Accountancy and earned two professional designations as a Certified Internal Auditor (CIA) and a Certified Fraud Examiner (CFE).

RACHEL THIELEN – INTERNAL AUDITOR

Rachel joined the City of Las Cruces Internal Audit Office in February 2021 and has over 17 years accounting and audit experience. She holds a Master's degree in Accounting, a Bachelor's in Business Administration – Management Information Systems, and earned a professional designation as a Certified Internal Auditor (CIA).

VANESSA O. WILLIAMS – INTERNAL AUDITOR (CONTRACTS)

Vanessa has been with the City of Las Cruces for 6 years. She began working for the City's Finance Department in Treasury and joined the Internal Audit team in August 2021. Vanessa has over 14 years of accounting and audit experience. Vanessa holds a Bachelor of Accountancy and a Bachelor of Science / Management and is a retired member of the United States Air Force. She is currently studying for the CIA exam.

WILLIAM BLANCHARD – INTERNAL AUDITOR

Will has been with the City of Las Cruces for 4 years. He began working for the City's Budget Office and joined the Internal Audit team in April 2022 and has over 17 years of accounting and audit experience. Will holds a Bachelor of Accountancy and earned two professional designations as a Certified Public Accountant (CPA) and a Certified Internal Auditor (CIA).

ALMA RUIZ – INTENAL AUDITOR

Alma has been with the City of Las Cruces for 9 years. She began working for Las Cruces Utilities and joined the Internal Audit team in April 2023. She has over 9 year of audit experience and holds a Bachelor of Science in Business Management and Business Marketing. Alma will soon begin studying for the CIA exam.

All IAO staff are members of the Institute of Internal Auditors, Association of Local Government Auditors, and the Association of Certified Fraud Examiners. Training is attended by all staff throughout the fiscal year. Forty hours of continuing professional education (CPE) are required annually to maintain the CIA and CPA designations and the CFE designation requires 20 hours of CPE annually.

CONCLUSION

The Internal Audit Office staff made a strong effort in completing audit assignments in FY23. It is our goal to meet or exceed our performance measures in FY24 and we will continue to strive for excellence in our efforts to support City operations, City Council, City Management, and our Community.

Viola M. Perea

Viola M. Perea, CIA, CFE
City Auditor

Attachment A: Ethics Survey Results Summary (2014-2023)

ATTACHMENT A

City of Las Cruces Ethics Survey Results Summary 2014 - 2023

#	Survey Questions	2014 Base Year	2015	2016	2017	2018	2019 *No Neutral Response	2020 *No Neutral Response	2021	2022	2023	Change From Base Year To 2023 (% Rounded)	Change From 2022 to 2023 (% Rounded)
		310 Responses	509 Responses	506 Responses	483 Responses	510 Responses	362 Responses	396 Responses	604 Responses	531 Responses	393 Responses		
		Percentage of responses indicating Strongly Agree and Agree combined											
Q1:	I am familiar with the City of Las Cruces Ethics Code.	79%	86%	90%	91%	88%	95%	96%	89%	92%	90%	11%	-2%
Q2:	I know how to report unethical behavior.	75%	88%	89%	91%	90%	89%	91%	88%	91%	88%	13%	-3%
Q3:	Employees in my work group behave ethically in the workplace.	74%	77%	78%	76%	75%	83%	88%	83%	84%	81%	7%	-3%
Q4:	Employees in my work group can report any unethical behavior they see without fear of retaliation.	57%	68%	66%	65%	65%	70%	73%	69%	72%	68%	11%	-4%
Q5:	My values and the values of my department are similar.	67%	77%	75%	74%	74%	78%	82%	77%	82%	79%	12%	-3%
Q6:	Managers in my department insist that employees follow the laws and policies.	82%	82%	84%	82%	83%	90%	89%	86%	86%	83%	1%	-3%
Q7:	Managers in my department set a good example by following the laws and policies that apply to their jobs.	70%	74%	71%	75%	71%	77%	78%	74%	77%	76%	6%	-1%
Q8:	If I have an ethics complaint in my department, it will be handled fairly.	54%	66%	64%	65%	62%	71%	73%	64%	67%	63%	9%	-4%
Q9:	I am confident that quick and decisive action will be taken if wrongdoing is discovered in my work group or department.	56%	67%	62%	65%	59%	66%	67%	62%	66%	63%	7%	-3%
Q10:	The City's personnel policies are interpreted and used fairly by Managers in my department.	60%	73%	69%	71%	71%	76%	76%	72%	73%	70%	10%	-3%
Q11:	The City's personnel policies are interpreted and used fairly by Department Directors, Assistant City Managers, and the City Manager.	44%	59%	59%	64%	56%	63%	71%	58%	64%	64%	20%	1%
Q12:	I am proud to tell people that I work for the City of Las Cruces.	78%	83%	83%	86%	80%	88%	87%	83%	84%	86%	8%	2%
Q13:	I have a strong commitment to the City of Las Cruces as my employer.	87%	90%	94%	94%	92%	95%	94%	90%	91%	93%	6%	1%
Q14:	I am familiar with the City Manager's Policy on Fraud, Waste, and Abuse Prevention.	59%	84%	90%	90%	87%	84%	87%	78%	87%	89%	30%	2%
Q15:	The City's ethics policies are interpreted and used fairly by Managers in my department.	-	66%	63%	66%	64%	74%	78%	68%	76%	70%	4%	-6%
Q16:	I am familiar with the anonymous hotline system for reporting fraud, waste, and misuse of City resources.	-	83%	84%	88%	85%	84%	82%	74%	78%	80%	-3%	2%
Q17:	Overall, the ethical climate has improved in the last 12 months.	-	47%	52%	52%	42%	58%	71%	45%	46%	43%	-4%	-3%
Q18:	I believe there may be fraud, waste, and misuse of City resources in my work area.	-	-	16%	16%	16%	20%	19%	17%	13%	13%	-3%	0%
Q19:	I believe that I work in an ethical climate. (Prior wording: I strongly agree or agree that I work in an ethical climate.)	-	-	-	-	-	78%	81%	76%	77%	77%	-1%	-1%
Q20:	I feel listened to and my comments are valued by my Supervisor, Director, and the City Manager's Office.	-	-	-	-	-	-	-	-	66%	68%	1%	1%
Q21:	Supervisors, Managers, and Directors in my area show respect and support for employees in their Departments. (Prior wording: Supervisors, Managers, and Directors show respect and support for employees in their Departments.)	-	-	-	-	-	-	-	-	78%	76%	-2%	-2%
Q22:	I feel physically safe in my work space.	-	-	-	-	-	-	-	-	88%	89%	1%	1%
	No data indicates *Question was not surveyed in that year.												

Council Work Session Summary

Meeting: Work Session - Aug 14 2023

TITLE: FY23 OVERSIGHT COMMITTEE PRESENTATION.

PURPOSE(S) OF DISCUSSION: ☒ **Inform/Update** ☐ **Direction/Guidance** ☐ **Legislative Development/Policy**

BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS:
A presentation has been prepared to advise the City Council of the Oversight Committee's FY23 responsibilities and activities.

PLAN(S):
None

COMMITTEE/BOARD REVIEW:
None