

Jennifer McGuirk Multnomah County Auditor

Raymond De Silva
Nicole Dewees
Mandi Hood
Annamarie McNeil
Dorian Pacheco
Marc Rose
Mark Ulanowicz
Caroline Zavitkovski

May 11, 2022

Dear members of the Government Accountability Subcommittee,

I appreciate your thoughtful consideration of the Auditor's Office's proposed amendments to the Auditor portion of the Multnomah County Charter. Thank you for the opportunity to speak with you on May 12. In the event that there is not enough time on May 12 for us to go into depth on all of my office's key proposed amendments, I wanted to provide you with this written information in advance.

One of the things I was most struck by in the presentations on April 28 by several of my county colleagues was concern about changing the Charter. And I appreciate that. Change is really hard—but it is often necessary.

The changes my office is proposing to the Charter are extremely necessary. These proposed amendments will solidify best practices into our Charter to ensure the Auditor's continued independence. Establishing measures in the Charter at this time ensures that years from now the Auditor's Office will still be able to carry out its independent accountability function, regardless of administration. The reason to bring these proposals forth to voters now is to give our community a voice in what our county constitution says about the Auditor, and to provide greater transparency about the Auditor's role.

In this letter, I will review my office's proposals and provide counter points to the testimony you heard on April 28. When I meet with you, I will cover key points contained in this document. I've provided the following links to help you move to specific sections of this document.

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501 SE Hawthorne Blvd., Room 601 Portland, OR 97214 503-988-3320
mult.auditor@multco.us multco.us/auditor

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Enforcement - removing proposed amendment from consideration

I have talked about this proposal with this Subcommittee and the Safety & Justice Subcommittee; listened closely to your conversation with Gary Blackmer, former County Auditor, Portland Auditor, and State Auditor; had my own conversation with him and my Community Advisory Committee; and have talked with my team. Based on these conversations, I wish to remove from consideration the proposed amendment that reads as follows:

Ensuring the implementation of their office's recommendations.

Fraud, Waste, & Abuse Hotline and Ombudsman

The proposed hotline language is based on state law, and the ombudsman language is based on the City of Portland Charter. Neither establishing the hotline in County Charter nor creating an ombudsman has any implications for the Chair's role. Neither tool for accountability gives my office the ability to discipline county employees, nor does my office seek that power. My office's role with the hotline, and if established, with the ombudsman, is to receive complaints, investigate them, and recommend improvements and/or corrective actions.

Portland Ombudsman Margie Sollinger provided helpful written testimony to this Subcommittee noting that the proposal does not conflict with existing protocols for conducting personnel investigations. She wrote: "In the simplest terms, ombuds investigations are about issues not people. We assess the fairness of an administrative act in relation to its impact on community members. We are not looking to assign individual culpability. Ombuds investigations result in recommendations about how to correct a wrong or improve a practice - we do not have the power to impose discipline."

I hope this Subcommittee will support giving voters the opportunity to vote on establishment of a county ombudsman in Charter.

I also ask you to give county voters the opportunity to vote on establishing the fraud, waste, and abuse hotline in Charter. I appreciate that Chief Operating Officer Cruz mentioned on April 28 that management would support having the hotline in Charter or in Code if it were properly scoped. My office developed language based very closely on the state law for local hotlines, which I believe should satisfy concerns.

Auditor's access to information needs to be protected and clarified

Currently, there is a spectrum of responsiveness to my office's information requests. Many programs are very responsive and provide information quickly and within our requested time period. We also adjust time frames, as needed, in collaboration with programs. Previously, I mentioned the difficulty we had obtaining access to Workday. But that is just one example of the challenges my office faces to obtaining information. Other examples include:

- Following a change in directors at Animal Services, our physical access to the shelter was reduced, and it took two months and multiple meetings to get the data access we needed. If our access to information were spelled out in Charter, changes in management personnel would be less likely to negatively impact our access to information.
- For our current audit of the Joint Office of Homeless Services, we did not receive the access we needed by our requested date to a system that contains data already reported to the U.S. Department of Housing and Urban Development. We learned that Joint Office staff asked the County Attorney's Office if we could access this Joint Office data. The County Attorney's review delayed our access and the start of an audit into a critical topic. If our access to data were spelled out in Charter, it is probable that we would not have experienced that delay.

While generally we do end up receiving the information we need, it is not uncommon for our requests to be questioned and delayed by weeks or months, which takes time away from our actual audit work, and adds to the workload of county staff who may be unclear about what they can and cannot share. Having access to information clearly spelled out in the Charter would reduce confusion with staff and minimize delays.

I also want to acknowledge Sheriff Reese's concern about access to sensitive data, such as data that falls under the Health Information Portability and Accountability Act or Criminal Justice Information Services. The proposed amendment does not remove protections that safeguard sensitive data. Auditor's staff will continue to follow all protocols for access to sensitive information, including additional background checks where required. My staff and I regularly take training to ensure our compliance with laws and best practices governing the use of personally identifiable information, health information, and other sensitive data. Staff in the Auditor's Office are experts in data analysis and take great pains to safeguard all data and information we obtain in our work.

The amendment also includes language specifying that my office will not disclose confidential information and shall maintain the confidentiality of the provider of information except as required by state law or authorized by the Board of County Commissioners.

Having this language in Charter will ensure the Auditor's access to information so that we can do our work efficiently on the public's behalf. I ask you to give voters the opportunity to vote on adding this language to the Charter.

Proposed budget floor addresses Auditor's Office's capacity and a threat to Auditor independence

My office's capacity to audit the county has not kept pace as the county has grown in size and complexity. Since 2014, the county's general fund expenditures budget has grown from \$414 million to \$638 million. During that same time period, the number of county employees has grown 15%.

County government functions have grown significantly, including creation of the Joint Office of Homeless Services, and the new Preschool for All program. And the county takes on important and complex projects regularly, like making the Burnside Bridge earthquake ready and building the Behavioral Health Resource Center.

Performance audits lead to real improvements for county employees and the public we serve. For example, one of the recommendations from our 2019 audit of county primary care clinics was for management to develop procedures to ensure that all patients are notified timely of any abnormal lab results, such as a diagnosis of hepatitis C. Based on our recommendation, the Medical Director's Office strengthened procedures to ensure patients find out about abnormal lab results quickly. That's an important improvement for individual health care and public health.

Performance audits also provide transparency to the public about how the government spends taxpayer dollars. For example, our audit of how the county spent millions of dollars in pandemic-related funds enabled people to drill down into different spending categories to see which community-based organizations received dollars through the county and the kinds of things dollars went to. We also affirmed that the county appeared to spend the dollars in alignment with its stated commitment to leading with race.

Other audit outcomes have given Commissioners better insight into how the county spends state grants for mental health treatment, supported increased reimbursements from the Federal Emergency Management Agency, saved millions of dollars related to county mobile devices, helped recoup fraud losses, and have led to better internal controls governing payments to vendors.

The U.S. Government Accountability Office sets the generally accepted government auditing standards that Charter requires my office to follow. And in those standards, there is an in-depth discussion of auditor independence.

Multnomah County's audit structure is solid, because the Auditor is independently elected. But, there is another kind of independence threat that having an elected auditor does not mitigate. This is an undue influence threat. These include restrictions on funds or other resources provided to the audit organization that adversely affect the auditor's ability to carry out our responsibilities. That is the threat we are seeking to mitigate by defining the funds that will be made available to the Auditor's Office, removing the Chair from making that decision.

Commissioner Jayapal expressed reservations about putting numbers in the Charter. However, the Charter already includes numbers. For example, the Charter says the Auditor's salary will be 80% of a circuit court judge's, which makes the Auditor a neutral party when it comes to setting the salaries of other county elected officials.

What my office is proposing is not new, is not unusual, and has been proven workable. A percent allocation is a way that a number of jurisdictions have chosen to budget for their accountability and oversight functions, primarily Offices of Inspector General and Auditor's Offices. For example:

- In its model legislation, the Association of Local Government Auditors notes some jurisdictions require that the audit function receive a minimum specific percentage of the annual budget.
- The City of Portland's voter-approved police oversight board requires that no less than 5% of the Police Bureau's Annual Operational Budget be dedicated to the board's operations.
- The Cities and Towns Act of Canada supports local government auditor independence through a funding allocation written into the legislation.
- The New Orleans' Charter includes that the Office of Inspector General shall receive an annual appropriation from the Council in an amount not less than 0.75% (three-quarters of one percent) of the General Fund operating budget.

Under current funding levels, my office is not able to provide the audit service to the county that is implied in Charter. The Charter states that the Auditor is to conduct performance audits of all county operations and financial affairs. I have an extremely skilled, dedicated team. But there is still no way for seven staff auditors to meet this mandate, or frankly, to even come close.

The April 28 presentation implied that increases to the Auditor's Office's budget would necessarily lead to decreases in key areas such as eliminating the Elections Division, reducing the number of available jail beds, and cutting 400 emergency shelter beds. These are provocative and alarming examples, and I do not believe they represent what would actually happen. A key function of the Auditor's accountability role is to help ensure that vital services are delivered to historically under-resourced communities and that people across the county can access general government services. If the Chair actually proposed cutting the Elections Division, for example, my team and I would be required to sound the alarm.

I acknowledge that there are always tradeoffs in budgeting; this happens every time a program is created or expanded. But the fact is, there are other areas of flexibility that play out every year: vacant positions go unfilled, departments shift dollars around, the county chooses to discontinue or reduce programs, and there are unspent general fund expenditures at the end of the year. For example, for the fiscal year that ended June 2020, general fund expenditures were \$50 million less than budgeted, and about \$8 million of this was within the Non-departmental area, which includes the Auditor's Office. For the fiscal year that ended in June 2021, general fund expenditures were \$62 million less than budgeted, and over \$5 million of this was within the Non-departmental area.

We value all the work that the county does. We are not saying we are any more or less important than any other county function. What we are saying is that we do not have the resources to keep pace with the expanding complexity and scope of the county. We also currently have a system that presents an

undue influence threat to the Auditor's independence; the Chair's participation in setting the Auditor's budget creates an undue influence threat to the Auditor's office.

Auditor's experience with the current budget process

Each year, I submit the Auditor's Office's proposed budget directly to the County Chair, the head of the organization my office audits. The Chair then decides what will move forward into the county's proposed budget. The Commissioners are not involved in this process. This all takes place before the budget deliberations officially begin. It is extremely difficult, if not impossible, to get items added to the budget after the Chair releases her proposed budget.

Because this was an area of discussion at the April 28 meeting, I want to clarify that my office does not have its own Community Budget Advisory Committee. There is a Non-departmental Community Budget Advisory Committee at the county, but it does not just serve my office; it serves all non-departmental offices. My office has no assurance that the Non-departmental Community Budget Advisory Committee will include us in its deliberations. It did not meet with my office during the budget process for fiscal year 2022. Also, the county's Audit Committee does not work for or advise my office. The Audit Committee serves the Board and is solely focused on the annual financial audit that is conducted by an external auditor and is required by state law. County management is the auditee, and my office holds the contract to provide for separation of duties.

During the April 28 presentation, Chair Kafoury asked if my office has ever made budget proposals, called program offers, that have not been funded. Until this year, the Chair has not included any new program offers from the Auditor's Office in her proposed budget.

For fiscal year 2020, I proposed a program offer that would enable my office to hire an auditor who was skilled in the discipline of diversity, equity, and inclusion, and to enable my office to participate in the College to County internship program. The proposed offer was for \$175,000. Chair Kafoury declined to include this program offer in her proposed budget.

Once budget deliberations officially began, I met with Commissioners to see if any would support the program offer. All declined. Two told me that they needed to support more pressing needs, and that my office could not compete with the other matters coming before them. When budget deliberations start it is extremely difficult to add expenditures to the budget, even when they are needed to keep the county's accountability office — that is, the Auditor's Office — effective.

When preparing the budget for fiscal year 2021, I tried a different approach to try to start improving my office's capacity. I again proposed a program offer to enable my office to participate in the College to County program and also to contract with a firm to enhance my office's regular county culture survey that is sent to all county employees. This latter part of our request built off of work by County Management's Evaluation and Research Unit when they contracted with an expert in culturally

responsive methods. For this program offer, I requested \$33,000. I also proposed a program offer to pilot a 24-month limited duration community engagement position. For that program offer, I requested \$115,000. I had to work with the Chair’s Office to develop these program offers, which was inappropriate due to our office’s roles, but was also my only option. The Chair declined to include the proposals in her proposed budget.

This table summarizes the requests my office has made in recent years and whether they were funded.

Budget Requests	FY2020	FY2021	FY2022	FY2023 (proposed)
Funded				
Auditor's Office	1,798,230	1,813,892	1,877,700	1,971,440
Restoration to baseline	60,240	14,851		
Building Audit Capacity				661,000
Software				100,000
Not Funded				
Advancing Equity & Inclusion	175,000			
Aligning with WESP		33,000		
Community Engagement		115,000		

I want to acknowledge that for fiscal year 2023, Chair Kafoury has included increases to my office’s budget in her proposed budget. If included in the final adopted budget, I will be able to hire four staff auditors, and my office will receive about 0.39% of the general fund expenditures budget, compared with the 0.29% we received this year. My office still won’t have the capacity to provide the oversight the county deserves, but we will be getting closer.

Chair Kafoury directed me to structure the program offer to hire additional staff auditors as a two-year ask. In year two, I would request five additional staff auditors. But there will be a new County Chair when I develop that proposal. And there is no guarantee that the two-year plan proposed by Chair Kafoury will actually become a two-year capacity increase for my office. There is no guarantee that my office will have this support in future years.

While I am grateful that my office will be getting closer to a more appropriate level of staffing for a jurisdiction of our size and complexity, the process I had to work through to get to this point is in direct conflict with generally accepted government auditing standards and the model legislation for local government auditors. While Chair Kafoury stated that this current process is more aligned with the model legislation than what my office is proposing, that is incorrect. The Chair’s participation in setting my office’s budget creates an undue influence threat to my office, as I described earlier. What my office is proposing is much more closely aligned with the model legislation.

1% to provide best possible accountability service

During the April 28 presentation, it was suggested that the proposed 1% was an arbitrary number. This is false. My office performed a great deal of analysis and research to arrive at the proposed 1% of the general fund expenditures budget, based on a five-year rolling average, so that we can provide what we believe is the best accountability service to the public. It would offer the public:

- 21 auditors able to focus on specific service areas (health, human services, public safety, internal operations, financial affairs, general government, and capital projects)
- 2 hotline investigators
- 2 ombudsman
- 2 communications/community engagement staff members to help ensure the public is aware of the work being done in the Auditor’s Office and to ensure culturally appropriate opportunities exist for community members to meaningfully participate in audits.
- With the elected Auditor and 1 administrative assistant, the Auditor’s Office would have a staff of less than 30 people. As a point of comparison, the office would be on par with the County Attorney’s Office, which has 26 staff members, including 19 attorneys.

1% is not the only option

However, if the Subcommittee has concerns about an allocation at that level, we have prepared other formulas for your consideration:

	If Auditor's Office received ...			1% of general fund expenditures budget on annual basis	0.75% of general fund expenditures budget on annual basis	0.50% of general fund expenditures budget on annual basis
	1% of general fund expenditures budget on 5-year rolling average	0.75% of general fund expenditures budget on 5-year rolling average	0.50% of general fund expenditures budget on 5-year rolling average	1% of general fund expenditures budget on annual basis	0.75% of general fund expenditures budget on annual basis	0.50% of general fund expenditures budget on annual basis
	Basis: FY19-FY22 actuals & FY23 proposed			Basis: FY23 proposed		
Total to Auditor	\$ 6,125,929	\$ 4,594,447	\$ 3,062,965	\$ 6,713,759	\$ 5,035,319	\$ 3,356,880
elected auditor	1	1	1	1	1	1
staff auditors	21	17	9	24	19	11
hotline investigators	2	1	1	2	1	1
ombudsman	2	1	1	2	1	1
communications & engagement staff	2	1	1	2	1	1
administrative staff	1	1	1	1	1	1
Total Staffing	29	22	14	32	24	16

Note: The above scenarios reflect salary, taxes, benefits, and other applicable personnel costs. Typically, personnel-related costs are about 80% of the Auditor’s Office’s budget. The remainder of the budget covers materials and supplies, required internal services fees, and the majority of fees associated with the state-required annual external financial audit. The Auditor’s Office holds this contract to support the audit’s integrity; county management is the auditee.

My office has proposed 1% of the general fund expenditures budget, on a five-year rolling average, as the method for ensuring the Auditor’s best ongoing service to the public. But stable funding at any of the above levels would meet the central goals of my office’s budget proposal:

1. to remove the undue influence threat that currently exists in the county’s budget process and weakens the Auditor’s independence, and

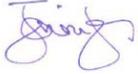
2. to ensure that the Auditor's Office grows proportionally to the county so that we can provide appropriate oversight to the public.

People in our county have repeatedly shown their support for government auditing. For example, in May 2017, more than 80% of Portland voters voted to amend their Charter to support the Portland Auditor's increased independence. Priorities change, emergencies come and go, but the public has always demanded accountability. This is a consistency in what people want out of government. The budget is a reflection of values and the people of Multnomah County should have an opportunity to weigh-in on funding for accountability and oversight.

I firmly believe that voters should get the chance to weigh in on these proposals. I hope you will give them the opportunity to do so.

Thank you for your consideration, and I look forward to talking with you on May 12.

Sincerely,



Jennifer McGuirk, MPA, CIA
Multnomah County Auditor