

**CITY OF BALTIMORE**  
**ORDINANCE \_\_\_\_\_**  
**Council Bill 16-0699**

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Introduced by: Councilmember Costello, President Young, Councilmembers Middleton, Henry, Clarke, Holton, Scott, Mosby, Branch, Stokes, Kraft

Introduced and read first time: June 20, 2016

Assigned to: Judiciary and Legislative Investigations Committee

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Committee Report: Favorable with amendments

Council action: Adopted

Read second time: July 18, 2016

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**A RESOLUTION OF THE MAYOR AND CITY COUNCIL CONCERNING**

1 **Charter Amendment – Biennial Agency Audits**

2 FOR the purpose of transferring and amending the section certain provisions on agency audits; ~~to~~  
3 require requiring that the City Auditor conduct ~~performance~~ audits of principal agencies at  
4 least twice during every 4-year term of the Mayor and City Council; adding to the list of  
5 principal agencies subject to these audits; establishing a staggered schedule for these audits;  
6 ~~redefining certain terms~~; providing for public posting of audit reports; establishing a Biennial  
7 Audits Oversight Commission and providing for its powers and duties; conforming related  
8 references; and submitting this amendment to the qualified voters of the City for adoption or  
9 rejection.

10 BY proposing to amend

11 Article V - Comptroller  
12 Section 8(a)  
13 Baltimore City Charter  
14 (1996 Edition)

15 BY proposing to add

16 Article V - Comptroller  
17 Section 11  
18 Baltimore City Charter  
19 (1996 Edition)

20 BY proposing to amend repeal

21 Article VII - Executive Departments  
22 Section 4.5  
23 Baltimore City Charter  
24 (1996 Edition)

25 **SECTION 1. BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF BALTIMORE,** That the  
26 City Charter is proposed to be amended to read as follows:

**EXPLANATION:** CAPITALS indicate matter added to existing law.  
[Brackets] indicate matter deleted from existing law.  
Underlining indicates matter added to the bill by amendment.  
~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from existing law by amendment.

Council Bill 16-0699

Baltimore City Charter

Article V. Comptroller

§ 8. Department of Audits – general powers and duties.

(a) In general.

In accordance with generally accepted government auditing standards and State and federal law, the City Auditor:

(1) shall at appropriate intervals conduct an audit of the financial transactions of every municipal agency, except the Department of Audits;

(2) shall conduct an annual audit of all accounts, revenues, and receipts of the City;

(3) SHALL CONDUCT BIENNIAL AUDITS OF PRINCIPAL AGENCIES, AS PROVIDED IN § 11 OF THIS ARTICLE;

(4) [(3)] may audit the expenditure of City-granted funds by any public or private agency that receives such funds;

(5) [(4)] may audit City contracts, grants, subgrants and other agreements as required by the terms and conditions of these instruments and, when the contracts, grants, subgrants and other agreements require that audits be conducted by other auditors, review such audits; and

(6) [(5)] shall make such other audits as the Comptroller or the Board of Estimates may request[;], provided[, ] that[, such] THOSE requested audits [shall] DO not, in the judgment of the City Auditor, unduly hinder the performance of regular audits.

§ 11. DEPARTMENT OF AUDITS – BIENNIAL AUDITS OF PRINCIPAL AGENCIES.

(A) DEFINITIONS.

(1) IN GENERAL.

IN THIS SECTION, THE FOLLOWING TERMS HAVE THE MEANINGS INDICATED.

(2) AUDIT.

(i) “AUDIT” MEANS AN AUDIT UNDERTAKEN IN ACCORDANCE WITH GENERALLY ACCEPTED GOVERNMENT AUDITING STANDARDS AND FEDERAL AND STATE LAW.

(ii) “AUDIT” INCLUDES BOTH:

(A) A FINANCIAL AUDIT OF A PRINCIPAL AGENCY’S FINANCIAL TRANSACTIONS, INCLUDING ALL REVENUES AND RECEIPTS; AND

**Council Bill 16-0699**

1 (B) A PERFORMANCE AUDIT THAT ASSESSES A PRINCIPAL AGENCY’S PRACTICES  
2 TO DETERMINE WHETHER THE AGENCY IS OPERATING ECONOMICALLY AND  
3 EFFICIENTLY AND WHETHER CORRECTIVE ACTIONS FOR IMPROVING ITS  
4 PERFORMANCE ARE APPROPRIATE.

5 (3) PRINCIPAL AGENCY.

6 “PRINCIPAL AGENCY” MEANS ANY OF THE FOLLOWING EXECUTIVE DEPARTMENTS:

7 (i) GROUP A –

- 8 1. DEPARTMENT OF FINANCE.
- 9 2. DEPARTMENT OF PUBLIC WORKS.
- 10 3. FIRE DEPARTMENT.
- 11 4. DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT.
- 12 5. DEPARTMENT OF GENERAL SERVICES.
- 13 6. BALTIMORE DEVELOPMENT CORPORATION.
- 14 7. MAYOR’S OFFICE OF INFORMATION TECHNOLOGY (OR SUCCESSOR ENTITY  
15 TO THIS OFFICE).
- 16 8. MAYOR’S OFFICE OF HUMAN SERVICES (OR SUCCESSOR ENTITY TO THIS  
17 OFFICE).

18 (ii) GROUP B –

- 19 1. DEPARTMENT OF LAW.
- 20 2. DEPARTMENT OF HUMAN RESOURCES.
- 21 3. DEPARTMENT OF TRANSPORTATION.
- 22 4. POLICE DEPARTMENT.
- 23 5. DEPARTMENT OF RECREATION AND PARKS.
- 24 6. DEPARTMENT OF PLANNING.
- 25 7. DEPARTMENT OF HEALTH.
- 26 8. MAYOR’S OFFICE OF EMPLOYMENT DEVELOPMENT (OR SUCCESSOR ENTITY  
27 TO THIS OFFICE).

**Council Bill 16-0699**

1 (B) BIENNIAL AUDIT REQUIRED.

2 (1) IN GENERAL.

3 AT LEAST TWICE DURING EVERY 4-YEAR TERM OF THE MAYOR AND CITY COUNCIL,  
4 THE CITY AUDITOR SHALL CONDUCT AN AUDIT OF EACH PRINCIPAL AGENCY'S  
5 OPERATIONS FOR THE PRECEDING 2 FISCAL YEARS.

6 (2) STAGGERED SCHEDULE.

7 THESE AUDITS SHALL BE STAGGERED SO THAT:

8 (I) AUDITS OF THE PRINCIPAL AGENCIES LISTED IN SUBSECTION (A)(3)(I) AS  
9 "GROUP A" ARE INITIATED IN ODD-NUMBERED CALENDAR YEARS; AND

10 (II) AUDITS OF THE PRINCIPAL AGENCIES LISTED IN SUBSECTION (A)(3)(II) AS  
11 "GROUP B" ARE INITIATED IN EVEN-NUMBERED CALENDAR YEARS.

12 (C) COSTS OF AUDIT.

13 IN EACH FISCAL YEAR PRECEDING THE FISCAL YEAR IN WHICH AUDITS ARE TO BE  
14 CONDUCTED UNDER THIS SECTION, THE COMPTROLLER SHALL INCLUDE THE COSTS OF  
15 THOSE AUDITS IN THE ESTIMATES THAT THE COMPTROLLER SUBMITS FOR THE NEXT  
16 YEAR'S ORDINANCE OF ESTIMATES.

17 (D) STATUS OF PRIOR RECOMMENDATIONS.

18 (1) IN GENERAL.

19 EACH REPORT OF AN AGENCY AUDIT CONDUCTED UNDER THIS SECTION SHALL  
20 INCLUDE AN ANCILLARY REPORT ON THE STATUS OF ALL RECOMMENDATIONS FOR  
21 EXECUTIVE ACTION THAT RESULTED FROM THAT AGENCY'S IMMEDIATELY PRECEDING  
22 AUDIT UNDER THIS SECTION.

23 (2) CONTENT OF REPORT.

24 THE ANCILLARY REPORT SHALL:

25 (I) DESIGNATE EACH RECOMMENDATION'S STATUS EITHER AS "IMPLEMENTED",  
26 "PARTIALLY IMPLEMENTED", OR "NOT IMPLEMENTED"; AND

27 (II) PROVIDE JUSTIFICATION FOR THE STATUS DESIGNATION ASSIGNED.

28 (E) PUBLICATION OF REPORTS.

29 REPORTS OF ALL AUDITS CONDUCTED UNDER THIS SECTION SHALL BE:

30 (1) POSTED ON A PUBLIC WEBSITE MAINTAINED BY THE CITY COMPTROLLER;

31 (2) FILED WITH THE DEPARTMENT OF LEGISLATIVE REFERENCE; AND

**Council Bill 16-0699**

1           (3) SUBMITTED TO EACH MEMBER OF:

2                   (I) THE BOARD OF ESTIMATES;

3                   (II) THE CITY COUNCIL; AND

4                   (III) THE BIENNIAL AUDITS OVERSIGHT COMMISSION.

5       (F) BIENNIAL AUDITS OVERSIGHT COMMISSION.

6           (1) COMMISSION ESTABLISHED.

7                   THERE IS A BIENNIAL AUDITS OVERSIGHT COMMISSION.

8           (2) COMPOSITION.

9                   THE COMMISSION COMPRISES THE FOLLOWING 7 MEMBERS:

10                   (I) THE DIRECTOR OF FINANCE;

11                   (II) THE INSPECTOR GENERAL;

12                   (III) THE COMPTROLLER;

13                   (IV) THE CITY COUNCIL PRESIDENT; AND

14                   (V) 3 MEMBERS OF THE CITY COUNCIL, APPOINTED BY THE CITY COUNCIL  
15                   PRESIDENT.

16           (3) OFFICERS.

17                   (I) THE CITY COUNCIL PRESIDENT SHALL DESIGNATE 1 OF THE MEMBERS TO SERVE AS  
18                   CHAIR OF THE COMMISSION.

19                   (II) THE MEMBERS OF THE COMMISSION, BY MAJORITY VOTE, MAY ELECT ANY OTHER  
20                   OFFICERS THAT THEY CONSIDER NECESSARY OR APPROPRIATE.

21           (4) MEETINGS; VOTING.

22                   (I) THE COMMISSION SHALL MEET AT THE CALL OF THE CHAIR AS FREQUENTLY AS  
23                   REQUIRED TO PERFORM ITS DUTIES.

24                   (II) 4 MEMBERS OF THE COMMISSION CONSTITUTE A QUORUM FOR THE TRANSACTION  
25                   OF BUSINESS.

26                   (III) AN AFFIRMATIVE VOTE OF AT LEAST 4 MEMBERS IS NEEDED FOR ANY OFFICIAL  
27                   ACTION.

Council Bill 16-0699

1 (5) PROCEDURES.

2 THE COMMISSION MAY ADOPT RULES OF PROCEDURE TO GOVERN ITS MEETINGS AND  
3 OPERATIONS.

4 (6) POWERS AND DUTIES.

5 THE COMMISSION:

6 (I) SHALL PROVIDE GUIDANCE AND ADVICE TO THE CITY AUDITOR IN  
7 DETERMINING THE SCOPE OF A PRINCIPAL AGENCY’S PERFORMANCE AUDIT;

8 (II) SHALL HOLD AT LEAST 2 PUBLICLY ADVERTISED MEETINGS A YEAR, AT WHICH  
9 MEETINGS THE CITY AUDITOR SHALL APPEAR AND REPORT ON THE STATUS OF  
10 THE AUDITS AND RECOMMENDATIONS UNDER THIS SECTION; AND

11 (III) FOR GOOD CAUSE SHOWN BY A PRINCIPAL AGENCY, MAY WAIVE THE  
12 REQUIREMENT FOR A FINANCIAL AUDIT TO BE CONDUCTED UNDER THIS  
13 SECTION.

14 **Article VII. Executive Departments**

15 ~~§ 4.5. Agency audits.~~

16 ~~(a) Definitions.~~

17 ~~(1) General.~~

18 In this section, the following terms have the meanings indicated:

19 ~~(2) Audit.~~

20 ~~[(i) “Audit” means [an] A PERFORMANCE audit [undertaken] THAT, in accordance~~  
21 ~~with generally accepted government auditing standards and federal and state law[.],~~

22 ~~[(ii) “Audit” includes both: (A) a financial audit of an agency’s financial transactions,~~  
23 ~~including all accounts, revenues, and receipts; and (B) a performance audit that]~~  
24 ~~assesses an agency’s practices to determine whether the agency is operating~~  
25 ~~economically and efficiently and whether corrective actions for improving its~~  
26 ~~performance are appropriate.~~

27 ~~(3) Principal agency.~~

28 ~~“Principal agency” means any of the following executive departments:~~

29 ~~(i) GROUP A=~~

30 1. ~~[(i)] Department of Finance.~~

31 2. ~~[(iii)] Department of Public Works.~~

Council Bill 16-0699

- 3. ~~[(iv)] Fire Department.~~
- 4. ~~[(vi)] Department of Housing and Community Development.~~
- 5. ~~[(x)] Department of General Services.~~
- 6. ~~[(vii)] Baltimore Development Corporation.~~
- 7. ~~[(xiii)] Mayor’s Office of Information Technology.~~
- 8. ~~MAYOR’S OFFICE OF HUMAN SERVICES.~~

~~(II) GROUP B—~~

- 1. ~~[(ii)] Department of Law.~~
- 2. ~~[(xii)] Department of Human Resources.~~
- 3. ~~[(ix)] Department of Transportation.~~
- 4. ~~[(v)] Police Department.~~
- 5. ~~[(viii)] Department of Recreation and Parks.~~
- 6. ~~[(xi)] Department of Planning.~~
- 7. ~~DEPARTMENT OF HEALTH.~~
- 8. ~~MAYOR’S OFFICE OF EMPLOYMENT DEVELOPMENT.~~

~~(b) [Quadrennial] BIENNIAL audit required.~~

~~(1) IN GENERAL:~~

~~At least [once] TWICE during every 4-year term of the Mayor and City Council, [each principal agency] THE CITY AUDITOR shall [arrange for] CONDUCT an audit of [its] EACH PRINCIPAL AGENCY’S operations for the preceding [4] 2 fiscal years.~~

~~(2) STAGGERED SCHEDULE:~~

~~THESE AUDITS SHALL BE STAGGERED SO THAT:~~

~~(i) AUDITS OF THE PRINCIPAL AGENCIES LISTED IN SUBSECTION (A)(3)(I) AS “GROUP A” ARE INITIATED IN EVEN-NUMBERED CALENDAR YEARS; AND~~

~~(ii) AUDITS OF THE PRINCIPAL AGENCIES LISTED IN SUBSECTION (A)(3)(II) AS “GROUP B” ARE INITIATED IN ODD-NUMBERED CALENDAR YEARS.~~

Council Bill 16-0699

1 ~~{(c) By whom to be conducted.}~~

2 ~~{The audit shall be conducted by:~~

3 ~~(1) the City Auditor; or~~

4 ~~(2) an independent certified public accountant or firm of certified public~~  
5 ~~accountants.}~~

6 ~~(c) [(d)] Costs of audit.~~

7 ~~In each fiscal year preceding the fiscal year in which an audit is to be conducted under~~  
8 ~~this section, the [principal agency] BOARD OF ESTIMATES shall include the costs of [the]~~  
9 ~~EACH audit TO BE CONDUCTED in the [estimates that it submits for the] next year's~~  
10 ~~Ordinance of Estimates.~~

11 ~~(D) {RESERVED}~~

12 ~~(e) Reports.~~

13 ~~Reports of ALL audits conducted under this [subtitle] SECTION shall be:~~

14 ~~(1) POSTED ON A PUBLIC WEBSITE MAINTAINED BY THE CITY COMPTROLLER; AND~~

15 ~~(2) submitted to:~~

16 ~~(i) THE BOARD OF ESTIMATES; AND~~

17 ~~{(1) the Mayor;}~~

18 ~~{(2) the City Comptroller; and}~~

19 ~~{(3) the President of the City Council.}~~

20 ~~(ii) EACH MEMBER OF THE CITY COUNCIL.~~

21 SECTION 2. AND BE IT FURTHER RESOLVED, That City Charter Article VII, § 4.5 is  
22 proposed to be repealed, in its entirety.

23 SECTION 2 3. AND BE IT FURTHER RESOLVED, That the first group of audits under this  
24 amendment shall be initiated in January 2017.

25 SECTION 3 4. AND BE IT FURTHER RESOLVED, That this proposed amendment to the City  
26 Charter be submitted to the legal and qualified voters of Baltimore City, for adoption or  
27 rejection, in accordance with Article XI-A, § 5 of the Maryland Constitution, in the form  
28 specified by the City Solicitor.

**Council Bill 16-0699**

Certified as duly passed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_

\_\_\_\_\_  
President, Baltimore City Council

Certified as duly delivered to Her Honor, the Mayor,  
this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_

\_\_\_\_\_  
Chief Clerk

Approved this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_

\_\_\_\_\_  
Mayor, Baltimore City

