

CHAPTER 6

GOVERNMENT ACCOUNTABILITY

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CHAPTER 6

GOVERNMENT ACCOUNTABILITY

601. General Statement. County officers, elected or appointed, and employees have a duty of loyalty and a duty of care in fulfilling their public trust in government service. These duties mandate knowledge of and compliance with federal and State laws and regulations as well as County ordinances, and administrative regulations. The duty of compliance extends to all County operations, including, but not limited to, accounting, purchasing, contracting, delivery of services, and required reporting.

602. Definitions. For the purpose of administering this chapter, the following definitions apply:

.1 *Audit.* In general, an assessment of information aimed to provide insight and determine the accuracy of information and/or to propose recommendations to improve. This would include audits, reviews, agreed upon procedures, and monitorings. It can be financial, compliance, operational, or investigative based and may vary significantly depending on the department and the objective of the auditor.

a. Financial audits evaluates the fairness, accuracy, and reliability of financial data and determines whether it is presented in accordance with stated criteria. The auditor only considers internal controls relevant to the preparation and fair presentation of the financial statements to design appropriate audit procedures.

b. Compliance audits seek to determine if departments are adhering to Federal, state, County, and other regulatory agencies' laws, rules, regulations, and policies. The adequacy of internal controls is typically assessed for the purpose of expressing an opinion on the effectiveness of the internal controls.

c. Operational audits examine the use of County resources to evaluate whether those resources are being utilized in the most efficient and effective way to fulfill the department's mission and objectives. Financial data and internal controls may be used, but the primary objective is to improve performance.

d. Investigative audits focus on alleged violations of laws, regulations, or policies. This typically takes place as a result of a report of unusual or suspicious activity and usually focuses on specific aspects.

.2 *Auditor.* An agency or person who conducts an audit, review, agreed upon procedure, or monitoring.

.3 *Audit Scope.* The focus, extent, and boundary of a particular audit, review, agreed upon procedure, or monitoring.

.4 *Fraud.* A false or misleading statement or action, or concealment of something that should be disclosed, which is intended to deceive, that results in the direct or indirect benefit of an individual to the detriment of another person or the County.

.5 *Waste.* The intentional or unintentional, thoughtless or careless expenditure, consumption, mismanagement, use, or squandering of resources owned or operated by the County. Waste also includes incurring unnecessary costs because of inefficient or ineffective practices, systems, or controls.

.6 *Abuse.* The excessive or improper use of something, in a matter contrary to the natural or legal rules for its use; the intentional destruction, diversion, manipulation, misapplication, maltreatment, or misuse of resources owned or operated by the County; or extravagant or excessive use so as to abuse one's position or authority.

603. Fraud, Waste, and Abuse. The County strongly encourages each employee to take steps to prevent and report fraud, waste, and abuse. Fraud, waste, and abuse is a very broad term that can affect the County in many different ways to any extent that County resources are involved or impacted. It can be committed by a single individual or in collusion with others, internally or externally, including but not limited to employees,

departments, vendors, contractors, clients, and associates. Examples of fraud, waste, and abuse activities include, but are not limited to the following:

- Misappropriation or theft of funds, records, supplies, property, or other assets.
- Alteration or falsification of records.
- Knowingly providing false information.
- Misuse of time or submitting a fraudulent time card.
- Willful destruction or damage of property or records.
- Neglect of job responsibilities.
- Misuse of authority for personal gain.

604. Fraud Protocol. The Auditor-Controller is authorized to establish and maintain a hotline to receive calls from individuals who have information regarding fraud, waste, and abuse. The Auditor-Controller shall hold in confidence information disclosed through the hotline, including the identity of the caller disclosing information and the parties identified by the caller. The Auditor-Controller is responsible for conducting the investigation and keeping the investigation confidential.

.1 Hotline. The Kern County Fraud and Ethics Hotline is a toll-free 24 hour telephone hotline (1-800-620-6947). Individuals are encouraged to call this phone number to anonymously report allegations of fraud, waste, and abuse. This hotline is administered through a professional third-party corporation.

.2 Protocol for Handling Allegations Received by the Auditor-Controller. All fraud tips received by the Auditor-Controller may be investigated by the Auditor-Controller, or, if appropriate, may be delegated to the department where the allegation of fraud is directed. If the Auditor-Controller elects to forward the tip to the department head to investigate, the department head will provide the Auditor-Controller with a written initial response within five business days and will have thirty days to fully investigate the allegations. If the plan or investigation will exceed thirty days, communication with the Auditor-Controller is required. The department will send updates monthly until the investigation is complete.

When the investigation is complete, a written report will be sent to the Auditor-Controller that indicates whether the allegations are substantiated or unsubstantiated. If the allegations are substantiated, the department must indicate the corrective action plan and whether any disciplinary action resulted from the investigation.

Tips that are received by the Auditor-Controller that do not fall under the primary responsibility of the Auditor-Controller will be immediately forwarded to the appropriate individual(s). The Auditor-Controller may investigate part of the allegation and refer other parts of the allegation to another party to investigate. Such information sharing shall not constitute a breach of confidentiality.

Departments maintaining their own hotlines for receiving allegations specific to programs they administer, are responsible to report fraud allegations to the Auditor-Controller, and either:

- Identify what the department is doing to resolve the issue, and, if necessary, identify the appropriate changes and enhancements to internal control to be made, or
- Work with the Auditor-Controller in resolving the issue.
- See Administrative Bulletin No. 6 for burglary or vandalism.

.3 Sharing Information. Representatives from the Auditor-Controller, County Counsel and County Administrative Office will meet periodically to discuss the allegations that have been received throughout the County. Substantiated claims will be discussed in order to evaluate additional areas of training and the need to enhance internal controls in order to prevent, deter, and detect fraud, waste, and abuse. Representatives will also discuss effectiveness of County policies and pursue opportunities to enhance County policy.

605. Board of Supervisor's Audit Responsibility and Authority. The ultimate responsibility to have audits performed rests with the County's Board of Supervisors. (See, Government Code sections 25250, 26881, 26883, 26884, and 31000)

606. Duties and Structure of Audit Advisory Committee. On March 8, 2016, the Board of Supervisors approved the formation and structure of an audit advisory committee. The committee members consist of two members of the Board of Supervisors, the County Administrative Officer, a County department head, a community CPA, and two additional optional members with financial management expertise. Committee staff members, County Counsel and Auditor-Controller-County Clerk, attend all committee meetings to support and facilitate, along with any other individuals interested or requested to attend. The committee will meet at least biannually, with authority to convene additional meetings as circumstances require. All meetings are subject to the Ralph M. Brown Open Meeting Act.

The Committee will independently review, objectively assess, and discuss concerns and improvements to align priorities. The committee increases communication and all significant matters that merit the Board of Supervisors' attention are submitted to the Board with recommendations, if appropriate. Audit committee functions are not limited to but could include the following:

- Provide an open avenue of communication among the Board of Supervisors, County Administrative Office, Auditor, Auditees, and other interested parties.
- Review the proposed countywide risk assessment.
- Review all proposed auditing services including the annual audit plan.
- In consultation with the Auditor-Controller, recommend the appointment of either internal or external auditors, based on the proposed audit plan. The recommended appointment may include the minimum scope of services the auditors are to perform. For purposes of this Chapter, "internal auditor" means the County Auditor-Controller and not a particular auditor in that office.
- Review and assess the adequacy and effectiveness of audits as allowed by law.
- Receive and review audit reports including findings, recommendations, and responses.
- Receive compliance and accountability reports of corrective action implemented.
- Receive and review external quality peer review reports of the internal and external auditors.
- Review and notify the Board of Supervisors of any other important audit matters.

607. Audit Requirements and Audit Plan. Each year the Board of Supervisors shall ensure that the following is performed:

.1 Evaluation of Previously Completed Audits. All previously completed internal and external audit reports, or an equivalent, will be evaluated by the Auditor-Controller to determine whether the requirements of the Government Code are met. That evaluation may include, but not be limited, to any of the following:

- The annual audit of the County's Comprehensive Annual Financial Report (CAFR) prepared by the County and audited by an external independent auditor that contains, among other information, the County's general purpose financial statements, notes, and an independent auditors' report. (See section 611 of this Chapter)
- Audits performed by external auditors in connection with other County obligations including the County's single audit, special districts, joint partnership agreements, certification of participation agreements, grants, regulations, codes, and other oversight responsibilities. (See sections 610 and 611 of this Chapter)
- Grand Jury investigations and reports. (See section 609 of this Chapter and Government Code section 25250)
- Audits performed by the Auditor-Controller of officers, departments, or functions of the County. (See section 608 of this Chapter)
- The Auditor-Controller's continuous monitoring of transactions such as payroll, purchasing cards, travel, and claims for payment. (See section 608 of this Chapter)

.2 Annual Countywide Risk Assessment and Risk-Based Audit Plan. The Board of Supervisors and Audit Advisory Committee desire the utilization of a risk-based audit plan to prioritize an efficient allocation of limited audit resources and to coordinate the audit efforts of the internal and external auditors. The Auditor-Controller will evaluate all previously completed audits to determine whether some or all of the requirements

have been met. If needed, the audit plan will allocate resources to fulfill any remaining minimum requirements. Once the requirements are fulfilled, the Auditor-Controller will determine if any additional audit resources are available to be used for additional fiscal oversight. The Auditor-Controller will perform an annual countywide risk assessment and prepare the risk-based audit plan to effectively allocate the available resources. Annually, the audit plan is presented to the Audit Advisory Committee and the Board of Supervisors, with the Board of Supervisors having final approval. Any modifications that would substantially alter the approved audit plan must be considered separately. The audit plan shall include some flexibility in order to be responsive to directives for audit services from the Board of Supervisors. This does not prevent the Auditor-Controller from initiating an audit under his/her authority or expanding the audit scope upon request or at their discretion when deemed appropriate.

.3 Selection and Appointment of Auditors. The audit plan or other criteria will assist the Board of Supervisors in selecting and appointing auditors. The Auditor-Controller will perform the selected audits for the Board of Supervisors, subject to the necessary resources being provided per Government Code section 26884, unless the Board exercises its authority to engage the services of another auditor.

.4 Audit Frequency and Scope. The Board of Supervisors has a great deal of discretion regarding the broad nature and extent of how to fulfill its audit-related responsibilities including the scope. Audits may be performed on a countywide basis or for an individual department. Any audit or a combination of audits, or an equivalent, included in section 607.1 of this Chapter, must be completed at least biennially to fulfill the Government Code section 25250 requirement, but may be expanded at the discretion of the Auditor-Controller, at the Board of Supervisors or a department head's request, or in accordance with section 607.2 of this Chapter.

608. Audits Performed by the Auditor-Controller. The Board of Supervisors sets the budget for the elected Auditor-Controller but cannot direct the allocation of those resources within the department. The following are the standards and processes developed by the Auditor-Controller:

.1 Audit Standards. In accordance with Government Code section 1236, the audits will be conducted in accordance with auditing standards as prescribed by the Institute of Internal Auditors International Standards for the Professional Practice of Internal Auditing.

.2 Audit Process. Generally, the audit process is as follows:

a. The auditor-in-charge will arrange for a preliminary conference with the department head. If a surprise cash count is to be made or if other circumstance precludes this, the preliminary conference will be scheduled afterwards. During the preliminary conference the auditor-in-charge will describe the general scope of the audit and answer any questions.

b. During the field work, the auditor will review and test the department's procedures and records to the extent deemed necessary. The auditor will also review prior department audits and verify that appropriate corrective action has been taken.

c. After the completion of the field work, an appointment will be made with the department head to discuss the draft of the audit report, including potential findings and recommendations. During the exit conference, the department may discuss any part of the audit and present any evidence on findings that it believes should be considered or that it believes was overlooked. After the exit conference, the Auditor will make any necessary modifications to the report and send the final report to the department.

d. Within 14 days of receiving the final audit report, the department is required to respond to the Auditor-Controller on findings and recommendations within the report. The response must contain the following information: 1) the action(s) taken or to be taken on the recommendations; 2) the approximate date of implementation if future compliance is intended; and 3) if the recommendations are still under study at the time of response, the approximate completion date of the study. If a department elects not to adopt the recommendations, the reasons must be stated.

.3 *Audit Report.* The final audit report and the department's response to the findings in the report will be filed with the Board of Supervisors by the Auditor-Controller, with a copy to the department and the County Administrative Office.

.4 *Audits of Special Districts Governed by the Board of Supervisors.* The audit process is the same as described above.

609. Audits and Reports Performed by Grand Jury. California Penal Code requires the Grand Jury to investigate and report on the operations, accounts, and records of County officers, departments or functions on a selective basis, but not to duplicate examinations done by or for the Board of Supervisors. Penal Code section 933(a) requires the Grand Jury to file its final report pertaining to County government matters. The final report may be submitted for the Board of Supervisors and the responsible County elected official's comment when applicable. Government Code section 25250 allows the Board of Supervisors to accept the audits performed by the Grand Jury's auditor when those audits meet all or part of the statute's requirements. The Auditor-Controller is not required to perform department audits in the years they are audited by the Grand Jury (Reso. No. 78-479).

Penal Code section 933(c) requires that the Board of Supervisors file a response to the Grand Jury's findings and recommendations on matters within its jurisdiction with the presiding judge of the Superior Court no later than 90 days after the Grand Jury submits a final report.

.1 *Elected Officials' Requirements.* Elected officials are required to directly respond to the Grand Jury's findings and recommendations on matters within their jurisdiction within 60 days to the presiding judge of the Superior Court. Copies of elected officials' responses are to be filed with the Clerk of the Board.

.2 *Department Responsibilities.* In order for the Board of Supervisors to respond to the Grand Jury as required, the County Administrative Office will request each affected department to file its response with the County Administrative Officer. The County Administrative Officer will be responsible for preparing the Board's approval of the official County response to the Grand Jury. Responses to Grand Jury reports shall be placed and remain on file with the Clerk of the Board.

610. Single Audit. The Federal Office of Management and Budget establishes the audit requirements for local governments that receive federal assistance. It provides for independent audits of financial statements and federal law and regulation compliance review. The requirements were established to ensure that audits are made on organization-wide basis, rather than on a grant-by-grant basis. This audit is commonly called the Single Audit.

The County will have a Single Audit annually, performed by an outside auditor. The Auditor-Controller is responsible for coordinating the work of the outside auditor with departments and the federal agency. The audit report is filed with the Board of Supervisors and the federal agency.

Each affected department is responsible for preparing responses to audit findings. The Auditor-Controller will compile the responses and prepare a report to the Board of Supervisors and the federal agency.

611. Other Audits by Outside Auditors. Generally, audits performed by outside auditors will be concerned with federal and/or State grants and regulations. The authority to audit these funds is found in the program's regulations or in the grant agreement. The provisions of the Single Audit do not limit the authority to make audits of individual federal programs. However, all federal agencies must rely on the Single Audit and any additional audit work must build upon the work already done. Although audits may vary significantly depending on their audit scope the following is consistently required:

.1 *Procurement of Outside Auditors.* If a department needs to procure the services of an outside auditor, the Auditor-Controller and the County Administrative Officer, or their designees, must be included in the selection process. These services must be obtained using County procedures for contracting for professional services.

.2 *Notification of Proposed Audit.* The department is required to notify the Auditor-Controller and the County Administrative Office before the field work begins on any audit by an outside auditor and include their designee in any preliminary and exit conference.

.3 *Filing of Audit Reports.* The department must promptly file the outside auditor's reports with the Board of Supervisors, with copies sent to the Auditor-Controller and the County Administrative Office.

.4 *Response to Findings and Recommendations by Outside Auditors.* The department is responsible for responding within 30 days, unless otherwise required, to any audit findings or recommendations directly to the agency. The response is to be filed with the Board of Supervisors, with copies sent to the Auditor-Controller and the County Administrative Office.

612. Post Audit Reviews Performed by County Administrative Office. Within forty-five (45) days after written notice of noncompliance, the department head shall file a written plan of corrective action with the County Administrative Office. County Administrative Office is responsible for implementing and enforcing policies and procedures aimed at ensuring transparent and accountable County operations that comply with federal and State laws and regulations as well as County ordinances, and administrative and department procedures, including Board directives. Semi-annually, for the periods ending June 30 and December 31, a detailed report shall be filed with the Board of Supervisors that reports departmental compliance and recommended corrective measures.