



June 27, 2019

Performance Audit

Allocation & Use of Quarter Cent Public Safety Tax

Citywide

Report No. 19-104



**CITY OF ALBUQUERQUE
OFFICE OF INTERNAL AUDIT**

PERFORMANCE AUDIT REPORT
ALLOCATION & USE OF QUARTER CENT PUBLIC SAFETY TAX
REPORT NO. 19-104

<u>TABLE OF CONTENTS</u>	<u>PAGE NO.</u>
Executive Summary.....	i
Introduction	1
Finding:	
1. City Council and the Mayor Should Formally Establish the Public Safety Tax Advisory Board to Ensure Proper Allocation, Use and Oversight of the Quarter Cent Public Safety Tax	4
Conclusion	16
Appendix A – Objectives, Scope, Limitations, and Methodology	18
Appendix B – Attachment A: Intended Use of Quarter Cent Public Safety Gross Receipts Tax	20
Appendix C – City Ordinance Section 2-6-11, ROA 1994 Public Safety Tax Advisory Board...	21
Appendix D – FY2020 Proposed Budget Public Safety Quarter Cent Tax Summary.....	23

City of Albuquerque - Office of Internal Audit

Allocation & Use of Quarter Cent Public Safety Tax

Citywide Performance Audit

June 27, 2019

Audit #19-104

The purpose of this audit was to determine whether the Quarter Cent Public Safety Tax revenues are allocated in accordance with City Ordinance Section 4-3-8 ROA 1994; whether Quarter Cent Public Safety Tax expenses are tracked and monitored to ensure funds are spent as originally intended; and if the Public Safety Tax Advisory Board is performing its duties in accordance with City Ordinance Section 2-6-11 ROA 1994.

Executive Summary

Overall, the Quarter Cent Public Safety Tax revenue is allocated in accordance with City Ordinance Section 4-3-8 ROA 1994. However, without the oversight of the Public Safety Tax Advisory Board, the transparency of the revenue allocation and review of spending needs improvement. The information and detailed amounts are not reported or separately identified in the City's annual budget.

Since 2008, the Public Safety Tax Advisory Board has never been fully established, no appointments made, no meetings documented, and therefore, does not exist to perform the duties established by City Ordinance Section 2-6-11 ROA 1994.

Without such an oversight board, certain expectations and outcomes of the tax have not been managed, including:

- Transparency of Funding Allocations,
- Tracking and Monitoring of Spending, and
- Recommendations for Proposed Uses.

City Council and the Mayor are jointly responsible for nominating and appointing individuals to the Public Safety Tax Advisory Board.

The information contained in this report is meant to help the City address and improve controls over the Quarter Cent Public Safety Tax.

City Council, the Mayor, and responding departments concurred with the findings and agreed to implement recommendations.

• • •

City Council should:

- Formally establish the Public Safety Tax Advisory Board in accordance with City Ordinance; and
- Consider defining or clarifying the general category of "Crime Prevention and Intervention."

The Mayor should formally establish the Public Safety Tax Advisory Board in accordance with City Ordinance.

Until the Public Safety Tax Advisory Board is established:

DFAS should:

- Ensure that the City's Annual Budget Document includes and identifies recipient department's allocated funding and general spending categories for the Quarter Cent Public Safety Tax; and
- Ensure that the allocation of Quarter Cent Public Safety Tax reconciles to the City's goals.

DFCS should:

- Establish a process to monitor spending and address reallocating or formally committing unspent Quarter Cent Public Safety Tax; and
- Include language in the contract Scope of Services regarding crime prevention and intervention; or expressly reference City Goal 2 – Public Safety.



City of Albuquerque

Office of Internal Audit

June 27, 2019

Accountability in Government Oversight Committee
P.O. Box 1293
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Audit: Allocation & Use of Quarter Cent Public Safety Tax
Audit No. 19-104

FINAL

INTRODUCTION

The Office of Internal Audit (OIA) completed a performance audit of the Allocation & Use of the Quarter Cent Public Safety Tax for the period July 1, 2016 through June 30, 2018. This audit was included in OIA's fiscal year (FY) 2019 audit plan. Information pertaining to the audit objectives, scope, limitations, and methodology can be found in **Appendix A**.

Quarter Cent Public Safety Tax Established

Effective July 1, 2004, an excise tax equal to one-fourth of one percent of the gross receipts reported pursuant to the New Mexico Gross Receipts and Compensating Tax Act was imposed on any person engaged in business in this municipality. City of Albuquerque (City) Ordinance Section 4-3-8 ROA 1994 designates the revenue collected from the Public Safety Tax to be used in specific percentages for the following purposes:

- Police 34 percent;
- Fire/Emergency Preparedness 34 percent;
- Corrections 6 percent; and
- Crime Prevention and Intervention 26 percent.

Aggregate Quarter Cent Public Safety Tax allocations totaled \$36.6 million and \$37.2 million for fiscal years 2017 and 2018, respectively. Since FY2007, the Albuquerque Police Department (APD) receives the 34 percent for Police and the 6 percent for Corrections allocations. APD began receiving the 6 percent for Corrections when the Metropolitan Detention Center (MDC) operations were transferred from the

City to Bernalillo County. APD uses the 6 percent to support the costs associated with processing and transporting prisoners to MDC. The Department of Family and Community Services (DFCS) receives the 26 percent for Crime Prevention and Intervention.

Attachment A to the Resolution represents the intended use of the funding within the allocations to each public safety purpose for the first five years, and is attached as **Appendix B**.

Public Safety Tax Advisory Board

In 2008, the Public Safety Tax Advisory Board was created by City Ordinance Section 2-6-11, which is attached as **Appendix C**. The Ordinance states:

City Council finds that ongoing review is needed to ensure that the use of the public safety tax most effectively and efficiently meets the needs of the growing and diverse City of Albuquerque. The Council further finds that periodic modifications to the use and distribution of public safety tax revenue may be necessary as the needs of Albuquerque residents change. The Council also finds that an independent advisory board is the most appropriate vehicle to review the use of the tax, recommend funding, and suggest changes, if necessary, in the distribution of public safety tax revenue.

According to the Ordinance, the duties of the Public Safety Tax Advisory Board shall be:

- *Review the use of the public safety tax revenue since its inception and how community conditions may have impacted actual use compared to the recommended matrix of uses outlined in Attachment A to Resolution No. R-03-239, Enactment No. 67-2003.*
- *Review the distribution of revenue among the three funded city departments and recommend changes, if necessary, to the percentage distribution among them.*
- *Assess if there has been supplantation of other city funds by the public safety tax revenue. This will include, but not be limited to, General Fund and Capital Implementation Program funds.*
- *Annually recommend to the Mayor and City Council a proposed use of public safety tax revenues for the upcoming fiscal year.*

Previous Audits

Since the Quarter Cent Public Safety Tax went into effect, OIA has conducted three previous audits and one follow-up:

- Audit No. 07-104 – Fire/Emergency Preparedness
 - Audit Follow-up No. 11-07-104F
- Audit No. 08-108 – Department of Family and Community Services
- Audit No. 10-103 – Albuquerque Police Department

Accounting Standards

The creation of a separate fund on the financial statements to report Quarter Cent Public Safety Tax is unnecessary as the establishing legislation does not mandate that a separate fund be created; however, distinct tracking is essential to ensure compliance with the *Governmental Accounting Standards Board* (GASB). According to GASB Statement No. 54, restricted funds include “amounts that can be spent only for the specific purposes stipulated by constitution, external resource providers, or through enabling legislation,” while committed funds include “amounts that can be used only for the specific purposes determined by a formal action of the government’s highest level of decision-making authority.” As the uses for the Quarter Cent Public Safety Tax revenue were mandated by City Council, the funds would be “committed” rather than “restricted” per GASB 54.

According the City’s FY2018 Comprehensive Annual Financial Report (CAFR), “Committed fund balance includes amounts that can be used for specific purposes pursuant to constraints imposed by City Council, the highest level of decision making authority in the City.” In accordance with GASB 54, 1/12th of the expected revenue was held in reserve and totaled \$3.3 and \$3.4 million in FY2017 and FY2018, respectively. Additionally, any Quarter Cent Public Safety Tax appropriations that remain unspent at fiscal year-end should be reported as committed fund balance on the City’s financial statements.

GASB 54 also states that governments “are required to classify and report amounts in the appropriate fund balance classifications by applying their accounting policies that determine whether restricted, committed, assigned, and unassigned amounts are considered to have been spent.” The City appropriately discloses this information in its FY2018 CAFR, which states:

It is the City’s policy to consider restricted fund balance to have been depleted before using any components of unrestricted fund balance. Further, when the components of the unrestricted fund balance can be used for the same purpose, committed fund balance is depleted first, followed by assigned fund balance. Unassigned fund balance is applied last.

The City does not expressly disclose in the financial statements and annual budget its spending order at the spending level; and although not a requirement, such clarification may be beneficial. The City of Rio Rancho, for example, clarifies the order of its general spending in its financial statements, which state, “When an expenditure or expense is incurred for purposes for which both restricted and unrestricted resources are available, the City’s policy is to use restricted resources first, then unrestricted resources in order of committed then assigned as needed.”

FINDING

The following finding addresses areas that OIA believes could be improved by the implementation of the related recommendations.

1. CITY COUNCIL AND THE MAYOR SHOULD FORMALLY ESTABLISH THE PUBLIC SAFETY TAX ADVISORY BOARD TO ENSURE PROPER ALLOCATION, USE, AND OVERSIGHT OF THE QUARTER CENT PUBLIC SAFETY TAX.

Since 2008, the Public Safety Tax Advisory Board has never been formally established, no formal appointments made, and no meetings documented. Without an established and active Public Safety Advisory Board, specific expectations and outcomes of the tax have not been managed, including:

- Transparency of Funding Allocations,
- Tracking and Monitoring of Spending, and
- Recommendations for Proposed Uses.

City Council and the Mayor are jointly responsible for nominating and appointing individuals to the Public Safety Tax Advisory Board. City Ordinance Section 2-6-11 ROA 1994, included as **Appendix C**, established the Public Safety Tax Advisory Board to "review and recommend to the Council the use and distribution of the public safety tax." As defined in Section 2-6-11-3, Part A of the Ordinance,

The Board shall consist of 13 members appointed by the Mayor with the advice and consent of the Council. Each Councilor shall nominate two persons to the Board who reside in his or her Council District, and the Mayor shall then appoint one of these nominees to the Board with the advice and consent of the Council. If the Mayor fails to make a timely appointment from the two names submitted by the Councilor, within 60 days of notification, the Councilor who submitted the names may appoint one of the two recommended members subject to the advice and consent of the Council...The Mayor shall appoint the remaining four at-large members to the Board subject to the advice and consent of Council.

City Ordinance Section 2-6-11 ROA 1994, included as **Appendix C**, established the Public Safety Tax Advisory Board to "review and recommend to the Council the use and distribution of the public safety tax." Specifically, the ordinance defines the duties of the Board as:

- A. *Review the use of the public safety tax revenue since its inception and how community conditions may have impacted actual use compared to the recommended matrix of uses outlined in Attachment A to Resolution No. R-03-239, Enactment No. 67-2003.*
- B. *Review the distribution of revenue among the three funded city departments and recommend changes, if necessary, to the percentage distribution among them.*
- C. *Assess if there has been supplantation of other city funds by the public safety tax revenue. This will include, but not be limited to, General Fund and Capital Implementation Program funds.*
- D. *Annually recommend to the Mayor and City Council a proposed use of public safety tax revenues for the upcoming fiscal year.*

It is currently unknown why the Public Safety Tax Advisory Board was never established. Over the years, Council Services staffing changes occurred and historical knowledge has been lost. However, in response to the Office of Internal Audit's FY2010 audit, in which OIA reported that the Public Safety Advisory Board had never met, the Director of Council Services at the time stated:

It should be noted that several attempts were made to recruit potential members for the Advisory Board. It has been increasingly difficult to recruit qualified candidates because of competition across the City to fill vacancies on its almost fifty Boards and Commissions.

Currently, 74% of the funds are allocated to APD and AFD. 100% of these funds pay for salaries. This leaves a balance of 26% that is available for crime prevention and intervention services, most of which is used to fund social service contracts through the Department of Family and Community Services. Because of the current use of the funds, the oversight function is limited.

Within the next 90 days, Council Services will make another attempt to recruit people to serve on the Advisory Board. If this is not successful, consideration will be given to revising the ordinance.

Further details for the issues identified are addressed in the following sub-sections.

Transparency of Funding Allocations

Transparency in government spending is vital and necessary. Overall, the Quarter Cent Public Safety Tax revenue is allocated in accordance with City Ordinance Section 4-3-8 ROA 1994. However, without an active Public Safety Tax Advisory Board, the transparency of the allocations need improvement. The detailed amounts of Quarter Cent Public Safety Tax funding for the recipient departments are not reported or separately identified in the City's Approved Budget document. It has been noted that the FY2020 Proposed Budget document contains a summary of the Quarter Cent Public Safety Tax, which identifies each department and general breakdown of spending by department and is included as **Appendix D**.

The final amounts of Quarter Cent Public Safety Tax allocated differ from the amounts originally reported to the recipient departments. According to the recipient departments, the only information received that pertains to the Quarter Cent Public Safety Tax is in preparation of the annual budget. For FYs 2017 and 2018, the recipient departments reported the following allocated amounts.

**Quarter Cent Public Safety Tax
 FYs 2017 & 2018 Internal Budget Preparation Information**

Recipient Department	FY2017	FY2018
Police	\$12,456,000	\$12,653,000
Fire	12,456,000	12,653,000
Family & Community Services	9,525,000	9,676,000
Prisoner Transport (APD)	2,198,000	2,233,000
Total Quarter Cent Public Safety Tax	\$36,635,000	\$37,215,000

Source: DFAS-OMB and DFCS

According to the Department of Finance & Administrative Services - Office of Management and Budget (DFAS-OMB), the allocations reported to the recipient departments during the annual budget preparation are based on the City's five-year forecast. These allocations are later adjusted to reflect the re-estimated revenue of the annual proposed budget. Based on this re-estimate, the allocations of Quarter Cent Public Safety Tax to the recipient departments are adjusted and illustrated in the table below.

**Quarter Cent Public Safety Tax
 Allocated Re-estimate
 FYs 2017 & 2018**

	Approved FY2017 Budget	Approved FY2018 Budget
Total Revenue	\$39,645,000	\$40,318,000
Less 1/12 Reserve	(3,304,000)	(3,360,000)
Available Revenue	\$36,341,000	\$36,958,000
Police (34%)	\$12,356,000	\$12,565,720
Fire (34%)	12,356,000	12,565,720
Crime Prevention & Intervention (26%)	9,449,000	9,609,080
Prisoner Transport (APD) (6%)	2,180,000	2,217,480
Total Allocation	\$36,341,000	\$36,958,000

Source: DFAS Budget Office

The final amount of allocation following the adjustment is important information for the recipient departments to have. Specifically for DFCS, as the department is not expressly identified in the ordinance to receive the funding, but rather receives Quarter Cent Public Safety Tax funding for pursuing “Crime Prevention and Intervention” purposes.

Without including or expressly identifying the recipient departments' allocations of the Quarter Cent Public Safety Tax in the City's budget documents, overall transparency of the funding to departments is lost as it is included in each recipient department’s total General Fund allocation.

Transparency of the Quarter Cent Public Safety Tax could also be improved within the City’s overall goal documents. To illustrate, in FY2018, DFCS was allocated \$9.6 million in Quarter Cent Public Safety Tax funding, but the Approved Budget by Goal only identifies that \$5.2 million of DFCS’s budget involved Public Safety, as shown below.

**FY/18 APPROVED BUDGET BY GOAL, DEPARTMENT AND FUND
 (\$000's)**

	% of Total	General Fund	Special Funds Included In General Approp Act	Special Funds Not Included In General Approp Act	Debt Service Funds	Enterprise Funds	Internal Service Funds	Interfund Elimination	Total
2 - Public Safety									
AW-Animal Welfare Department		11,031	79	0	0	0	0	(5)	11,105
CP-Civilian Police OS Dept		860	0	0	0	0	0	0	860
FD-Fire Department		76,470	3,337	226	102	0	0	(111)	80,024
FC-Family Community Svcs Dept		5,244	0	0	0	0	0	0	5,244
TI-Technology and Innovation		842	0	0	0	0	0	0	842
PD-Police Department		170,559	1,370	5,442	0	0	0	(852)	176,519
Sub Total	28.7	265,006	4,786	5,668	102	0	0	(968)	274,594

Source: FY2018 Approved Budget

Additionally, in FY2017, DFCS was allocated \$9.4 million in Quarter Cent Public Safety Tax funding, but the Approved Budget by Goal only identifies that \$6.4 million of DFCS’s budget involved Public Safety, as shown below.

FY/17 APPROVED BUDGET BY GOAL, DEPARTMENT AND FUND (\$000's)

	% of Total	General Fund	Special Funds Included In General Approp Act	Special Funds Not Included In General Approp Act	Debt Service Funds	Enterprise Funds	Internal Service Funds	Interfund Elimination	Total
2 - Public Safety									
AW-Animal Welfare Department		11,170	79	0	0	0	0	(5)	11,244
CP-Civilian Police OS Dept		984	0	0	0	0	0	0	984
FD-Fire Department		76,713	1,883	437	102	0	0	(150)	78,985
FC-Family Community Svcs Dept		6,406	0	0	0	0	0	0	6,406
TI-Technology and Innovation		840	0	0	0	0	0	0	840
PD-Police Department		164,833	1,820	5,078	0	0	0	(998)	170,733
Sub Total	29.1	280,946	3,782	5,515	102	0	0	(1,153)	289,192

Source: FY2017 Approved Budget

Without a clear connection or reconciliation of the Quarter Cent Public Safety Tax in the City’s goal documents, complete transparency will not be obtained and the City’s allocation and use of the funding will continue to be unclear.

Tracking and Monitoring of Spending

Without an active Public Safety Tax Advisory Board, the uses of Quarter Cent Public Safety Tax revenue are not monitored. Expenses are tracked by DFCS (26%) and APD for the Prisoner Transport (6%) program, but are not explicitly tracked by APD or AFR. By FY2014, the respective 34 percent allocations to APD and AFR had been allocated to recurring personnel and operational costs that exceeded each department’s respective funding. Because recurring expenses exceeded the designated funding, additional tracking was deemed unnecessary by DFAS-OMB.

During audit fieldwork, it was noted that actual contract costs did not exceed the amount of Quarter Cent Public Safety Tax allocated to the contract in eleven instances, shown in the table below.

**FYs 2017 & 2018 DFCS
 Quarter Cent Public Safety Tax Funded Contracts**

Contract	Amount of General Fund Allocated	Amount of Quarter Cent Public Safety Tax Allocated	Actual Contract Costs	Unspent Quarter Cent Public Safety Tax
2017				
Metro Homeless Project	\$0	\$106,000	\$105,927	\$73
Treatment Provider Network Vouchers	649,031	1,348,473	687,741	660,732
NM Solutions COD	14,150	194,750	0	194,750
NM Coalition to End Homelessness	15,300	150,000	148,617	1,383
Total FY2017	\$678,481	\$1,799,223	\$942,285	\$856,938
2018				
YDI Early Youth Intervention	\$0	\$127,437	\$125,587	\$1,850
New Day, Inc.	1,000	50,000	47,378	2,622
St. Martins – ACT Model	133,300	535,000	499,357	35,643
AOT Assisted Outpatient Treatment	45,000	30,000	25,127	4,873
NM Coalition to End Homelessness	640	32,000	0	32,000
APS Families & Schools Together	10,350	142,500	134,885	7,615
Treatment Provider Network Vouchers	166,937	1,348,473	503,454	845,019
Total FY2018	\$357,227	\$2,265,410	\$1,335,788	\$929,622
Total Remaining Unspent Quarter Cent Public Safety Tax				\$1,786,560

Source: DFCS

DFCS does not currently have a process to address the re-allocation of unspent Quarter Cent Public Safety Tax to other qualifying contracts or to formally commit unspent funds when contract expenses are less than projected.

Recommendations for Proposed Uses

Without an active Public Safety Tax Advisory Board, recommendations for proposed uses of Quarter Cent Public Safety Tax revenue have not been made or clarified to meet the changing needs of the City.

Since first established, the allocated percentages and department uses have remained unchanged. As aforementioned, by FY2014, the respective 34 percent allocations to APD and AFR had been allocated to recurring personnel and operational costs that exceeded each department's respective funding. APD receives 6 percent Quarter Cent Public Safety Tax revenue for costs associated with transporting prisoners to MDC, and DFCS receives 26 percent of Quarter Cent Public Safety Tax revenue for "Crime Prevention and Intervention" purposes.

In addition, "Crime Prevention and Intervention" is a broad, undefined term/category that may include behavioral health or social services not expressly included by the City as "public safety." From a judgmental sample of seven DFCS contracts funded with Quarter Cent Public Safety Tax, three expressly referenced the City's Goal 2 - Public Safety, three expressly referenced Goal 1 - Human Development, and one did not specify a City goal. Without a well-defined term or expressed contract language pertaining to "Crime Prevention and Intervention," contracts funded or partially funded with Quarter Cent Public Safety Tax funds may be questioned or overly scrutinized regarding their applicability to supporting "Crime Prevention and Intervention."

Without the formation of the Public Safety Tax Advisory Board, the duties defined in City Ordinance Section 2-6-11 ROA 1994 have not been performed and certain expectations and outcomes have not been managed.

As long as the Public Safety Tax Advisory Board remains unestablished, the duties identified in City Ordinance Section 2-6-11-4 ROA 1994 will remain unaddressed and the City will remain open to scrutiny and criticism.

RECOMMENDATIONS TO CITY COUNCIL

City Council should:

- Formally establish the Public Safety Tax Advisory Board to perform the responsibilities established in City Ordinance Section 2-6-11 ROA 1994; and
- Consider defining or clarifying the general category of "Crime Prevention and Intervention."

RESPONSE FROM CITY COUNCIL

"The difficulties with recruiting potential members for the Advisory Board as described by the former Director of Council Services in 2010 still persist. The Council recognizes that the diverse thirteen member board created by

Ordinance O-08-18 is a likely contributor to the recruiting issues. The City Council is currently evaluating the need to rescind O-08-18 and may propose a smaller and different composition for the Advisory Board that would include only 5 members: 1 Mayor's Office designee, 1 City Council designee, 1 Civilian Police Oversight Board member, and 2 Citizen Policing Council members.

"It should again be noted that for several years, 74% of the Quarter Cent for Public Safety funds have gone directly towards APD Police Officer, APD Prisoner Transport Officer, and AFR Fire Fighter salaries and benefits; with the remaining 26% available for crime prevention and intervention services through the Department of Family and Community Services. Therefore, the oversight function would be limited to the crime prevention and intervention programs."

ESTIMATED COMPLETION DATE

Not specified.

RECOMMENDATION TO THE MAYOR

The Mayor should formally establish the Public Safety Tax Advisory Board to perform the responsibilities established in City Ordinance Section 2-6-11 ROA 1994.

RESPONSE FROM THE MAYOR

"The Public Safety Tax Advisory Board had never been established by previous administrations in conjunction with the City Council. In accordance with Section 2-6-11-3 the Board shall consist of 13 members appointed by the Mayor with the advice and consent of the Council."

ESTIMATED COMPLETION DATE

"The Mayor will work with the Council to establish the board in accordance with the city ordinance within a year."

RECOMMENDATIONS TO DFAS

Until City Council establishes the Public Safety Tax Advisory Board, DFAS should:

- Ensure that recipient department's allocated funding from the Quarter Cent Public Safety Tax, and the general categories of spending, are included and identified in the annual Approved Budget; and
- Ensure that the allocation of Quarter Cent Public Safety Tax reconciles to the City's goals.

RESPONSE FROM DFAS

“The Mayor’s proposed budget document for fiscal year 2020 identified the proposed appropriations to be made from the Quarter Cent Public Safety Tax. Specifically, it identified the proposed appropriations for Police (including prisoner transport), Fire, and Family and Community Servicers (FCS). The Budget Office will include the information in the FY20 Approved Budget document and will continue to identify such appropriations going forward. Should the Public Safety Tax Advisory Board (the Board) determine that the information should be presented in a different format or not presented, the Budget Office will follow the direction of the Board.”

“With respect to the allocation of the Public Safety Quarter Cent Tax to city goals, the mapping of allocations from the Fire and Police Departments to the Public Safety goal is straightforward, however, the mapping from departments and programs related to the Crime Prevention and Intervention component is less so. The City has activities in many different departments aimed at crime prevention and intervention. Historically, Family and Community Services (FCS) has identified activities that meet the criteria of the public safety tax based on the estimated tax amount and budget has been appropriated accordingly. The current reporting of “Fiscal Year Approved Budget by Goal, Department and Fund” maps programs to each goal. There are some FCS programs, e.g. Youth Gang Contracts, that have budget for Crime Prevention and Intervention activities mapped to Goal 2 – Public Safety, and other programs, e.g. Emergency Shelter Services, that have budget for Crime Prevention and Intervention activities mapped to Goal 1 – Human and Family Development.”

“Within the city’s financial accounting system, PeopleSoft, budgets are established under unique Department IDs which roll up to Programs IDs. Each Program ID maps to one Department, e.g. Police Department. A Program may have budgeted expenses that fall under more than one goal. In order to segregate each budgeted expense by goal, the City would need to establish additional Department IDs within each Program ID. This change could create other issues, would be burdensome to implement and maintain, and may not achieve the level of transparency that is desired. As an option, the Budget Office could map budget for Crime Prevention and Intervention activities at the program level for reporting purposes.”

“Since the inception of the public safety tax in July 2004, expenditures for Police, Fire, and Prisoner Transport (74% of the revenue) have increased by over \$1.0 billion. This far exceeds the amount of the public safety portion, or”

\$363,063,498, of the public safety tax. The table below gives an accounting of budgets and expenditures by year since inception of the tax.”

**Public Safety Expenditures (Police, Fire, Prisoner Transport)
 Trend Analysis**

Fiscal Year Ended	Actual Expenditures	Budgeted Expenditures	Total Tax	Amount Allocated to Public Safety	Increase in budgeted expenditures from the base year
2004	139,621,244	140,704,657			
2005*	163,130,428	166,862,000	28,923,330	21,403,264	26,157,343
2006	179,283,051	184,063,000	34,065,877	25,208,749	43,358,343
2007	207,679,260	214,919,000	36,933,251	27,330,606	74,214,343
2008	210,508,897	218,770,000	37,011,017	27,388,153	78,065,343
2009	213,974,911	214,788,017	35,583,934	26,332,111	74,083,360
2010	217,450,065	218,985,000	34,069,813	25,211,662	78,280,343
2011	218,142,083	221,829,000	34,448,754	25,492,078	81,124,343
2012	220,377,868	223,925,628	34,980,513	25,885,579	83,220,971
2013	219,689,665	225,417,000	35,436,409	26,222,943	84,712,343
2014	217,957,766	225,284,000	36,238,996	26,816,857	84,579,343
2015	229,495,051	230,230,000	34,712,758	25,687,441	89,525,343
2016	232,901,801	237,513,000	35,295,456	26,118,638	96,808,343
2017	243,384,089	244,395,000	35,742,204	26,449,231	103,690,343
2018	251,071,797	251,918,000	37,184,036	27,516,187	111,213,343
Total	3,164,667,976	3,219,603,302	490,626,348	363,063,498	

*first year

“It is the City’s opinion that the committed quarter cent tax has been completely spent at year end and as a result no committed balances are reported for the public safety programs. This is taken into consideration when calculating committed fund balance in the City’s annual financial statements. GASB 5 worksheets are prepared for every fund including the General fund.

“Until the Public Safety Tax Advisory Board identifies a process or provides direction, FCS will meet quarterly with DFAS to evaluate the alignment of the programs with the City goals and to track actual expenses that are funded from the tax. The City will reallocate appropriations if needed. In addition, the City will review all of the Programs IDs to determine if they are rolling up into the correct goal. FCS will implement the suggested inclusion of language in the contract scope to refer to City Goal 2.

If the quarter cent appropriations have not been spent, Accounting will identify

the remaining amount as committed in the GASB 54 calculation.”

ESTIMATED COMPLETION DATES

“DFAS - Ensure that recipient department's allocated funding from the Quarter Cent Public Safety Tax is included and identified in the annual Approved Budget.

Estimated Completion Date: August 31, 2019

“DFAS - Ensure that the allocation of Quarter Cent Public Safety Tax reconciles to the City’s goals.

Estimated Completion Date: N/A. Please refer to discussion of options in response.”

RECOMMENDATIONS TO DFCS

Until City Council establishes the Public Safety Tax Advisory Board, DFCS should:

- Establish a process to address reallocating Quarter Cent Public Safety Tax when contract expenses are less than projected or formally commit unspent funds; and
- Include language in the contract Scope of Services regarding crime prevention and intervention or expressly reference City Goal 2 - Public Safety.

RESPONSE FROM DFCS

“DFCS will meet quarterly with DFAS Budget and Accounting to track quarterly expenses that are funded from Quarter Cent Public Safety Tax. This will allow for review of projected remaining balances – that could be reallocated if needed.

“In FY20, DFCS will implement the suggested inclusion of language in the contract Scope of Services to reference City Goal 2 – Public safety. This language will be added to contracts that have not been signed or executed to date. In FY21, DFCS will ensure that all contracts have such language.”

ESTIMATED COMPLETION DATES

“DFCS - Establish a process to address reallocating Quarter Cent Public Safety Tax when contract expenses are less than projected and a remaining balance would exist.”

“Estimated Completion Date: Meet quarterly with DFAS quarterly starting October 2019.

“DFCS - Include language in the contract Scope of Services regarding crime

prevention and intervention or expressly reference City Goal 2 - Public Safety

“Estimated Completion Date: This language will be added to contracts that have not been signed or executed to date. In FY21, DFCS will ensure that all contracts have such language.”

CONCLUSION

Since 2008, the Public Safety Tax Advisory Board has never been fully established, no appointments made, no meetings documented, and therefore, does not exist to perform the duties laid out by City Ordinance Section 2-6-11 ROA 1994. Without such an oversight board, certain expectations and outcomes of the tax have not been managed, including:

- Transparency of Funding Allocations,
- Tracking and Monitoring of Spending, and
- Recommendations for Proposed Uses.

Overall, the Quarter Cent Public Safety Tax revenue is allocated in accordance with City Ordinance Section 4-3-8 ROA 1994. However, without the oversight of the Public Safety Tax Advisory Board, the transparency of the allocation of revenues and review of spending needs improvement, as the information and detailed amounts are not reported or separately identified in the City's annual budget.

The information contained in this report is designed to help the City address and improve controls over the Quarter Cent Public Safety Tax and manage various expectations.

We greatly appreciate the participation, cooperation, and responsiveness of DFAS and the recipient departments' management and staff. Their time, assistance, and involvement are a reflection of their professionalism and dedication to the City of Albuquerque.

PREPARED:

Christina Owens, Contract Auditor
Office of Internal Audit

REVIEWED:

Lawrence L. Davis, Internal Audit Manager
Office of Internal Audit

APPROVED:

Jim Thompson, City Auditor
Office of Internal Audit

APPROVED FOR PUBLICATION:

Ed E. Perea, Chairperson, Accountability in
Government Oversight Committee

APPENDIX A

OBJECTIVES

The audit objectives were to determine:

1. Are the Quarter Cent Public Safety Tax revenues being allocated in accordance with City Ordinance Section 4-3-8 Public Safety Tax ROA 1994?
2. Are the Quarter Cent Public Safety Tax expenses being tracked and monitored to ensure funds are being spent as originally intended?
3. Is the Public Safety Tax Advisory Board performing its duties in accordance with City Ordinance Section 2-6-11 ROA 1994?

SCOPE AND LIMITATIONS

Our audit did not include an examination of all functions and activities related to the Allocation & Use of Quarter Cent Public Safety Tax. Our scope was limited to the objectives above. This report and its conclusions are based on information taken from a sample of transactions and do not represent an examination of all related transactions and activities. The audit report is based on our examination of activities through the completion of fieldwork on May 14, 2019 and does not reflect events or accounting entries after that date.

City management is responsible for establishing and maintaining effective internal control and complying with laws, regulations, contracts, and agreements.

In performance audits, a deficiency in internal control exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct (1) impairments of effectiveness or efficiency of operations, (2) misstatements in financial or performance information, or (3) noncompliance with provisions of laws, regulations, contracts, or grant agreements on a timely basis. A deficiency in design exists when (a) a control necessary to meet the control objective is missing or (b) an existing control is not properly designed so that, even if the control operates as designed, the control objective is not met. In the performance audit requirements, the term significant is comparable to the term material as used in the context of financial statement engagements. A deficiency in operation exists when a properly designed control does not operate as designed, or when the person performing the control does not possess the necessary authority or qualifications to perform the control effectively.

Our consideration of internal control was for the limited purpose described in our audit objectives and was not designed to identify all deficiencies in internal control. Therefore, unidentified deficiencies may exist. Accordingly, we do not express an opinion on the effectiveness of the City's internal control.

As part of the performance audit, we tested the City's compliance with certain provisions of laws, regulations, contracts, agreements, and noncompliance with which could directly and significantly affect the objectives of our audit. However, opining on compliance with those provisions was not an objective of our performance audit and accordingly, we do not express an opinion.

We conducted this performance audit in accordance with generally accepted government auditing standards for performance audits, as prescribed in *Government Auditing Standards*, revision 2011, issued by the Controller General of the United States. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

METHODOLOGY

Methodologies used to accomplish the audit objectives include but are not limited to the following:

- Gathered legislative documents pertaining to the history of the Quarter Cent Public Safety Tax;
- Interviewed key employees from DFAS-OMB;
- Reviewed historical OIA audits of the Quarter Cent Public Safety Tax;
- Reviewed budget preparation documentation and final approved budgets for fiscal years 2017 and 2018;
- Selected and tested a judgmental sample of DFCS contracts funded with Quarter Cent Public Safety Tax to determine if contracts qualified as Crime Prevention and Intervention;
- Contacted and obtained information from key employees from each recipient department regarding Quarter Cent Public Safety Tax;
- Researched accounting standards of designated funds;
- Conducted on-line research regarding the Public Safety Tax Advisory Board; and
- Evaluated the results of testing to determine and document if sufficient, appropriate evidence has been obtained to address audit objectives and reduce audit risk to an acceptable level and that evidence is sufficient and appropriate to support findings and conclusions.

APPENDIX B

**Attachment A
 Intended Use of Quarter Cent Public Safety Gross Receipts Tax**

	Year 1	Year 2	Year 3	Year 4	Year 5
1					
2					
3	26,000,000	26,000,000	26,000,000	26,000,000	26,000,000
4					
5	8,900,000	8,900,000	8,900,000	8,900,000	8,900,000
6	3,104,870	3,188,152	3,259,199		
7		1,454,963	3,055,423	4,659,519	4,892,495
8					
9	3,586,000				
10	1,518,165	486,885	617,115		
11		3,372,000	1,215,263	3,487,481	3,254,505
12			253,000	253,000	253,000
13	190,965				
14	500,000	398,000	500,000	500,000	500,000
15	8,900,000	8,900,000	8,900,000	8,900,000	8,900,000
16					
17					
18	1,500,000	1,500,000	1,500,000	1,500,000	1,500,000
19	1,500,000	1,500,000	1,500,000	1,500,000	1,500,000
20					
21					
22	8,900,000	8,900,000	8,900,000	8,900,000	8,900,000
23	750,000	750,000			
24		845,500	1,620,000	1,736,000	1,822,000
25			1,430,000	910,000	910,000
26					
27	4,480,000				
28	308,000	695,000			
29		1,980,000	1,920,000	1,980,000	1,980,000
30			143,000	87,000	87,000
31	100,000				
32		634,500	1,042,000	1,342,000	1,456,000
33	1,000,000	1,350,000			
34	970,000	970,000	970,000	970,000	970,000
35	1,292,000	1,675,000	1,775,000	1,875,000	1,675,000
36	8,900,000	8,900,000	8,900,000	8,900,000	8,900,000
37					
38					
39	6,700,000	6,700,000	6,700,000	6,700,000	6,700,000
40	1,200,000	1,200,000	1,200,000	1,200,000	1,200,000
41	4,800,000	4,800,000	4,800,000	4,800,000	4,800,000
42	700,000	700,000	700,000	700,000	700,000
43	6,700,000	6,700,000	6,700,000	6,700,000	6,700,000

The 1/4 Cent Gross Receipts Tax will be ongoing. This schedule of proposed uses relates to the first five years of the tax imposition.

Source: Resolution 239 Attachment A

APPENDIX C

PART 11: PUBLIC SAFETY TAX ADVISORY BOARD

§ 2-6-11-1 SHORT TITLE.

Sections 2-6-11-1 et seq. may be cited as the "Public Safety Tax Advisory Board Ordinance".
(Ord. 26-2008)

§ 2-6-11-2 FINDINGS AND PUBLIC POLICY.

The City Council finds that ongoing review is needed to ensure that the use of the public safety tax most effectively and efficiently meets the needs of the growing and diverse City of Albuquerque. The Council further finds that periodic modifications to the use and distribution of public safety tax revenue may be necessary as the needs of Albuquerque residents change. The Council also finds that an independent advisory board is the most appropriate vehicle to review the use of the tax, recommend funding, and suggest changes, if necessary, in the distribution of public safety tax revenue.
(Ord. 26-2008)

§ 2-6-11-3 MEMBERSHIP, TERMS AND APPOINTMENTS.

There is hereby created a Public Safety Tax Advisory Board to review and recommend to the Council the use and distribution of the public safety tax imposed at § 4-3-8-1 et seq. ROA 1994.

(A) The Board shall consist of 13 members appointed by the Mayor with the advice and consent of the Council. Each Councillor shall nominate two persons to the Board who reside in his or her Council District, and the Mayor shall then appoint one of these nominees to the Board with the advice and consent of the Council. If the Mayor fails to make a timely appointment from the two names submitted by the Councillor, within 60 days of notification, the Councillor who submitted the names may appoint one of the two recommended members subject to the advice and consent of the Council. No members shall be employed by, be on the governing board of, receive compensation from, or otherwise have a real or perceived conflict of interest with an agency that could receive quarter cent public safety tax funding. The Mayor shall appoint the remaining four at-large members of the Board subject to the advice and consent of Council. The Board shall elect a chair from its members.

(B) Technical advisors shall serve as non-voting members of the Board. The technical advisors shall be appointed by the Mayor and consist of a representative from the City Departments that receive revenue from the public safety tax: Albuquerque Police Department, Albuquerque Fire Department and the Department of Family and Community Services.

(C) The term of office for the voting members of the Board shall be for three years unless the appointment is to fill a vacancy. However, the initial board will have four members with one year terms, four members with two-year terms, and five members with three-year terms. At its first meeting, the Board shall determine which members serve the one-year, two-year or three year terms through a random drawing. (Ord. 26-2008)

§ 2-6-11-4 DUTIES.

The duties of the Board shall be as follows:

(A) Review the use of the public safety tax revenue since its inception and how community conditions may have impacted actual use compared to the recommended matrix of uses outlined in Attachment A to Resolution No. R-03-239, Enactment No. 67-2003.

(B) Review the distribution of revenue among the three funded city departments and recommend changes, if necessary, to the percentage distribution among them.

(C) Assess if there has been supplantation of other city funds by the public safety tax revenue. This will include, but not be limited to, General Fund and Capital Implementation Program funds.

(D) Annually recommend to the Mayor and City Council a proposed use of public safety tax revenues for the upcoming fiscal year.
(Ord. 26-2008)

APPENDIX D

PUBLIC SAFETY QUARTER CENT TAX

In October 2003, voters approved the Public Safety Quarter Cent Gross Receipts Tax. The legislation specified that 34% of the tax was to be used for APD, 34% for emergency preparedness/AFD, 26% for crime prevention and intervention and 6% for corrections and detention. With the transition of the management of the Metropolitan Detention Center to the

County, the final 6% is now being used for transport and processing of prisoners to the facility. The list below details the General Fund appropriations totaling \$38.6 million. It should be noted that previously given wage increases for Police and Fire exceeded available Public Safety Quarter Cent funds and the balance is currently absorbed by the General Fund.

Total Quarter Cent Appropriations (\$000's)	
Department	FY/20
<i>Police</i>	
On-going Recurring Costs	13,123,000
Prisoner Transport/processing	2,316,000
	15,439,000
<i>Fire</i>	
On-going Recurring Costs	13,123,000
<i>Family and Community Services</i>	
Administrative Operating Costs	1,011,887
Affordable Housing Contracts	1,815,350
Educational Initiatives	709,625
Emergency Shelter Contracts	862,558
Health & Human Services	912,150
Homeless Support Services	394,750
Mental Health Contracts	2,090,450
Youth Gang Contracts	727,580
Substance Abuse Contracts	1,510,650
	10,035,000
Total	38,597,000

Source: CABQ FY2020 Proposed Budget document