



City of Albuquerque

Office of Internal Audit

FOLLOW-UP OF THE

Citywide- Allocation & Use of Quarter Cent Public
Safety Tax Performance Audit

Report 23-19-104F

Date: June 28, 2023

INTRODUCTION

The Office of Internal Audit (OIA) issued the Citywide Allocation & Use of Quarter Cent Public Safety Tax audit report on June 27, 2019. OIA completed a follow-up to determine the corrective actions that City Council, The Mayor, and Finance & Administrative Service Department (DFAS) have taken in response to the report. The report contains four recommendations, two of which that have been implemented and are now considered closed and two that remain open.

BACKGROUND

OIA completed a performance audit of the City Council, The Mayor, and DFAS. 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. This audit was included in OIA's fiscal year 2019 audit plan. The scope period for this audit was from July 1, 2016 through June 30, 2018 and the purpose 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. Specifically, the audit objectives were to determine the following:

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

Quarter Cent Public Safety Tax was established effective July 1, 2004. An excise tax equal to one-fourth of the 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 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%, Fire/Emergency Preparedness 34%, Corrections 6%, and Crime Prevention and Intervention 26%. However, 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.

The audit found that without an oversight board, certain expectations and outcomes of the tax

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have not been managed. The following issues were identified as part of the original audit:

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

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

Further information pertaining to the audit scope, limitations, and methodology can be found in Appendix A of the original audit report.

FOLLOW-UP OBJECTIVE

The objective of this follow-up was to determine whether the City Council, The Mayor, and DFAS have taken the corrective actions recommended in OIA's report issued on June 27, 2019. Consistent with *Government Auditing Standards*, Section 9.08, promulgated by the U.S. Government Accountability Office, the purpose of audit reports includes facilitating a follow-up to determine whether appropriate corrective actions have been taken. This field follow-up is a non-audit service. *Government Auditing Standards* do not cover non-audit services, which are defined as professional services other than audits or attestation engagements. Therefore, the City Council, The Mayor, and DFAS is responsible for the substantive outcomes of the work performed during this follow-up and is responsible to be in a position, in fact, and appearance, to make an informed judgment on the results of the non-audit service. OIA limited our scope to actions taken to address our audit recommendations from the original audit report dated June 27, 2019 through the submission of actions on June 21, 2023

METHODOLOGY

To achieve the objective, OIA:

- Obtained documentary evidence from the City Council, The Mayor, and DFAS;
- Interviewed the City Council, The Mayor, and. DFAS staff to understand and verify the status and nature of the corrective actions taken; and
- Verified the status of the recommendations that the City Council, The Mayor, and. DFAS had reported as implemented.

RESULTS

Of the four recommendations addressed in the original audit report, two have been implemented and are now considered closed. See ATTACHMENT 1. OIA will continue to monitor the corrective actions taken in response to the report.

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ATTACHMENT 1

Recommendations	Responsible Agency	Department Response	OIA Conclusion	OIA Use Only Status Determination
<p><u>Recommendation #1</u> City Council should:</p> <ul style="list-style-type: none"> 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.” 	<p>City Council</p>	<p>The City Council amended the Public Safety Tax Advisory Board Ordinance in October 2019 (O-19-76) to redefine the composition of the Board. The updated composition includes five total members: one member with expertise or financial expertise in crime prevention and intervention, one member with expertise or financial expertise in law enforcement, one member with expertise or financial expertise in emergency medical services, and two at-large members. All members are appointed by the Mayor with the advice and consent of Council.</p> <p>Following the Ordinance update, Council confirmed three Mayoral appointments to the Board in December 2019 and January 2020. (See EC-19-520, EC-20-10, and EC-20-14). Upon receipt of additional appointments from the Mayor, the Council will continue to confirm members to the Board.</p>	<p>City Council provided OIA with documentation including the Public Safety Tax Advisory Board Ordinance amended in October 2019, the Mayoral appointed Board members listed in EC 19-520, EC 20-10, and EC 20-14. OIA reviewed and confirmed that the Mayor appointed three of the five Board members including one with experience or financial expertise in crime prevention and intervention Mr. Rodney Bowe (EC 20-10), one with experience or financial expertise in law enforcement Ms. Deborah Kuidis (EC 20-14), and one with experience or financial expertise in medical services Mr. Manilal (Manu) Patel (EC 9-520). Two At-Large members appointed by the City Council not listed. The terms are for three years and each member can serve a maximum of two terms.</p>	<p><input checked="" type="checkbox"/> Open <input type="checkbox"/> Closed <input type="checkbox"/> Contested</p>

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Recommendations	Responsible Agency	Department Response	OIA Conclusion	OIA Use Only Status Determination
		<p>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 being used 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.</p> <p>Documentation: Memo – Audit Response for Public Safety Tax Advisory Board CS 0-76Enacted EC-10 EC-14 EC-520</p> <p>Completion: February 2020</p>	<p>OIA reviewed budget documentation related to the crime prevention and intervention programs through the Department of Family and Community Services which include behavioral health & wellness, community development, community recreation & education initiatives, health & social service centers, and homeless programs & initiatives.</p> <p>While the remaining members of the Board have not been appointed, this recommendation remains open.</p>	

ATTACHMENT 1

Recommendations	Responsible Agency	Department Response	OIA Conclusion	OIA Use Only Status Determination
<p><u>Recommendation #2</u> 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.</p>	<p>The Mayor</p>	<p>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.</p> <p>Response: After the City Council revised the composition and responsibilities of the Board through Ordinance Amendment O-19-76 on October 17, 2019; the Mayor submitted three candidates to the City Council for appointment to the Board as follows:</p> <ol style="list-style-type: none"> 1. Manilal (Manu) Patel 12/16/2019 2. EC-20-10 Rodney E. Bowe 2/3/2020 3. EC-20-14 Deborah Kuidis 2/3/2020 <p>Completion: June 14, 2023</p>	<p>Documentation was provided to OIA with documentation including Public Safety Tax Advisory Board Ordinance amended in October 2019, the Mayoral appointed Board members listed in EC 19-520, EC 20-10, and EC 20-14. OIA reviewed and confirmed that the Mayor appointed three of the five Board members including one with experience or financial expertise in crime prevention and intervention (EC 20-10), one with experience or financial expertise in law enforcement (EC 20-14), and one with experience or financial expertise in medical services (EC 9-520). Two At-Large members appointed by the City Council not listed.</p> <p>While the remaining members of the Board have not been appointed, this recommendation remains open.</p>	<p><input checked="" type="checkbox"/> Open <input type="checkbox"/> Closed <input type="checkbox"/> Contested</p>

ATTACHMENT 1

Recommendations	Responsible Agency	Department Response	OIA Conclusion	OIA Use Only Status Determination
<p><u>Recommendation #3</u> Until City Council establishes the Public Safety Tax Advisory Board, DFAS should:</p> <ul style="list-style-type: none"> • 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. 	Finance & Administrative Service Department (DFAS)	<p>Allocated funding from the Quarter Cent Public Safety Tax are summarized in the City's annual operating budget document, and reconcile to the City's goals for the respective year. These documents can be viewed at: https://www.cabq.gov/dfa/budget/annual-budget FY/24 Proposed – page 31 FY/23 Approved – page 29 FY/22 Approved – page 29 FY/21 Approved – page 29</p> <p>Documentation: https://www.cabq.gov/dfa/budget/annual-budget Completion: Fiscal Year 2021</p>	<p>OIA reviewed the Budget and noted that the Quarter Cent Public Safety Tax are included and identified in the in the City's approved Budgets.</p>	<input type="checkbox"/> Open <input checked="" type="checkbox"/> Closed <input type="checkbox"/> Contested
<p><u>Recommendation #4</u> Until City Council establishes the Public Safety Tax Advisory Board, DFCS should:</p> <ul style="list-style-type: none"> • Establish a process to address reallocating Quarter Cent Public Safety Tax when contract expenses are less than 	Finance & Administrative Service Department (DFAS)	<p>All unused/uncommitted General Fund allocations, if any, always revert to fund balance at year-end and are reallocated for the same purpose/use in the subsequent fiscal year through OMB's established budget development process.</p>	<p>OIA recognizes that unspent funds revert to the fund balance is an established practice. OIA also reviewed the approved Budget and found that scope language regarding crime prevention and</p>	<input type="checkbox"/> Open <input checked="" type="checkbox"/> Closed <input type="checkbox"/> Contested

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Recommendations	Responsible Agency	Department Response	OIA Conclusion	OIA Use Only Status Determination
<p>projected or formally commit unspent funds; and</p> <ul style="list-style-type: none"> • Include language in the contract Scope of Services regarding crime prevention and intervention or expressly reference City Goal 2 - Public Safety. 		<p>The scope language regarding crime prevention and intervention have been included in the respective contract templates for Fiscal Years 2023 and 2024 by Family and Community Services Department. (Quarter cent funds expended for Albuquerque Police Department, Albuquerque Fire Rescue, and Prisoner Transport go directly towards personnel costs, and do not necessitate a contract).</p> <p>Documentation: n/a</p> <p>Completion: Fiscal Year 2023.</p>	<p>intervention have been included for the Family and Community Services Department.</p>	