



State of New Mexico
OFFICE OF THE STATE AUDITOR

Hector H. Balderas
State Auditor

Carla C. Martinez
Deputy State Auditor

February 23, 2012

VIA FACSIMILE & US MAIL

Members of the City Council
Martin Resendiz, Mayor
City of Sunland Park
1000 McNutt Road, Ste #A
Sunland Park, NM 88063-9200

Re: Notification Letter – Designation of Special Audit of the City of Sunland Park

Dear Mayor Resendiz and City Council Members:

The Audit Act, specifically Section 12-6-3(C) NMSA 1978, provides that the State Auditor “may cause the financial affairs and transactions of an agency to be audited in whole or in part.” Accordingly, this letter is to notify you that the Office of the State Auditor (OSA) has formally designated the City of Sunland Park (City) for special audit, performance audit or attestation engagement. This designation is a result of my office’s recent comprehensive risk review of the City’s last three audit reports, the recent outcomes of expanded financial audit test work required by the OSA, and allegations of financial malfeasance at the City that have been reported to my office. The OSA will determine the type of engagement to be conducted and will develop the appropriate scope. Please note that the City is required to bear the cost of the audit or engagement pursuant to Section 12-6-4 NMSA 1978.

The City’s audit reports for fiscal years ended June 30, 2008 through June 30, 2010 indicate that the City is in a state of financial disarray, which presents a myriad of risks to the City’s citizens and taxpayer dollars. The City also failed to submit all three of the audit reports by the State Auditor’s required deadlines, and the OSA has not received the City’s audit report for the fiscal year ended June 30, 2011. Finally, my office received various complaints through the OSA’s Fraud Hotline and from concerned constituents, and subsequent audit test work related to those complaints resulted in numerous findings in the City’s latest audit report. Given these significant problems and recent developments, I am taking immediate action to restore accountability to the City’s fiscal operations. I also have committed the resources of my office to assisting law enforcement agencies with their investigations related to the City.

First and foremost, I am gravely concerned by the consistent inability of independent public accountants (IPA) to opine on the City’s financial statements. The City received a disclaimer of opinion for fiscal years 2008 through 2010. A disclaimer of opinion is a lack of an opinion on the financial statements. The IPAs’ basis for the disclaimers was the significant lack of audit evidence, which means that the City failed to support its financial statements. Because the City has a significant amount of missing financial records, it is impossible to gain any certainty or reliability about the sources and uses of the City’s public funds. As a result, the City’s governing body and the public cannot be confident that the City is appropriately expending public dollars and safeguarding public property. The City’s lack of fiscal transparency creates extreme risks for fraud and misappropriation of taxpayer funds. Put bluntly, this deeply alarming trend will not be tolerated.

2540 Camino Edward Ortiz, Suite A, Santa Fe, New Mexico 87507

Toll Free 1-800-432-5517

Local (505) 476-3800 • Fax (505) 827-3512

<http://www.osanm.org> • 1-866-OSA-FRAUD

In addition to the severity of the disclaimers, our review of the audit reports revealed numerous findings that exhibit poor fiscal management and a widespread failure to adhere to internal controls within the City. In the 2010 financial audit report, the IPA reported a total of 37 findings: 29 were considered material weaknesses in internal controls; 6 were noncompliance; and two were less significant “other” matters. 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 misstatements on a timely basis. A material weakness is a deficiency, or combination of deficiencies, in internal control, such that there is a reasonable possibility that a material misstatement of the entity’s financial statements will not be prevented, or detected and corrected on a timely basis. The audit reports also contained multiple significant and troubling findings that the City has failed to correct year after year. Given their importance, certain findings deserve discussion here. For example:

- As far back as fiscal year 2002, the City has continued to receive a finding that reveals budget overages in multiple funds. Finding 02-04 in 2010 shows that the City overspent its approved budget by over \$760,000 with expenditure overages in various funds. In fact, the most significant overage amounted to \$1,000,000 over the approved budget for one fund. This finding accentuates the significant lack of internal controls over cash disbursements and budgeting. As well as noncompliance with approved budget plans, budget overages may require the use of other revenue sources intended for other purposes that could have been used to benefit other areas within the City.
- The City has failed to remedy finding 02-01, which details insufficient attention given to accounting and internal controls process. The IPA states that an accounting procurer manual had not been adopted, and the City did not document policies and procedures that define accounting reporting responsibilities for employees who are responsible for handling assets, liabilities, and expenditures. Simply stated, the lack of controls puts the City at risk for unauthorized transactions, and funds can be improperly recorded and reported.
- Finding 03-04, lack of separation of duties, indicates that there are no controls in place for separation of duties for employees. The IPA found that in some cases the same person records cash receipts, reconciles the general ledger, prepares deposit slips, transfers funds, prepares journal entries and posts the budget on the system. Risks of fraud and manipulation increase when an employee is able to conduct all the listed duties without proper controls in place for approval and review.
- In another finding repeated since fiscal year 2008, finding 08-04 relating to capital assets, the IPA found that the City had not performed a complete physical inventory of capital assets and the inventory listing was not maintained in fiscal year 2008. It also appears that in 2010 the City should have had additions to the capital assets inventory listing since the City reported over \$1,800,000 in capital outlay expenditures. The City’s exposure to asset misappropriation increases significantly when there is a lack of accounting and tracking of capital assets. Since 2008, the City has concurred with the finding and states that “the City will maintain and update an accurate listing of all fixed assets.” It is imperative that the City maintain and update its capital assets listing to ensure that City assets are accounted for and properly stated.
- Finally, finding 08-09, information technology, details the City’s failure to adequately implement controls over information security, physical security and disaster recovery. Due to the lack of proper controls and backup procedures, an electrical storm destroyed the City’s digital records in

November of 2009. Considering the history of the City's financial reporting, I hope to see that the safeguards the City instituted will protect vital digital records in the future.

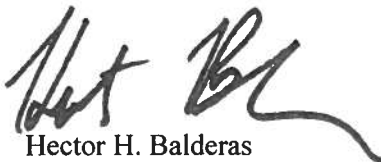
In addition to these prior year findings that the City has repeatedly failed to remedy, the City's fiscal year 2010 audit contained nine findings that resulted from expanded audit test work required by the OSA. On January 7, 2010 my office sent a referral letter to the City's IPA, White + Samaniego + Campbell, LLP (White), which detailed certain issues that White should consider during its financial audit test work. The letter highlighted certain concerns and risks identified by my office, including complaints received through the OSA's Fraud Hotline and from concerned constituents. Some of the complaints my office received related to violations of purchasing procedures, procurement procedures, nepotism, and incorrect water billings and waivers of bills for the City's residential and commercial users. The additional testing the IPA conducted as a consequence of the OSA's referral resulted in nine additional findings for the City's 2010 financial audit report. Those nine findings are significant in nature and are considered to be material weaknesses:

1. 10-06 Incomplete personnel findings;
2. 10-07 Incomplete payroll records;
3. 10-08 Purchase order lack of detail;
4. 10-09 Lack of contract for services;
5. 10-10 Incorrect payment to city councilor/mayor;
6. 10-11 Lack of supporting documentation for motor vehicle department;
7. 10-12 Incomplete record for court;
8. 10-13 Lack of supporting documentation for transfer from utility department; and
9. 10-14 Lack of supporting documents for travel reimbursement.

Given the serious nature of these issues, it is my expectation that the City's governing body and management will fully cooperate with my office during the designation and audit process. My staff will conduct a site visit of the City within two weeks from the date of this letter in order to conduct further assessments. Following these assessments, the OSA will notify the City of the type of engagement, its scope and estimated costs.

No later than close of business on Friday, February 24, 2012, please provide my office with a point of contact so that we can schedule a site visit to the City. Should you have any questions regarding this correspondence please do not hesitate to contact Antonio Corrales, Director of Operations and Compliance, at (505) 476-3800.

Respectfully,



Hector H. Balderas
State Auditor

cc: Susana Martinez, Governor of New Mexico
Tom Clifford, Secretary, New Mexico Department of Finance and Administration
Representative Luciano "Lucky" Varela, Vice-Chair, Legislative Finance Committee
Senator John Arthur Smith, Chairman, Legislative Finance Committee