



ARA 1.02 AUDITOR'S OFFICE ADMINISTRATIVE RULE PROCESS

A. Purpose and Authority

Section 2-506 of the Portland City Charter requires the City Auditor to establish human resources and procurement rules for the Auditor's Office, and authorizes the City Auditor to adopt, amend, and repeal other administrative rules to carry out the Auditor's Office's duties. Several sections of the City Code also expressly delegate rule-making authority to the City Auditor.¹

The Auditor's Office's administrative rules set forth rules, policies, and procedures for carrying out the City Auditor's duties, help to promote operational efficiencies, and enhance the mission of the Auditor's Office.

The purpose of this rule is to set forth rules procedures for administrative rulemaking to ensure that all Auditor's Office rules are accurately formulated, formally approved, and maintained in the City's rule repository.

B. Auditor's Office Rulemaking Process

1. All Auditor's Office rulemaking must go through the following process:

Step 1: Notice

Step 2: Comment period

Step 3: Review and adoption

Step 4: Public posting

except as follows:

- a. The City Auditor may adopt interim rules without prior notice upon finding that the failure to act promptly will result in prejudice to the public interest. Interim rules shall be effective for not more than 180 days.

¹ See, e.g., Chapter 2.12 (Regulation of Lobbying Entities), 2.14 (Reporting by Political Consultants), 3.02 (Council Clerk/Contracts), 3.76 (Archives and Records Management), 3.77 (Office of the Ombudsman), 3.21 (Independent Police Review), and 22.03 (Hearings Office).

- b. The City Auditor may, without prior notice or comment:
 - i. Rearrange, renumber, re-letter, capitalize, punctuate, and divide provisions of any rule;
 - ii. Correct clerical errors and omissions and insert captions in accordance with the meaning and intent of the rule;
 - iii. Make changes to procedural aspects of a rule that do not fundamentally change the substantive content of the rule;
 - iv. Delete rule provisions that have become inoperative or that have been ruled invalid by a court of competent jurisdiction; and
 - v. Substitute any current title of an officer, bureau, department, or commission in lieu of the title originally appearing in the rule, in accordance with changes of title or duties subsequently made by law.
2. Guidance attached to Auditor's Office administrative rules are not considered rules and are not subject to the rulemaking process described in this Section.

C. Standard Format

To ensure consistency, the Auditor's Office has created a standard format for administrative rules, which must be used for all administrative rules.

D. Notice Requirements

The Auditor's Office will provide public notice of the proposed adoption, amendment, or repeal of any rule and the opportunity to submit comments on the proposed rulemaking.

1. All notices of proposed rulemaking must include:
 - a. A purpose statement describing the rulemaking and the major subjects or issues addressed;
 - b. Reference to the legal authority under which the rulemaking is proposed;

- c. The specific wording of the proposed new rule or rule change. If proposed rule changes cannot be presented in a format that makes deletions and additions clear, the notice must include a summary explaining the changes;
 - d. The location of the proposed rule's public posting, and where copies may be obtained in person; and
 - e. Information about how to submit comments on the proposed rulemaking, including contact information for the Division or employee responsible for the rulemaking process, and the start and end date of the comment period.
2. The Auditor's Office will post notice of all proposed rulemaking on the City Auditor's website. Notice of a proposed rulemaking may also be obtained, in person, at any office of the Auditor's Office.
3. The Auditor's Office will consider communities of interest with whom to directly share the notice of the rulemaking. Communities of interest may include parties who have demonstrated interest in the issue addressed in the rule, known industry stakeholders, any group likely to be disproportionately affected by a rule, historically underserved populations and underrepresented groups, and community and civic organizations.
4. The Auditor's Office may partner with any bureau or office to increase public awareness of a rulemaking, including the City's Office of Community & Civic Life and the Office of Equity and Human Rights.
5. The City Auditor values the input of employees and will consider suggestions for the development or review of human resources rules for the Auditor's Office. The Auditor's Office will provide notice of any proposed human resources rulemaking to all affected employees, the Bureau of Human Resources, and the City's Labor Relations Manager.

E. Comment and Review Period

The Auditor's Office provides a notice and comment period during rulemaking to inform and involve employees, the public, City officials, and other interested parties in the creation of the Auditor's Office's rules.

Broad participation in rulemaking promotes an open and accountable government and enhances the quality of the Auditor's Office's rules. For example, comments on a proposed rule can alert the Auditor's Office to unforeseen options or consequences, can provide

information needed to develop accurate and useful rules, and gives the Auditor's Office an opportunity to hear a wide-range of concerns, values, and preferences.

1. The Auditor's Office will accept comments on a proposed rulemaking for at least 30 days.
2. Comments in the form of written data, opinions, or arguments may be submitted through the City Auditor's website, email, or mail, or may be hand-delivered to any office of the Auditor's Office.
3. Comments may be provided orally to the City Auditor or the Division or employee responsible for the rulemaking.

F. Response to Comments

The Auditor's Office will consider all timely submitted comments on a proposed rulemaking.

1. The Auditor's Office may, but is not required to:
 - a. Make changes to the proposed rulemaking in response to comments received;
 - b. Post or send responses to comments received; and/or
 - c. Re-notice the rulemaking or change the rulemaking timeline. For example, upon receipt of comments containing persuasive or significant information or questions, the Auditor's Office may extend the timeline for comments, or may revise the proposed rulemaking and provide for a new comment period. The Auditor's Office must provide notice of a revised proposed rulemaking or comment timeline.
2. If a proposed rule concerning the procedure and conduct of hearings before the Hearings Officer is modified substantially after the initial comment period, the Auditor's Office must provide notice of the proposed modifications to all persons who submitted comments on the original proposed rule, and to any other person requesting such notification. The Auditor's Office must also provide a reasonable opportunity for additional comments to be submitted.
3. All timely submitted public comments regarding a proposed rulemaking are a public record and can be made available through a public records request.

G. Adopted Rules

1. The City Auditor is the final authority on any rulemaking determination, including the adoption, interpretation, and application of any rule.
2. All new or revised administrative rules approved by the City Auditor must be forwarded to Management Services.
 - a. Management Services will post all new or revised rules on the City Auditor's website and in Portland Policy Documents (the City's rule repository), and will submit amended, revoked, or superseded rules to the City's electronic public archives and records portal.
 - b. To help ensure that all Auditor's Office employees have access to rules related to their employment, Management Services will notify all Auditor's Office employees, the Bureau of Human Resources, and the City's Labor Relations Manager when final human resources rules have been posted on the City Auditor's website. The Auditor's Office's human resources rules govern all non-represented Auditor's Office employees.

H. Review of Administrative Rules

1. The City Auditor is responsible for updating the Auditor's Office's administrative rules, as needed, to reflect changes in law, policy, practice, or circumstances. Updates will be adopted in accordance with the procedures outlined in this rule.
2. The City Auditor reserves the right, at any time, to withdraw or amend any portion of the Auditor's Office's administrative rules, in accordance with these rules.

Auditor's Office Administrative Rule Information and History

Questions about this administrative rule may be directed to the [Auditor's Office's Management Services Division](#).

Adopted by the City Auditor December 11, 2017.

Last revised November 30, 2018.