

CITY OF COLUMBUS

FRAUD PREVENTION AND DETECTION POLICY

EFFECTIVE DATE: April 14, 2011

INTRODUCTION

The City of Columbus is committed to the deterrence, detection and correction of misconduct and dishonesty to prevent fraud. Like all organizations, the City of Columbus is faced with the risks of misconduct relating to fraud. As with all business exposures, the City must be prepared to manage these risks and their potential impact in a professional manner.

Our goal is to establish and maintain an ethical and honest business environment for all City employees, elected officials, customers, and residents of our community. To maintain such an environment requires the active assistance of every city employee and our elected officials.

City employees, especially supervisors and department heads, must be aware of the circumstances, or "red flags", which lead to fraud and share in the commitment to prevent and detect fraud. For the purpose of this administrative procedure, fraud and intentional waste are referred to as "fraud".

This Fraud Prevention and Detection Policy is being established to facilitate the development of controls, which will aid in the detection and prevention of fraud against the City, to provide guidelines and to assign responsibility for the reporting of fraud and conducting of investigations regarding fraud, and to promote consistent behavior in the prevention and detection of fraud.

BACKGROUND

Studies have shown that "red flags" of fraud within an organization were ignored by the organization in almost 50% of the frauds reported. "Downsizing" and repositioning of an organization increases the risk of fraud. Internal controls are the best method of preventing fraud. Poorly written or poorly enforced internal controls allow most fraud to occur.

Fraud occurs for the following reasons (note: there were multiple reasons in some cases):

- Poor internal controls
- Management override of internal controls
- Type of organization (industry with high risk of fraud)
- Collusion between employees and third parties
- Poor or non-existent ethical standards
- Lack of control over managers by their supervisors

The most frequently cited "red flags" of fraud are:

- Changes in an employee's lifestyle, spending habits or behavior
- Poorly written or poorly enforced internal controls, policies and procedures
- Irregular/unexplained variances in financial information
- Inventory shortages
- Failure to take action on results of internal/external audits or reviews
- Unusually high expenses or purchases
- Frequent complaints from customers

- Missing files
- Ignored employee comments concerning possible fraud

Perpetrators of fraud typically live beyond their reasonably available means. Other indicators of fraud include the borrowing of small amounts of money from co-workers, collectors or creditors appearing at the place of business, excessive use of telephone to stall creditors, falsifying records, refusing to leave custody of records during the day, working excessive overtime, refusing vacations, and excessively rewriting records under the guise of neatness.

The following internal controls help prevent fraud:

- Adherence to all organizational procedures, especially those concerning documentation and authorization of transactions
- Physical security over assets such as locking doors and restricting access to certain areas
- Proper training of employees
- Independent review and monitoring of tasks
- Separation of duties so that no one employee is responsible for a transaction from start to finish
- Clear lines of authority
- Rotation of duties in positions more susceptible to fraud
- Ensuring that employees take regular vacations
- Regular independent audits of areas susceptible to fraud

SCOPE OF POLICY

This policy applies to any fraud, or suspected fraud, involving employees, department heads, officials, as well as consultants, vendors, contractors, and any other parties with a business relationship with the City of Columbus.

Any investigative activity required will be conducted without regard to the suspect's length of service, position/title or relationship to the City.

PURPOSE

The purpose of this document is to communicate the City's policy regarding deterrence and investigation of suspected misconduct and dishonesty by employees and others, and to provide specific instructions regarding appropriate actions in case of suspected violations. As applicable to this policy, the definition of what constitutes fraud and the outline of the rules and procedures to follow when fraud is suspected applies to all employees, department heads and elected officials.

POLICY

Department heads are responsible for the detection and prevention of fraud, misappropriations, and other inappropriate conduct within their office. Each department head must be familiar with the types of improprieties that might occur within his or her area of responsibility, and be alert for any indication of irregularity. Any fraud that is detected or suspected must be reported immediately to the City Manager in writing.

For the purpose of this policy, fraud may be reported to the City Manager for review and investigation. If the investigation leads to the conclusion that fraud has resulted in City property loss, the jurisdiction that prosecutes, either the County Attorney or District Attorney, shall be determined as a matter of law. This policy does not prohibit a 'whistle blower' from contacting any law enforcement agency with jurisdictional authority directly. (example: Police Department, Sheriff's office, Texas Rangers, etc.)

Fraud, for the purposes of these administrative procedures, is defined within this policy and as a matter of law is defined for criminal prosecution in the Texas Penal Code, Title 7, Chapter 32 Fraud.

RESPONSIBILITIES

Employees: It is the responsibility of every employee to immediately report **suspected** misconduct, dishonesty or fraud to their supervisor or to the department head. However, if the employee has reason to suspect that the department head may also be involved; the employee should contact the City Manager directly. Every employee shall cooperate with administrative investigations pursuant to this administrative procedure. The employee shall not discuss the matter with anyone other than his/her supervisor, City Manager or as directed by the investigating agency. Failure to report suspected fraud could result in disciplinary action or possibly termination.

Supervisors: Supervisors must be aware of what can go wrong in their area of authority. Supervisors must put into place and maintain effective monitoring, review and control procedures that will prevent acts of impropriety. When subordinates make supervisors aware of such potential acts, the supervisor must immediately report such act to the City Manager.

The supervisor shall not attempt to investigate the suspected fraud. Due to the important yet sensitive nature of the suspected violations, effective professional follow-up is critical. Supervisors, while appropriately concerned about "getting to the bottom" of such issues, should not in any circumstances perform any investigative or other follow-up steps on their own. **Concerned but uninformed managers represent one of the greatest threats to proper incident handling.** All relevant matters, including suspected by unproven matters, should be referred immediately to the City Manager or the investigating agency.

Once a potential act has been reported it becomes part of an on-going investigation, therefore, supervisors shall not discuss the matter with anyone other than the City Manager, or as directed by the investigating agency.

Any reprisal against an employee or other reporting individual because that individual, in good faith, reported a violation is strictly forbidden, and such individual falls under the protection of the Whistle Blower Act.

PROCEDURES

Record Security: A successful audit/investigation can only be performed if the documentation relating to an alleged fraud is available for review in its original form. Therefore, once a suspected fraud is reported, a supervisor shall take immediate action to prevent the theft, alteration, or destruction of relevant records. Such actions include, but are not necessarily limited to, removing the records and placing them in a secure location, limiting access to the location where the records currently exist, and preventing the individual suspected of committing the fraud from having access to the records. Once a potential act has been reported, the relevant records shall not be destroyed under any previously adopted records retention policy.

Contacts/Protocols: The City Manager, or his designee, shall coordinate the investigation with the appropriate law enforcement officials.

Confidentiality: All participants in a fraud investigation shall keep the details and results of the investigation confidential except as expressly provided in this administrative procedure. However, the City Manager and the City Secretary may discuss the investigation with any person if such discussion would further the investigation.

Personnel Actions: If a suspicion of fraud is substantiated by the audit investigation, disciplinary action shall be taken in conformance with the City's Personnel Policies and Procedures. A false and vindictive allegation of fraud is a violation of this administrative procedure. All violations of this administrative procedure, including violations of the confidentiality provisions, shall result in disciplinary actions up to and including termination.

Retaliation: It is a violation of this administrative procedure for any individual to be discriminated against for reporting fraud or for cooperating, giving testimony, or participating in an audit investigation, proceeding, or hearing. Such an individual falls under the protection of the Whistle Blower Act.

Media Issues - If the media becomes aware of an audit investigation, the appropriate supervisor shall refer the media to the City Manager. The alleged fraud and audit investigation shall not be discussed with the media other than through the City Manager's Office.

WHISTLE BLOWER ACT

A whistleblower is an employee who, in good faith, reports a violation of law by the public employer or another public employee to an appropriate law enforcement authority. The Texas Whistleblower Act protects Whistle blowing employees. In accordance the Government Code, Title 5, Chapter 554, no supervisor, department head or elected official, or person acting on behalf of such, may "suspend or terminate the employment of, or take other adverse personnel action against, a public employee who in good faith reports a violation of law by the employing governmental entity or by another public employee."

For the purpose of this policy, "other adverse personnel action against" a person reporting suspected fraud is defined as:

- Suspension or termination of employment
- Dismissing or threatening to dismiss an employee
- Disciplining or suspending or threatening to discipline or suspend an employee
- Imposing any penalty upon an employee
- Intimidating or coercing an employee

The Whistleblowers Act is predicated on the "good faith report" of a violation of the law and does not require showing that the employee acted with absence of malice. Employee malice does not negate the Whistleblower Act's protection if the employee's report of violation was honestly believed and objectively reasonable. Actual violation of the law is not required before the whistleblower receives protection of the Whistleblower Act; rather all that is required is that the employee has an objectively reasonable belief that a violation has occurred. Also, the employee is not required to prove that he or she was free from involvement in violation of law to show "good faith report" of violation of law under the Whistleblower Act.

However, an employee does not act in good faith, when his report of a violation of law is based entirely on unsubstantiated rumor and innuendo.

FALSE ACCUSATIONS

All employees must take great care in dealing with suspected dishonest or fraudulent activities to avoid:

- Incorrect accusations
- Treating employees unfairly
- Making statements that could lead to claims of false accusations or other offenses

Employees, supervisors or department heads that make false accusations may be subject to disciplinary action, up to and including termination of employment. Further, knowingly making a false statement that is material to a criminal investigation to a peace officer, or to any employee of a law enforcement agency that is authorized by the agency to conduct the investigation and that the actor knows is conducting the investigation, is a misdemeanor offense under the Texas Penal Code and could lead to criminal prosecution.

REPORTING FRAUD

As stated above any suspicions of fraud, waste or abuse including but not limited to illegal acts, such as theft, fraud, kickbacks, price fixing, or conflicts of interest by city employees, officials or its contractors should be reported to the City Manager in writing. This should be done in writing, if possible on the Fraud, Abuse and Waste Complaint Form that is attached at the end of this document. This form will also be published on the City's website and can be mailed to the following:

City Manager
PERSONAL AND CONFIDENTIAL
PO Box 87
Columbus, Texas 78934

To report fraud, waste and abuse please describe your concern in detail. Provide the names of all individuals involved, including any other witnesses. Give the dates and times the incident(s) occurred and where it happened. State whether there is any supporting documentation such as license plate numbers, invoice numbers, transaction numbers, case numbers, check numbers or other document numbers. Copies of the supporting documentation can be sent in with the complaint form. Please identify yourself on the complaint form and give a phone number where it would be appropriate to call, so that the City Manager can follow-up on your concerns and complete a full investigation.

This reporting procedure is not intended for reporting improper activities by City, State or Federal employees (unless related to specific City activity) or by private parties not related to the City of Columbus government.

DEFINITION OF FRAUD

Fraud, for the purposes of these administrative procedures, is defined within this policy and as a matter of law is defined for criminal prosecution in the Texas Penal Code, Title 7, Chapter 32 Fraud.

Fraud generally involves a willful or deliberate act with the intention of obtaining an unauthorized benefit, such as money or property, by deception or other unethical means. For the purposes of this Policy, the definition has been broadened to include:

- An intentional or deliberate act
- To deprive the City or a person of something of value or gain an unfair benefit
- Using deceptive, false suggestions, suppressions of truth, or other unfair means which are believed or relied upon
- Intentional waste or abuse of City funds, property or time

A fraudulent act may be an illegal, unethical, improper or dishonest act including, but not limited to:

- Embezzlement
- Misappropriation, misapplication, destruction, removal, or concealment of property
- Forgery, alteration or falsification of documents/records (including but not limited to checks, time sheets, contracts, other financial records, court documents, or electronic files)
- Improprieties in handling or reporting of money or financial transactions
- Authorizing or receiving payment for goods not received or services not performed
- Authorizing or receiving payments for hours not worked
- Serious abuse of City time such as unauthorized time away from work or excessive use of City time for personal business
- Theft or unauthorized removal of City records, City property or the property of other persons (to include the property of employees, supervisors, consumers, clients, customers or visitors)
- Willful destruction or damage of City records, City property or the property of other persons (to include the property of employees, supervisors, consumers, clients, customers, inmates or visitors)
- Neglecting or subverting job responsibilities in exchange for an actual or promised reward
- False claims by employees, department heads, elected officials, vendors as well as consultants, contractors, and any other parties with a business relationship with the City of Columbus
- Theft of any assets including, but not limited to money or tangible property
- Inappropriate use of computer systems, including hacking and software piracy
- Bribery, rebate or kickbacks

- Conflict of interest
- Misrepresentation of fact

DISPOSITION OF INVESTIGATION

If the investigation leads to the conclusion that fraud has resulted in City property loss, the City Manager shall report such loss to City Council. The City Manager shall vigorously enforce the laws of the State of Texas against person or persons who defraud the City and seek full restitution from such person or persons for any property loss.

Upon completion of the investigation and all legal and personnel actions, the investigative offices will return records to the appropriate department.

QUESTIONS OR CLARIFICATIONS RELATED TO THIS POLICY

All questions or other clarifications of this policy and its related responsibilities should be addressed to the City Secretary who shall be responsible for the administration, revision, interpretation, and application of this policy.

