 FRAUD, WASTE AND ABUSE PROGRAM	Citywide Policy Manual Policy # TBD
	Attachments:
Effective Date: October 12, 2022	Responsible Department: Administrative Services/Finance
Related Policies & Notes:	

All City of Cupertino (City) employees and elected officials share the common purpose of serving the public and ensuring public funds are spent wisely. The work of the City should be conducted fairly, equitably, ethically, and transparently. Proactive steps must be taken to ensure community commitments and management objectives are met. It is important for employees and the public to be provided a mechanism to voice appropriate concerns when they see or feel something is not right.

As a result, the City has established a Fraud, Waste, and Abuse Program that is available to all City employees, elected officials and the public. The program operates 24 hours a day, 7 days a week. Reports of suspected inappropriate activity can be made using the City’s toll-free number, mail, phone, or in-person. All reports submitted are treated confidentially.

City employees and elected officials are entrusted with public funds and have a duty to use those funds economically, efficiently, effectively, and ethically. If City employees and elected officials do not honor that obligation, then it is imperative to identify and correct those actions. The City is committed to reviewing all complaints and investigating all legitimate concerns.

Purpose of a Fraud, Waste, and Abuse Program

A Fraud, Waste, and Abuse (FWA) Program is a mechanism for employees, elected officials or members of the public to report activities perceived to be misconduct, violations of City policy or ethics, theft, waste, or misuse of City assets. The objective of a FWA program is to identify and stop loss of City resources and act as a deterrent to fraud, waste, and abuse.

In order to facilitate reports of fraud, waste, or abuse, a FWA hotline is administered by a hotline vendor. The vendor receives calls on the FWA hotline and forwards the incident report to the City’s Internal Auditor. Please do not use this program to report employee relations issues. Employee concerns/complaints should be reported to the employee’s supervisor and/or the Human Resources Division. Matters of threat to a person should be reported to the Santa Clara County Sherriff’s Office by calling 911.

Definitions

a. "Fraud" is defined as a dishonest and deliberate course of action that results in obtaining money, property, or an advantage to which City employees or councilmembers committing the action would not normally be entitled. Fraud also encompasses intentional misleading or deceitful conduct that deprives the City of its resources or rights. There are three categories of fraud. They include 1) financial statement fraud, 2) misappropriation of assets, and 3) corruption. Examples of fraud include, but are not limited to:

- Falsifying financial records to cover up theft.
- Theft or misuse of City money, equipment, supplies, and/or other materials.
- Intentionally misrepresenting the costs of goods or services provided.
- Falsifying payroll information.
- Use of City equipment or property for personal use/gain or non-business reasons.
- Submitting false vouchers for reimbursements.
- Soliciting or accepting a bribe or kickback.
- Intentional use of false weight or measures.

b. "Waste" is defined as the needless, careless, or extravagant expenditure of City funds, incurring of unnecessary expenses, or mismanagement of City resources or property. Waste does not necessarily involve private use or personal gain, but it almost always signifies poor management decisions, practices, or controls. Examples of waste include, but are not limited to:

- Purchase of unneeded supplies or equipment outside of established limits.
- Purchase of goods at inflated prices without appropriate bids or research.

c. "Abuse" is defined as the intentional, wrongful, or improper use or destruction of City resources, or improper practice that does not involve prosecutable fraud. Abuse can include the excessive or improper use of an employee or official's position in a manner other than its rightful or legal use. Examples of abuse include, but are not limited to:

- Failure to report damage to City equipment or property.
- Using one's position in one City department to gain an advantage over another City resident when conducting personal business in another City department.
- Abuse of City time such as significant unauthorized time away from work or significant use of City time for personal business.
- Abusing the system of travel reimbursement.
- Receiving favors for awarding contracts to certain vendors.
- Using City property, information, or position for personal gain or resulting in extra or special charges to the City.
- Appropriating or diverting any business opportunity or idea in which the City might have an interest.

- Competing with the City in an inappropriate way.
- Failure to disclose a conflict of interest.
- Participating in decision making where a conflict of interest resides.
- Improper use of supervisory authority in response to an employee taking action or refusing to take action.

Reporting

The City is providing employees, councilmembers and members of the public a variety of methods for reporting suspected inappropriate activity and behavior. Services are available 24 hours a day/7 days a week/365 days a year. These methods include:

- **Website:** <https://www.lighthouse-services.com/cupertino>
- **Anonymous Reporting App:** Keyword: cupertino
 - Detailed app instructions download **here**
- **Toll-Free Telephone:**
 - English-speaking USA and Canada: **855-222-0916**
 - Spanish-speaking USA and Canada: **800-216-1288**
- **E-mail:** reports@lighthouse-services.com (must include city name with report)
- **Fax:** 215-689-3885 (must include company name with report)
- **In-person:** City of Cupertino City Hall (City Manager) 10300 Torre Ave. Cupertino, CA 95014
- **Mail:** City of Cupertino City Hall Attn: City Manager 10300 Torre Ave. Cupertino, CA 95014

Roles and Responsibilities

- a. City Council – requires and funds a FWA Program.
- b. City Manager – sets the tone for the program, provides messaging on the City’s intranet page promoting ethical behavior with appropriate links for reporting, reviews all recommended actions by the Internal Auditor regarding how to respond to complaints, and provides recommendations to the City Council (but does not participate in conducting investigations).
- c. Internal Auditor –coordinates the FWA Program; monitors, triages, and disseminates complaints to appropriate City personnel; conducts investigations as appropriate; monitors and reports on the progress of addressing complaints received; and performs follow-up procedures as appropriate.
- d. City Attorney– reviews FWA Program reports, as necessary, to determine if there are civil matters to be addressed and takes appropriate action(s) in collaboration with the Internal Auditor.
- e. Sheriff’s Office – reviews applicable reports to determine if there are criminal matters to be addressed and takes appropriate actions.

- f. Director of Administrative Services – reviews FWA Program reports and works with Internal Audit, Human Resources, and Finance to take appropriate action as a result of substantiated complaints.
- g. Human Resources Division – receives complaints and works with management and bargaining unit representatives to take appropriate action as a result of substantiated complaints.
- h. Department Heads –support the FWA Program and cooperate with an investigation should one occur within their Department, and work with management regarding insurance coverage and claims.
- i. City Employees –report suspected inappropriate activity.

Whistleblower Protection Policy

The City’s Whistleblower Protection Policy and prohibits retribution against any employee who may have made a report of suspected inappropriate activity. The City will take each call seriously and investigate as the issue warrants and evidence is available. The City has made available an anonymous reporting mechanism (hotline) to facilitate this process.

If an individual makes a report through the FWA hotline, then the Internal Auditor will not make any effort to identify the complainant. If the individual wishes to be contact by the Internal Auditor, then the individual should leave contact information at the time of the FWA hotline call. The Internal Auditor will not reveal the identity of the individual(s) unless required to do so by law.

Training

The City will providing initial and ongoing training to all City employees and councilmembers on the FWA Program. Moss Adams will be providing employee, supervisor and councilmember training Fall 2022. Training will be recorded and will be included in new employee orientation. FWA training will be required for all employees and councilmembers annually.

City Manager’s signature: <u>Pamela Wu</u>
Date: <u>Oct 13, 2022</u>





Fraud Waste and Abuse Policy Final

Final Audit Report

2022-10-13

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