



# Directive

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| Title: <b>Fraud, Waste, and Abuse Policy</b> | Approved By<br><b>William Dollar</b> | Page <b>1</b> of <b>8</b> |
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*William Dollar*

## INTRODUCTION

The purpose of this directive is to define what constitutes fraud, waste and abuse (FWA) and to outline the procedures employees must follow when FWA is suspected.

We as government employees are expected to be dedicated in providing responsible government characterized by integrity and accountability. Each employee is accountable for the City's property, money and good name.

The City of Garland is committed to preventing FWA. All City employees must share in this commitment. The City expects all employees to perform their duties conscientiously, honestly, and in accordance with the best interests of the citizens.

While not necessarily committing FWA, employees should not use their position or the knowledge gained through it for private or personal advantage or in such a manner that a conflict or an appearance of conflict arises between the City's interest and the employee's personal interest.

City employees, especially supervisory personnel, must be aware of the circumstances, or "red flags", which lead to FWA.

The City will not tolerate dishonesty, either against the City or on behalf of it. If an employee becomes aware of the reasonable possibility of any FWA activity, the employee has an obligation to report it through the appropriate channels – supervisory personnel and/or the FWA hotline. Any employee in doubt about the application of this directive should discuss the matter with their supervisor or the City Auditor's Office. In addition, the City will not tolerate any retaliation against an individual for reporting FWA or for cooperating, giving testimony, or participating in any manner in an audit/investigation, proceeding, or hearing.

Employees of the city, citizens, vendors, outside agencies, consultants, and anyone doing business with the City may report suspected FWA activity by calling the FWA Hotline at 972-205-2739. If the individual would prefer, concerns could be recorded in detail in writing and sent to the Fraud Hotline, P.O. Box 469002, Garland, TX 75046. It is important to note that tips are the number one way to catch FWA.

### 1. **DEFINITIONS**

1.1 For the purposes of this directive, the following definitions apply:

*Fraud* means an intentional or deliberate act of deception to gain an improper advantage. Examples of fraud include:

- Forgery or alteration of a check, bank draft, or any other financial document
- Theft of a check or other diversion of a payment
- Misappropriation of funds, securities, supplies, or other assets
- Impropriety in the handling or reporting of money or financial transactions
- Profiteering as a result of insider knowledge of city operations and

*Waste* means the loss or misuse of city resources that result from deficient practices, system controls, or decisions. An example of waste is (1) unnecessary printing of documents, (2) not taking advantage of available early bird conference registration discounts.

*Abuse* means the intentional, wrongful, or improper use of resources or misuse of rank, position, or authority that causes the loss or misuse of resources, such as tools, vehicles, computers, copy machines, etc. An example of abuse is using city equipment or supplies to conduct personal business.

*City funds* - Currency, checks, procurement cards, or other negotiable instruments belonging to the City of Garland or for which the City is the fiscal agent or has a fiduciary responsibility.

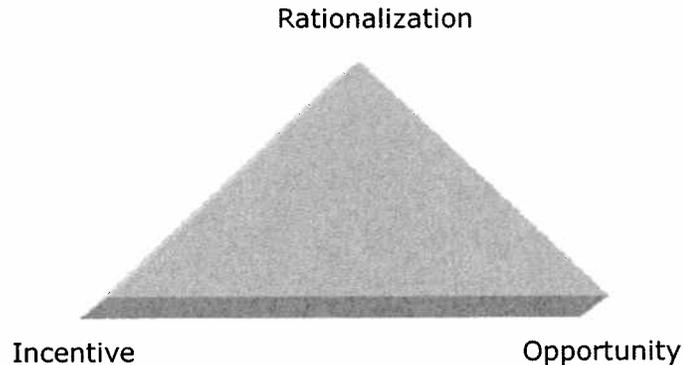
*City property* - Any tangible item owned by the City of Garland.

*Retaliation* - When an individual is discriminated against or penalized for reporting illegal acts including FWA, or for cooperating, giving testimony, or participating in any manner in an audit/investigation, proceeding, or hearing.

## 2. **GENERAL ADMINISTRATION**

Management is responsible for designing and implementing systems and procedures for the prevention and detection of fraud and for ensuring a culture and environment that promotes honesty and ethical behavior. Each member of the management team is responsible for initiating preventive measures and being familiar with and alert for the types of improprieties that might occur within their area of responsibility.

## The Fraud Triangle



The above chart illustrates the fraudster's frame of mind. Typically, there is incentive to commit the fraud. For example, an inability to make loan payments creates pressure to find alternate sources of income. The fraudster will look for any opportunity available. The opportunity may be a weakness in the City's internal control structure. The combination of incentive and opportunity facilitates the fraudster's rationalization to commit the wrongdoing. That is why it is important for management to be alert to their employee's incentives and weaknesses in their department's internal control system.

If an audit/investigation reveals FWA, the employee will receive appropriate disciplinary action up to and including termination and/or prosecution.

- 2.1 Studies have shown that "red flags" indicating FWA have been ignored by organizations. Internal controls and an informed management are the best methods of preventing FWA. Inadequate controls or circumvention of existing internal controls allow most FWA to occur.
- 2.2 The existence of FWA can be most often traced to one or more of the following reasons:
  - Lack of Internal Controls
  - Lack of Management Review
  - Override of Existing Controls
  - Poor Tone at the Top
  - Lack of Competent Oversight
  - Lack of Independent Checks/Audits
  - Lack of Clear Lines of Authority
  - Lack of Employee Fraud Education
  - Lack of Reporting Mechanism

- Collusion between dishonest employees and/or third parties

Source: "2008 Report to the Nation on Occupational Fraud & Abuse," Association of Certified Fraud Examiners.

2.3 The most frequently cited "red flags" indicating FWA are:

- Living beyond means
- Financial difficulties
- Wheeler-dealer attitude
- Control issues, unwillingness to share duties
- Divorce/family problems
- Unusually close association with vendor/customer
- Irritability, suspiciousness, or defensiveness
- Addiction problems
- Past legal problems
- Past employment-related problems
- Complaining about inadequate pay
- Refusal to take vacations
- Excessive pressure from within organization
- Instability in life circumstances
- Excessive family/peer pressure for success
- Complaining about lack of authority
- Unusually high expenses or purchases
- Frequent complaints from citizens
- Missing or incomplete files, records or other documentation
- Repeated employee comments concerning possible FWA
- Changes in an employee's lifestyle, spending habits or behavior

Source: "2008 Report to the Nation on Occupational Fraud & Abuse," Association of Certified Fraud Examiners.

- 2.4 Other indicators of FWA include borrowing 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; and excessively rewriting records (under the guise of neatness).

2.5 The following internal controls help prevent FWA:

- Setting the tone at the top
- Creating a positive workplace environment
- Hiring and promoting appropriate employees
- Appropriate discipline
- Adherence to all organizational procedures, especially those concerning documentation and authorization of transactions
- Physical security over assets such as locking doors, restricting access to certain areas and appropriate, lawful video surveillance
- Proper training of employees
- Independent review and monitoring of tasks
- Separation of duties so that one employee is not responsible for a transaction from start to finish
- Clear lines of authority
- Enforcement of conflict of interest statement
- Rotation of duties in positions more susceptible to FWA
- Ensuring that employees take regular vacations
- Regular independent audits of areas susceptible to FWA
- Establishment and enforcement of an FWA policy

These controls help to create an environment where employees believe that dishonest acts will be detected, reported and dealt with appropriately.

This policy is to be distributed to all employees at the time of hiring by the City. Employees will acknowledge receipt of the policy by signing and dating a form, which should be filed in their personnel files. The policy will be distributed to all vendors and posted in all departments.

### 3. **RESPONSIBILITIES**

- 3.1 All Employees - Any employee, who has knowledge of an occurrence of FWA or has reason to suspect that FWA has occurred, shall immediately notify their supervisor or the FWA Hotline/City Auditor's Office. If that supervisor is the subject of the alleged impropriety, the report should be made to the next higher level supervisor. If the employee is uncomfortable reporting through management, the report may be made to the FWA Hotline/City Auditor's Office or the City Attorney's Office. Every employee shall cooperate with investigations pursuant to all administrative procedures. The employee shall not discuss the matter with anyone other than the employee's supervisor, or next level of management, City Manager, City Attorney's Office or the FWA Hotline/City

Auditor's Office. Any employee having knowledge of FWA who does not report it may be considered to have been an accomplice to the FWA and will be subject to disciplinary action up to and including termination and/or prosecution.

Employees have a prime responsibility for:

- Identifying potential risks
- Fully understanding the laws, rules and regulations with which they must comply
- Accepting their ownership responsibilities for all assets and processes entrusted into their care
- Reporting suspected dishonesty and potential control failures and assisting in investigations

These responsibilities should be reinforced at the time of hire and during periodic performance reviews.

- 3.2 Supervisory Personnel (Supervisor through Managing Director)- Upon notification from an employee of suspected FWA, or if the supervisor has reason to suspect that FWA has occurred, the supervisor shall immediately notify the next higher level manager up to and including the Managing Director. The supervisor shall not attempt to investigate the suspected FWA or to discuss the matter with anyone other than the necessary management personnel, City Manager, City Attorney's Office or the FWA Hotline/City Auditor's Office. However, if the supervisor has reason to believe that the next level manager may be involved in FWA; the supervisor shall contact the next higher level manager, City Manager, the City Attorney's Office or the FWA Hotline/City Auditor's Office.
- 3.3 City Manager's Office – As a general rule, the City Manager, through his management staff, will have the lead responsibility for investigating allegations of waste and abuse. However, there may be exceptions. The type of offense and the seriousness of the offense will help determine the lead component and support components in the investigation. Additionally, the City Manager may need to bring the matter to the attention of the FWA Coordination Committee. Other examples of items that the City Manager might investigate can be found in section 3.5.
- 3.4 City Auditor's Office - Upon notification or discovery of a suspected FWA, the City Auditor's Office will perform a preliminary investigation to determine the legitimacy of the allegation and to collect information and documentation. Since FWA can involve an infinite number of circumstances and degrees of seriousness, how each case is handled can vary. To facilitate coordination and make decisions on how each case will be investigated, an FWA Coordination Committee (includes Chairman of the Audit Committee [to the extent not inconsistent with the City Charter], City Manager, City Attorney, Senior Managing Director of Human Resources and the City Auditor) will determine the course of action.
- 3.5 Employee activities that are not fraudulent but may be considered inappropriate should be reported to the respective department's supervisors and/or Human Resources or other appropriate departments.

Examples of employee activities that should not be reported as an FWA issue are as follows: (parenthetical items not necessarily in the order specified)

- Equal Employment Opportunity Complaints (Human Resources)
- Safety Hazards (supervisor, chain of command, Risk Management)
- Grievances (supervisor, chain of command, Human Resources)
- Workplace Violence (supervisor, chain of command, Human Resources)
- Harassment (supervisor, chain of command, Human Resources)
- Substance Abuse (supervisor, chain of command, Human Resources)
- Sexual Harassment (supervisor, chain of command, Human Resources)
- Compensation (supervisor, chain of command, Human Resources)
- Workers' Compensation Issues (supervisor, chain of command, Risk Management)
- Customer Service (supervisor, chain of command, Human Resources)
- Management Issues (chain of command, Human Resources)

#### **4. PROCEDURES**

- 4.1 Each allegation shall be treated consistently, regardless of the position held or length of service of the employee under investigation.

During the course of the investigation, all information relating to the investigation shall be kept confidential. In addition, if at the end of an investigation, no evidence is found to justify the allegation, the names of anyone accused of wrongdoing will remain confidential to the extent allowed by law.

At the point in the investigation that it is determined that there is some basis for the allegation, the FWA Coordination Committee will determine whether to pursue the employee criminally, civilly, or administratively.

- 4.2 Record Security - A successful investigation can only be performed if the documentation relating to an alleged FWA is available for review in its original form. Therefore, once an FWA is confirmed by the City Manager's Office or City Auditor's Office, either office shall ensure that immediate action is taken 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 FWA from having access to the records.
- 4.3 Confidentiality - All participants in a FWA investigation shall keep the details, identities, and results of the investigation confidential except as expressly provided in this directive or as otherwise provided by law. Great care must be taken in the investigation of suspected fraud so as to avoid mistaken accusations or alerting suspected individuals that an investigation is under way. Failure to comply with this provision may result in disciplinary action, up to and including termination.
- 4.4 Personnel Actions - If a suspicion of FWA is substantiated by the investigation, disciplinary action shall be taken in conformance with the City's Personnel Policies and Procedures. A false allegation of FWA 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.

- 4.5 Retaliation - It is a violation of this directive and Texas law for any individual to be discriminated against for reporting FWA or for cooperating, giving testimony, or participating in an investigation, proceeding, or hearing. Every effort will be made to protect the rights and the reputations of everyone involved, including the individual who in good faith alleges perceived misconduct as well as the alleged violator(s).
- 4.6 Media Issues - If the media becomes aware of an investigation, any person contacted by the media shall refer the media to the City Attorney's Office. The alleged FWA and investigation shall not be discussed with the media other than through the City Attorney's Office. Investigation of alleged FWA may simply detect control weaknesses, without revealing or indicating the presence of FWA. In such instances, confidentiality of all involved is important to protect the legal rights of those individuals. However, the control weakness will be reported and become public information via normal practices.

## 5. DISPOSITION OF INVESTIGATION

- 5.1 At the conclusion of a serious fraud investigation, a report to the City Council will be made by the City Auditor. The report will not include the names of individuals involved in the fraud. Minor instances of fraud, waste and abuse do not require a report to City Council. However, any FWA investigation not performed by the City Auditor's Office will have the final report sent to the appropriate Director, City Manager and City Auditor. The reports should include the findings, action plan to correct and implementation dates.
- 5.2 If the FWA has resulted in City property loss, coordination with the Department of Risk Management is needed to report the loss. The City Attorney/City Manager/City Auditor shall coordinate in seeking restitution for property loss.
- 5.3 Upon completion of the investigation and all legal and personnel actions, records will be returned to the appropriate department unless prevented by law or internal policy.