



City Auditor's Office Fraud, Waste, and Abuse Policy

POLICY:

The City of Santa Clara (City) is committed to protecting its revenue, property, information and other assets from any attempt, either by members of the public, contractors, vendors, or its own officers, elected officials, and employees, to gain financial or other benefits by fraudulent conduct. The Fraud, Waste, and Abuse Reporting Policy (Fraud Policy) is established to facilitate the development of controls that will aid in the detection and prevention of fraud against the City. It is the intent of the City to promote consistent organizational behavior by providing guidelines and assignment responsibility for the development of controls and conduct of investigations.

The Fraud Policy sets out specific guidelines and responsibilities regarding appropriate actions that must be followed for fraud and other similar irregularities investigations. This policy is to ensure that every employee is aware that the City is committed to establishing and maintaining a fair, ethical and honest work environment.

As authorized by California Government Code section 53087.6, the City offers a Whistleblower Hotline provided by an independent third-party with a primary objective of providing a means for City employees, residents, and other interested complainants to confidentially report (1) any activity or conduct in where instances of fraud, waste, or abuse by a local government employee are suspected, and (2) any violations of certain Federal or State laws and regulations relating to fraud, waste, and abuse as it is defined in California Government Code 53087.6(f)2.

Scope of Policy:

This policy applies to any irregularity, or suspected irregularity, involving employees as well as elected officials, consultants, vendors, contractors, or outside agencies doing business with employees of such agencies, and/or any other parties with a business relationship with the City.

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

Responsibility:

Management is responsible for the detection and prevention of fraud, waste, abuse, misappropriations, and other irregularities. California Government Code 53087.6(f)2 defines fraud, waste, or abuse as follows:

- Any activity by a local agency or employee that is undertaken in the performance of the employee's official duties, including activities deemed to be outside the scope of his or her employment, that:
 - Is in violation of any local, state, or federal law or regulation relating to:
 - corruption,
 - malfeasance,
 - bribery,
 - theft of government property,
 - fraudulent claims,
 - fraud,
 - coercion,
 - conversion,
 - malicious prosecution,
 - misuse of government property, or
 - willful omission to perform duty,
 - Is economically wasteful, or
 - Involves gross misconduct.

Each member of the City's Executive and Middle Management team shall 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 irregularity that is detected or suspected must be reported immediately to the City Auditor, who may coordinate investigations with the appropriate entities and personnel.

Other Irregularities:

Irregularities concerning certain ethical and/or labor-management issues (e.g. discrimination, sexual harassment, substance abuse, and workplace violence/threats) are included in the statutory definition and purview of this policy. Employees will be able to report such activities to the whistleblower hotline confidentially and receive the same whistleblower protection. However, these ethical and/or labor-management irregularities should be resolved by departmental management and the Human Resources Department rather

than the City Auditor's Office. They will be forwarded to the appropriate management function for review and action.

If there is any question as to whether an action constitutes fraud, contact the City Auditor for guidance.

Investigation
Responsibilities:

The City Auditor has the primary responsibility for the investigation of all suspected acts as defined in the policy. If the investigation substantiates that inappropriate activities have occurred, the City Auditor will issue reports to appropriate designated personnel and, if appropriate, to the City Council through the Audit Committee.

Decisions to prosecute or refer the examination results to the appropriate law enforcement and/or regulatory agencies for independent investigation may be made in conjunction with the City Attorney and the City Manager, as appropriate and only in the event there is no conflict of interest in doing so, as well as final decisions on disposition of the case, except to the extent that the initiation of litigation may require approval by the City Council

Confidentiality:

The City Auditor treats all information received confidentially. Any person who suspects dishonest or fraudulent activity shall call the whistleblower hotline or notify the City Auditor immediately and should not attempt to personally conduct investigations or interviews/interrogations related to any suspected act (see REPORTING PROCEDURE section below).

Investigation results will not be disclosed or discussed with anyone other than those who have a legitimate need to know. Public disclosure shall be made only in accordance with applicable law.

Authorization for
Investigating Suspected
Claims:

It is the City's intent to fully investigate any suspected acts of fraud, misappropriation, or other similar irregularity. An objective and impartial investigation shall be conducted regardless of the position, title, and length of service or relationship with the City of any party who might be or becomes involved in or becomes/is the subject of such investigation.

The City Auditor, or authorized representative, will have free and unrestricted access to all records, documents, systems and files of the City and/or other property of any City department, office or agency. It is the duty of any officer, employee, or agent of the City having control of such records to permit access to, and examination thereof, upon the request of the City Auditor, or authorized representative. Any such officer, employee, or agent is strongly encouraged to fully cooperate with the City Auditor, or authorized representative,

and to make full disclosure of all pertinent information. The City Auditor shall also be permitted access to any and all records, documents, systems, and files of any City vendor or contractor, as allowed by City agreements and contracts.

Reporting Procedures:

Great care must be taken in the investigation of suspected improprieties or irregularities so as to avoid mistaken accusations or alerting suspected individuals that an investigation is under way.

An employee, or other interested complainant, who discovers or suspects fraudulent activity will have several options to report anonymously.

Reporting can occur by:

- Calling an anonymous third-party managed Whistleblower Hotline;
- Reporting online through a third-party managed web intake form at the City's website, or
- Contacting the City Auditor directly, either in person, by email, or by direct phone call.

The City Auditor would need sufficient information to properly investigate any complaints. The following information is necessary to begin and continue processing a complaint/concern:

- The name of the alleged person or persons committing the misconduct, including their title(s) and the department they work for
- Specific information regarding the misconduct, and if known, how long it has gone on
- Circumstances surrounding how the alleged misconduct occurred
- Where or in what department the alleged misconduct occurred
- Witnesses to the misconduct, if any
- If applicable, what would the complainant like done about the complaint/concern

The employee or other complainant may remain anonymous to the extent allowed by law. All inquiries concerning the activity under investigation from the suspected individual, his or her attorney or representative, or any other inquirer should be directed to the City Auditor or the City Attorney. No information concerning the status of an investigation will be given out. The proper response to any inquiries is, "I am not at liberty to discuss this matter." Under no circumstances should any reference be made to "the allegation," "the crime," "the fraud," "the forgery," "the misappropriation," or any other specific reference.

The reporting individual should be informed of the following:

- Do not contact the suspected individual in an effort to determine facts or demand restitution
- Do not discuss the case, facts, suspicions, or allegations with anyone unless specifically asked to do so by the City Attorney or City Auditor.

Whistleblower
Protection:

The City will not retaliate, nor will it tolerate retaliation, intimidation, or coercion against those who, in good faith, report suspected violations of the City's Fraud Policy. This also includes reporting of any irregularities concerning certain unethical and/or labor-management issues. Neither the City, nor any person acting on behalf of the City, shall do any of the following to retaliate against a report being made under this Fraud Policy:

- Dismiss or threaten to dismiss the reporting employee;
- Discipline, suspend or threaten to discipline or suspend the reporting employee;
- Impose any penalty upon the reporting employee; or
- Intimidate or coerce the reporting employee.

Violation of this section shall result in discipline up to and including dismissal in accordance with applicable federal, state, and local administrative laws

Discipline:

Violations of this policy by an employee will be handled in accordance with the City's Personnel Rules and any other applicable law, rule or regulation. All other persons or entities that are found to have violated this policy will be either removed from the applicable board or committee or subject to suspension by the City from future business transactions for a specified period of time.