



CITY COUNCIL AGENDA REPORT



DEPARTMENT: Administrative Services

MEETING DATE: October 16, 2018

PREPARED BY: Buffy Bullis, Administrative Services Director

AGENDA LOCATION: AR-1

TITLE: Update Administrative Policy No. 2.08, Employee Responsibility and Fraud Prevention, and Establish an Employee Fraud Hotline, Resolution No. 2018-55

OBJECTIVE: To update Administrative Policy No. 2.08, Employee Responsibility and Fraud Prevention, and to establish a formal Employee Fraud Hotline

BACKGROUND: The Association of Certified Fraud Examiners (ACFE), the world's leading fraud prevention and detection association, estimates in its *2018 Report to the Nations, Global Study on Occupational Fraud and Abuse* that the typical organization loses five percent of its annual revenues to fraud. The study included a review of 2,690 cases of occupational fraud that occurred between January 2016 and October 2017, across 125 countries and within 23 different industries. In total, of the 2,690 fraud cases studied, a total of \$7 billion in losses occurred, with the median loss totaling \$130,000. Additionally, the study found that asset misappropriation schemes and schemes in which an employee steals or misuses an organization's resources were the most common types of fraud situations identified, making up 89% of all cases.

According to the ACFE, a strong fraud prevention and detection program is critical to the overall deterrence of fraud within an organization. Establishing a fraud prevention policy that provides clear guidelines for identifying and reporting fraud is important, as well as ensuring that all employees are informed of the policy and of their respective responsibilities. Additionally, in order for a program to be successful, it is important to provide an easy and accessible means for employees to report suspected fraud. According to the ACFE's study, the most common initial detection method for the cases studied came from tips, making up 40% of the fraud incidents reported in the study.

ANALYSIS: The City of Monrovia is committed to preventing fraud on all levels. Ensuring that the City's financial assets are safeguarded from potential acts of fraud supports the Citywide Strategic Goal of Enhancing Fiscal Sustainability.

Fraud is defined as an event that encompasses any array of intentionally dishonest irregularities or illegal acts characterized by intentional deception. Fraudulent activities include, but are not limited to, the following:

1. Forgery or alteration of documents (checks, time sheets, independent contractor agreements, purchase orders, etc.);
2. Intentional misrepresentation of information by an individual;
3. Intentional misrepresentation of information on documents;
4. Misappropriation of funds, securities, supplies, or any other asset owned by the City;

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5. Unauthorized use, misappropriation, or destruction of City property, equipment, materials, or records;
6. Intentional improprieties in the handling or reporting of money transactions;
7. Intentional authorization of, or intentional receipt of, payments for goods not delivered or received or services not performed;
8. Intentional authorization of, or intentional receipt of payment for, hours not worked;
9. Any claim for reimbursement of expenses that are not made for the exclusive benefit of the City;
10. Any apparent violation of Federal, State, or local laws related to dishonest activities or fraud in relation to City funds or resources; or
11. Any similar or related activity relating to City funds or resources, as applicable.

The City has been proactive in addressing fraud by establishing and maintaining a robust and effective system of internal controls within its operational systems throughout the organization. An internal control is a procedure or policy put in place by management to safeguard assets, promote accountability, increase efficiency, and prevent fraudulent behavior. A strong internal control framework, by design, helps to prevent and minimize the opportunity that fraud can occur. Establishing effective internal controls and a system of checks and balances is the responsibility of the City Manager, each Department Head, and the Administrative Services Director. In addition, as a standard practice, the City's internal controls are routinely evaluated for effectiveness and modified when needed.

In addition to effective internal controls, the City established Administrative Policy No. 2.08, *Employee Responsibility and Fraud Prevention*, in November 2010. The regulation prohibits fraud and establishes clear guidelines for reporting and investigating fraud. In accordance with the existing Policy, employees are responsible for reporting suspected fraud to their supervisor, manager, or department head.

At this time, staff is recommending minor modifications to the existing Policy to update titles and reporting channels and to cleanup up existing language to more clearly reflect industry standards. For example, instead of reporting to "Human Resources," the specific job classification responsible for Human Resources (the Deputy City Manager) has been identified as the individual that will receive complaints, along with the Administrative Services Director. The intent of this change, as well as other minor changes, is to make the reporting process clear and easy to understand for all employees.

Along with cleanup language and minor modifications, staff is also recommending the formal implementation of an Employee Fraud Hotline. The existing method of reporting directly to an employee's supervisor, manager, or department head still remains and is preferred, however, in order to provide an additional confidential reporting option, staff is recommending that the City develop an Employee Fraud Hotline. The establishment of an Employee Fraud Hotline has also been recommended by the City's external auditors, Lance, Soll, and Lunghard, CPAs, since a reporting hotline can be an additional tool to help prevent fraud from occurring within our organization.

Employee Fraud Hotline

The Employee Fraud Hotline is proposed to be hosted by an independent, third-party provider contracted by the City. Staff researched several different companies that provide fraud reporting services and identified Fraud Hotline, LLC, to be the most cost effective provider that can meet the needs of the City. The provider offers two methods for reporting, including a phone call-in option and an online reporting option. Below is the reporting information for the hotline:

- Phone Call-in Number: 1-855-FRAUD-HL (1-855-372-8345)
- Secure Web-based Reporting: www.FRAUDHL.com
- Company ID for Both Reporting Methods: MONROVIA
- *Both reporting methods are available 24 hours a day.*

When an incident is reported, the information is transcribed into an Incident Report, which is then sent to the City Attorney, the Administrative Services Director, and the Deputy City Manager. Upon receipt of an Incident Report, the procedures outlined in Section IV.A of Administrative Policy No. 2.08 will be followed. However, any City employee or official who is the complainant, the subject of the complaint, or a potential material witness in any investigation shall be prohibited from conducting the investigation of that complaint. In such a case, the City Manager, or as applicable, the City Attorney, shall designate an individual to conduct the investigation.

The objectives of the Employee Fraud Hotline include the following:

1. Provide an additional safe and confidential method for employees to report suspected fraud; and
2. Ensure transparency, accountability, and integrity in the City's government.

Whistleblower Protection

Administrative Policy No. 2.08 will also be updated to include Whistleblower protection language. Whistleblower protections are legally provided in accordance with the California Government Code. The following Whistleblower language will be added to the Policy:

Employees, elected officials, consultants, contractors, vendors, and representatives/agents of the City shall not engage in any adverse or retaliatory personnel action against a whistleblower for:

1. *Providing information, excluding the filing of malicious complaints. The filing of a malicious complaint is one that is made in bad faith, or with the knowledge that the complaint is false, or lacks any factual support. Malicious complaints may result in disciplinary action in accordance with applicable City policies and procedures, up to and including termination, and such discipline is not considered a retaliatory personnel action prohibited by this Policy.*
2. *Disclosing, or stating an intent to disclose, any activity which that person reasonably believes to be wrongdoing.*
3. *Objecting to, questioning, or refusing to participate in, any wrongdoing.*

Next Steps:

If the City Council approves the updates to the Policy and the establishment of the Employee Fraud Hotline, the following next steps will be initiated:

1. Services of the third-party provider, Fraud Hotline, LLC, will be procured;
2. Employees will be notified of the Employee Fraud Hotline, via email, and will be informed of how to utilize this new reporting feature;
3. All new hires will receive a copy of the updated Administrative Policy No. 2.08 and an overview will be incorporated into the Onboarding process;
4. An Employee Fraud Hotline poster will be posted in the employee break room at City Hall and other applicable City facilities. In addition, contact information for the Employee Fraud Hotline will be posted on the employee Intranet site; and
5. An annual reminder email will be sent to employees notifying them of the Employee Fraud Hotline and their reporting options and responsibilities.

The City of Monrovia takes fraud reporting seriously. Administrative Policy No. 2.08 provides clear reporting and investigating guidelines. The Policy also provides for disciplinary and legal action, if warranted, and requires that, when fraud in violation of the Policy has occurred (based on a full investigation), a report of the findings will be reported to the City's external auditors and the City's Audit Committee.

ENVIRONMENTAL IMPACT: There is no environmental impact resulting from the adoption Administrative Policy No. 2.08, Employee Responsibility and Fraud Prevention.

FISCAL IMPACT: The cost for the Employee Fraud Hotline, which is less than \$500 per year, has been budgeted in the Fiscal Year 2018-2019 Finance Operations Budget.

OPTIONS: The following options are provided for consideration:

- 1) Adopt Administrative Policy No. 2.08, Employee Responsibility and Fraud Prevention. This option is recommended, as it supports the City's strong commitment to preventing and detecting fraud within the organization.
- 2) Direct staff to make changes or adjustments to the information presented.

RECOMMENDATION: Staff recommends the City Council adopt Resolution No. 2018-55 adopting Administrative Policy No. 2.08.

COUNCIL ACTION REQUIRED: If the City Council concurs, the appropriate action would be a motion to adopt Resolution No. 2018-55.

RESOLUTION NO. 2018-55

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MONROVIA, CALIFORNIA, ADOPTING ADMINISTRATIVE POLICY NO. 2.08, EMPLOYEE RESPONSIBILITY AND FRAUD PREVENTION, AND ESTABLISHING AN EMPLOYEE FRAUD HOTLINE

WHEREAS, The Association of Certified Fraud Examiners (ACFE), the world's leading fraud prevention and detection association, estimates in its 2018 Report to the Nations, Global Study on Occupational Fraud and Abuse that the typical organization loses five percent of its annual revenues to fraud; and

WHEREAS, a strong fraud prevention and detection program is critical to the overall deterrence of fraud within an organization; and

WHEREAS, the City of Monrovia is committed to preventing fraud on all levels; and

WHEREAS, the City has been proactive in addressing fraud by establishing and maintaining effective internal controls within its operational systems throughout the organization; and

WHEREAS, Administrative Policy No. 2.08, Employee Responsibility and Fraud Prevention, has been created to prohibit fraud and establish clear guidelines for reporting and investigating fraud; and

WHEREAS, Administrative Policy No. 2.08, Employee Responsibility and Fraud Prevention, establishes an Employee Fraud Hotline to allow employees an additional confidential method for reporting suspected; and

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Monrovia adopt Administrative Policy No. 2.08, Employee Responsibility and Fraud Prevention, establishing procedures to prohibit fraud and to establish clear guidelines for reporting and investigating fraud.

PASSED, APPROVED AND ADOPTED this 16th day of October, 2018.

Tom Adams, Mayor
City of Monrovia

ATTEST:

APPROVED AS TO FORM:

Alice D. Atkins, CMC, City Clerk
City of Monrovia

Craig A. Steele, City Attorney
City of Monrovia



Employee Responsibility and Fraud Prevention Policy

Admin Policy Number: 2.08

Effective Date: October 16, 2018

City Manager Approval: _____

I. Purpose

To establish procedures for protecting the City's assets from any attempt, either by contractors, vendors, agents, members of the public, or its own employees, to gain financial or other benefits through illegal or fraudulent activity. Furthermore, this Policy establishes specific guidelines and responsibilities regarding appropriate actions for detecting, reporting, and investigating fraud and other similar irregularities.

II. Executive Summary

The City of Monrovia is committed to ensuring that the City's financial assets are safeguarded from potential acts of fraud and malfeasance. This is achieved by establishing a strong foundation of effective internal controls and by encouraging employees to report suspected instances of fraud within the organization.

For the purposes of this Policy, fraud is defined as an event that encompasses any array of intentionally dishonest irregularities or illegal acts characterized by intentional deception. Fraudulent activities that violate this Policy include, but are not limited to, the following:

1. Forgery or alteration of documents (checks, time sheets, independent contractor agreements, purchase orders, etc.);
2. Intentional misrepresentation of information by an individual;
3. Intentional misrepresentation of information on documents;
4. Misappropriation of funds, securities, supplies, or any other asset owned by the City;
5. Unauthorized use, misappropriation, or destruction of City property, equipment, materials, or records;
6. Intentional improprieties in the handling or reporting of money transactions;
7. Intentional authorization of, or intentional receipt of, payments for goods not delivered or received or services not performed;

8. Intentional authorization of, or intentional receipt of payment for, hours not worked;
9. Any claim for reimbursement of expenses that are not made for the exclusive benefit of the City;
10. Any apparent violation of Federal, State, or local laws related to dishonest activities or fraud in relation to City funds or resources; or
11. Any similar or related activity relating to City funds or resources, as applicable.

This Policy is intended to prohibit fraud and to establish clear guidelines for reporting and investigating fraud. In addition, this Policy also serves as a means for establishing an Employee Fraud Hotline. The existing method for reporting of fraud directly to an employee's supervisor/manager/ or department head remains and is preferred. However, in order to provide an additional reporting option and to allow for anonymous reporting, if needed, the City will also maintain a third-party Employee Fraud Hotline, so that employees have an additional confidential way to report suspected fraud.

III. Responsibility

A. Employee Responsibilities

Employees shall not engage in fraud. Fraud by an employee is grounds for immediate discipline, up to and including termination.

Each employee is responsible for reporting fraud, as outlined below.

Each City employee should be familiar with the types of improprieties that might occur within their area of responsibility and be alert for any indication of fraud or irregularity. When suspected fraudulent incidents or practices are observed by, or made known to, an employee, the following should be done:

1. The incident or practice should be reported to the employee's immediate supervisor/manager/or department head. When the employee believes the supervisor/manager/or department head may be involved in the inappropriate activity, the employee should report the incident or practice to the Deputy City Manager, the Administrative Services Director, or the City Attorney. If the employee believes it is necessary to remain anonymous, then the employee may report the incident directly and confidentially to the City's third-party Employee Fraud Hotline, either by phone or by submitting an incident online. The City believes that confidentiality can be protected within the existing processes, and that anonymity is a last resort that should only be used after other reporting methods have been attempted, or when the employee has a reasonable good faith belief that it is necessary to remain anonymous.

Employee Fraud Hotline (“Hotline”) Administration:

The Hotline is hosted by an independent, third-party provider contracted by the City. The provider offers two methods for reporting, a phone call-in option and an online reporting option. When an incident is reported, the information is transcribed into an Incident Report, which is then sent to the City Attorney, the Administrative Services Director, and the Deputy City Manager. Upon receipt of an Incident Report, the procedures outlined in Section IV.A should be followed. However, any City employee or official who is the complainant, the subject of the complaint, or a potential material witness in any investigation shall be prohibited from conducting the investigation of that complaint. In such a case, the City Manager, or as applicable, the City Attorney, shall designate an individual to conduct the investigation.

2. The reporting employee should always refrain from further investigation of the incident, confrontation with the alleged violator, or further discussion of the incident with anyone other than his/her supervisor/manager/or department head, unless that individual is the subject of the investigation, the individuals investigating the claim, and/or law enforcement personnel.

Whistleblower Protection

Employees, elected officials, consultants, contractors, vendors, and representatives/agents of the City shall not engage in any adverse or retaliatory personnel action against a whistleblower for:

1. Providing information, excluding the filing of malicious complaints. The filing of a malicious complaint is one that is made in bad faith, or with the knowledge that the complaint is false, or lacks any factual support. Malicious complaints may result in disciplinary action in accordance with applicable City policies and procedures, up to and including termination, and such discipline is not considered a retaliatory personnel action prohibited by this Policy.
2. Disclosing, or stating an intent to disclose, any activity which that person reasonably believes to be wrongdoing.
3. Objecting to, questioning, or refusing to participate in, any wrongdoing.

B. Supervisor, Manager, and Department Head Responsibilities

Each department head, in coordination with the Administrative Services Director, is responsible for instituting and maintaining a system of internal controls within their respective departments, in order to provide reasonable assurance of the prevention and detection of fraud, misappropriation of assets, and other irregularities. Supervisors/managers/and department heads must be familiar with the types of

improprieties that might occur in their respective area(s) and be alert to any indication that improper activity, misappropriation, or dishonest activity is, or was, in existence in their operational area(s).

Upon notification from an employee that fraud is suspected, or if the supervisor/manager/or department head has reason to suspect that fraud has occurred, he/she should contact the appropriate designated personnel for review and investigation, as outlined in Section IV.A. After consultation with the Director of Administrative Services, the Deputy City Manager, and City Attorney, as applicable, the supervisor/department head should also immediately contact the Monrovia Police Department or other law enforcement agency if he/she feels the situation warrants such action (for example, obvious theft has taken place, security is at risk, or immediate recovery is possible). After informing the appropriate personnel, the supervisor/manager/or department head will not attempt to conduct individual investigations, interviews, or interrogations, or to impose discipline outside the City's normal processes. The supervisor/manager/or department head will support and fully cooperate with the investigation, as needed.

Responsibilities of the supervisor/manager/or department head in handling dishonest or fraudulent activity claims include the following:

1. Do not contact the suspected individual to determine facts or demand restitution prior to any investigation.
2. Do not discuss the case, facts, suspicions, or allegations with anyone outside the City, unless specifically directed to do so by those leading the investigation.
3. Do not discuss the case with anyone inside the City other than employees who have a need to know, such as the lead investigator.
4. Direct all inquiries from the suspected individual/company or his/her/its representative/attorney to the lead investigator.
5. Direct all inquiries from the media to the City Manager's Office. A proper response to such an inquiry might be, "I'm not at liberty to discuss this matter. Let me refer you to the City Manager's Office." The City Manager's Office will determine the appropriate media messages and may identify an appropriate City spokesperson, as required.
6. Take appropriate corrective and disciplinary action after consulting with the Human Resources Department, if applicable.

IV. Policy

The City of Monrovia will identify and promptly investigate any possibility of fraudulent or related dishonest activities against the City of Monrovia and, when warranted, pursue all legal and other remedies available under the law. The City of Monrovia will take appropriate disciplinary and legal actions against employees and/or entities, to include the possibility of termination of employment or contract, seeking restitution, and forwarding information to the appropriate authorities for criminal or administrative prosecution, as appropriate under applicable law. The City will encourage the reporting of fraud and provide various ways for employees to report suspected fraud within the organization, including an anonymous hotline.

A. Notification Procedures and Assignment of Investigation Responsibilities

1. As provided in Section III.B, if a supervisor/manager/or department head has been notified of suspected fraud within his/her respective departments, he/she should immediately notify the Administrative Services Director and the Deputy City Manager. However, if the Administrative Services Director or the Deputy City Manager is the complainant, the subject of the complaint, or a potential material witness in the potential investigation, they shall be prohibited from conducting the investigation for that complaint. In such a case, the City Manager, or as applicable, the City Attorney, shall designate an individual to conduct the investigation. If the City Manager is suspected of fraud, the City Attorney, on behalf of the City Council, will conduct the investigation, as appropriate in his/her professional judgment, and will report the existence of the claim and the result of any investigation back to the City Council.

Due to the City Council's governance role over the City Manager, any complaints involving City Councilmembers should be referred to the California Fair Political Practices Commission, the District Attorney's Office, or other appropriate outside agency, depending on the nature of the complaint.

Any incident reported through the Employee Fraud Hotline will be transcribed, with a copy of the transcribed Incident Report sent to the Administrative Services Director, the Deputy City Manager, and the City Attorney. Upon receipt, the procedures outlined in Section IV.B will be followed.

B. Investigations

1. Once a suspected fraud claim is received, the appropriate investigators will be assigned, depending on the circumstances and guidance included in this policy. In most cases, the Administrative Services Director and Deputy City Manager will be assigned to conduct the initial investigation, unless either are the complainant, the subject of the complaint, or a potential material witness in the investigation.

2. The Administrative Services Director and the Deputy City Manager will have full and unrestricted access to all necessary City records and personnel in order to complete the investigation. Upon completion of the investigation, all records, documents, and other evidentiary material will be returned to the appropriate department(s). All information obtained should remain confidential to the extent allowed by law.
3. All furniture and contents, including employee desks, computers, and personal belongings are open to inspection when there is a reasonable suspicion of a dishonest or fraudulent activity, which makes such inspection appropriate. No employee shall have any expectation of privacy. Every effort will be made to effectively recover any of the City's losses.
4. Great care must be taken in dealing with suspected dishonest or fraudulent activities to avoid the following:
 - a. Incorrect accusations;
 - b. Alerting suspected individuals/companies that an investigation is underway;
 - c. Treating employees/third parties unfairly; or
 - d. Making statements that could lead to claims of false accusations or other offenses. Employees who knowingly or negligently make false accusations or false statements to investigators may be subject to disciplinary action, up to and including termination.
5. All participants in a fraud investigation will keep the details and results of the investigation confidential. However, the Administrative Services Director, in consultation with the Deputy City Manager and the City Attorney, may disclose particulars of the investigation with potential witnesses/personnel if such disclosure would further the investigation.

Once an initial assessment is completed by the Administrative Services Director and the Deputy City Manager, if additional investigation is warranted, a prompt investigation will be conducted based on a detailed analysis of available records. The Administrative Services Director and the Deputy City Manager, in cooperation with the City Attorney, may engage an independent investigator and/or consultants to assist with a full investigation. All City personnel shall cooperate fully with any such investigation. If evidence is uncovered showing possible dishonest or fraudulent activities in violation of this Policy or any other City policy or applicable law, the Administrative Services Director and the Deputy City Manager (or the lead investigator(s), if applicable) will proceed as follows:

- a. The Administrative Services Director and Deputy City Manager will determine if disciplinary actions should be taken.
- b. If illegal activity appears to have occurred, the Administrative Services Director, in consultation with the Deputy City Manager, will report the findings to the Monrovia Police Department.
- c. The Administrative Services Director and Deputy City Manager (or investigator) will discuss the findings and recommendations for prevention of future similar occurrences with the City Manager, management and appropriate administrators. Management is responsible for taking appropriate corrective actions to ensure adequate controls are implemented to prevent reoccurrence of improper actions.
- d. When it is determined that fraud in violation of this Policy has occurred, the Administrative Services Director will provide a report of the findings and outcome to the City's external auditors and to the Audit Committee at a time that the report will not be detrimental to an employee disciplinary proceeding and/or a law enforcement investigation or proceeding.
- e. Human Resources/Risk Management will coordinate the notification to insurers and the filing of insurance claims, if applicable.

V. Authority/References

Monrovia Municipal Code 2.28.030