

City of Commerce Finance	Finance Department	SOP	320
Subject: Fraud Policy		Version No	1.0
		Effective Date	10/06/09

1.0 Purpose

The City of Commerce 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 employees, to gain by deceit, financial or other benefits at the expense of City taxpayers. City officials and employees must, at all times, comply with all applicable laws and regulations. The City will not condone the activities of officials or employees who achieve results through violation of the law or unethical business dealings. The City does not permit any activity that fails to stand the closest possible public scrutiny. This policy sets out specific guidelines and responsibilities regarding appropriate actions that must be followed for the investigation of fraud and other similar irregularities.

2.0 Definitions

2.1.1 Occupational **fraud** is defined by the Association of Certified Fraud Examiners as the use of one's occupation for personal enrichment through the deliberate misuse or misapplication of the employing organization's resources or assets. There are three major categories of occupational fraud.

2.1.2 • **Asset Misappropriations** – Theft or misuse of an organization's assets.

Cash

Fraudulent Disbursements – Perpetrator causes organization to disburse funds through some trick or device (e.g. submitting false invoices/time cards/sheets, expense reimbursement schemes, check tampering, etc.)

Skimming – Cash is stolen from an organization before it is recorded on the organization's books and records.

Cash Larceny – Cash is stolen from an organization after it has been recorded on the organization's books and records. Inventory and all other assets.

Misuse – Misuse of an organization's inventory or assets for personal use (e.g. City vehicles, computers, computer software, copier equipment, cell phone, maintenance equipment, supplies, etc.)

Larceny – Inventory or other assets are stolen from an organization.

2.1.3 • **Corruption** – Wrongfully use influence in a business transaction in order to procure some benefit for themselves or another person, contrary to duty to employer or the rights of another.

Conflicts of Interest – An undisclosed economic or personal interest in a transaction that adversely affects the employer.

Bribery – The offering, giving, receiving, or soliciting of anything of value to influence an official act or a business decision.

Illegal Gratuities – A party who benefits from an official act or a business decision gives a gift to a person who made the decision. An illegal gratuity does not require proof of an intent to influence.

Economic Extortion – An employee demands that a vendor/contractor/etc. pay to influence an official act or a business decision.

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2.1.4 • **Fraudulent Statements** – Falsification of an organization’s financial statements.

2.1.5 **Other similar irregularities** is defined as any activity involving questionable behavior or business dealings by members of the public, contractors, vendors, agents or City employees, that put City revenue, property, information and other assets at risk of waste or abuse.

3.0 **Applicability**

This policy applies to all Elected Officials and employees of the City of Commerce as well as any business or individual doing business with the City.

4.0 **General Policy and Responsibility**

- 4.1.1 It is the City’s intent to fully investigate any suspected acts of fraud or other similar irregularity. An objective and impartial investigation will be conducted regardless of the position, title, 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.
- 4.1.2 Each Elected Official, Department Director, Commissioner and Manager is responsible for instituting and maintaining a system of internal control to provide reasonable assurance for the prevention and detection of fraud, misappropriations and other irregularities. Management should be familiar with the types of improprieties that might occur within their area of responsibility and be alert for any indications of such conduct.
- 4.1.3 The Finance Department – has the primary responsibility for the investigation of all activity defined in this policy.
- 4.1.4 The Finance Department will notify the City Administrator of a reported allegation of fraudulent or irregular conduct upon the commencement of the investigation to the extent practical. Throughout the investigation the City Administrator will be informed of pertinent investigative findings.
- 4.1.5 In all circumstances where there are reasonable grounds to indicate that a fraud may have occurred, The Finance Department, subject to the advice of the City Attorney, may make a referral to the Los Angeles County District Attorney
- 4.1.6 Upon conclusion of the investigation, the results will be reported to the City Administrator.
- 4.1.7 The City of Commerce will pursue every reasonable effort, including court ordered restitution, to obtain recovery of the City’s losses from the offender, or other appropriate source.

5.0 **Procedures**

5.1.1 All Employees

Any employee who has knowledge of an occurrence of irregular conduct, or has reason to suspect that a fraud has occurred, shall immediately notify his/her supervisor. If the employee has reason to believe that their supervisor may be involved or does not feel comfortable reporting the occurrence to their supervisor, the employee shall immediately notify the Finance

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Department staff through phone or email at ReportFraud@ci.commerce.ca.us. Employees have a duty to cooperate during an investigation. Employees who knowingly make false allegations will be subject to discipline.

5.1.2 City Management/Elected Officials

Upon notification from an employee of suspected fraud, or if management has reason to suspect that a fraud has occurred, they shall immediately notify the Finance Department.

5.1.3. City Administrator – Finance Audit Staff (FAS)

Upon notification or discovery of a suspected fraud, Finance will promptly investigate the suspected fraud. In all circumstances, where there are reasonable grounds to indicate that a fraud may have occurred, (FAS) will inform the City Attorney. Subject to the advice of the City Attorney, FAS will contact the Los Angeles County District Attorney and/or the Los Angeles County Sherriff's Department.

5.1.4. Contacts/Protocols

After an initial review and a determination that the suspected fraud warrants additional investigation, FAS will notify the City Administrator. FAS will coordinate the investigation with the City Attorney and appropriate law enforcement officials.

5.1.5. Security of Evidence

Once a suspected fraud is reported, FAS, in consultation with the City Attorney, 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. The records must be adequately secured until FAS obtains the records to begin the audit investigation.

5.1.6. Human Resources Department

If a suspicion of fraud is substantiated by the investigation, the Human Resources Department will provide guidance with the Personnel Policies that pertain to the disciplinary action.

5.1.7. Whistle-Blower Protection: Contained in the City of Commerce Personnel Policy and Procedure Manual

Whistle-blower protections including confidentiality and protection against retaliation will be provided as allowed for in state and federal law/legislation. Any whistleblower who believes he/she is being retaliated should follow the Grievance Policy contained in the Personnel Policy Manual. The right of a whistleblower for protection against retaliation does not include immunity for any personal wrongdoing that is alleged and investigated.

5.1.8. Documentation

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At the conclusion of the investigation, the results will be reported to the City Administrator, the City Attorney and others as determined necessary. If the report concludes that the allegations are founded, the FAS will contact the Los Angeles County District Attorney and/or the Los Angeles County Sherriff's Department.

5.1.9. Completion of the Investigation

Upon completion of the investigation, including all legal and personnel actions, any records, documents and other evidentiary material will be returned by FAS to the appropriate department.

5.1.10 Reporting to External Auditors

FAS will report to the external auditors all information relating to investigations.