

Financial Operations Manual (FOM)
21.3 Fraud Policy (Resolution 2010-137)

POLICY & PROCEDURES
FOR HANDLING AND REPORTING FRAUDULENT ACTIVITY

A. Policy

1. General Policy

This Policy shall be referred to as “the City of Cocoa’s “Fraud Policy.” It is the City of Cocoa’s intent to ensure the conduct of its employees complies with the principles of right and wrong. The City, through the office of the City Manager or the City Manager’s designee (hereinafter “City Manager”), wants to eliminate, to the extent feasible, unethical practices while creating an environment in which employees and/or citizens are encouraged to report suspicions of fraud.

The term “fraud” or “fraudulent activity,” as used in this Fraud Policy, shall include, but shall not be limited to, the following:

- Any dishonest or fraudulent act, including forgery or alteration of any document;
- Misappropriation of funds, securities, supplies or any other asset;
- Improper handling or reporting of money or financial transactions;
- Deriving personal benefit as a result of inside knowledge;
- Intentional and unlawful destruction or disappearance of records, furniture, fixtures or equipment;
- Improperly accepting or seeking anything of material value from vendors or persons providing services or materials to the City for personal benefit;
- Any computer related activity involving the creation alteration, destruction, forgery or manipulation of data for fraudulent purposes or any misappropriation of City-owned software; or
- Any similar or related conduct deemed a violation of applicable law.

Notwithstanding the aforesaid, the personal use of City equipment, materials, tools, supplies, etc. is governed by the City’s Employee Handbook.

2. Reporting Fraud Form

When reporting fraudulent activity, the City encourages people to report such activity on the attached Reporting Fraud Form. This form shall be provided to all new hires, may be periodically distributed to employees by the City, and shall be on file with the City Manager’s office. It is intended to ensure detailed information is provided regarding any alleged fraudulent activity.

3. Applicability

This Fraud Policy applies to all employees of the City of Cocoa provided that, if this Fraud Policy is in conflict with any collective bargaining agreement or state statute, including but not limited to

the Policeman's Bill of Rights, the Firefighters' Bill of Rights or City Charter/ordinances, the conflicting agreement, statute or City Charter/ordinance will prevail.

4. City Manager's Responsibilities

The City Manager shall be designated as the individual charged with investigations initiated pursuant to this Fraud Policy. Upon notification of a possible fraudulent act or practice, the City Manager shall determine the extent of any potential criminal activity. If any potential prosecutable criminal activity exists, the Cocoa Police Department or other applicable law enforcement agency will conduct the investigation. In every case, the City shall cooperate fully with the investigation and prosecuting authorities. If no potentially prosecutable criminal activity exists, the City Manager shall determine the proper City officials who should conduct the investigation under the direction of the City Manager.

The City Manager shall designate a phone number to be used for reporting fraud pursuant to this Fraud Policy and shall secure as much information as possible from the reporting individual.

In those instances in which the City Manager believes it to be in the best interests of the citizens of Cocoa, the City Manager shall have the authority and duty to:

- Take control/limit employee access, and/or gain full access to, all City premises, whether owned or rented; AND
- Examine, copy, and/or remove all or any portion of the contents of any public/private document in employee's work area.
- Suspend or terminate any employee, if appropriate, suspected of fraud during said investigation.
- In cases where the City Manager finds evidence of fraudulent activities, the City Manager may secure the services of a forensic fraud auditor to review and verify the findings. These findings will be coordinated with the City Attorney for possible future legal actions.

5. Director/Manager Responsibilities

It is the responsibility of Directors/Managers to establish systems and controls to provide reasonable assurance of the detection and prevention of fraud. Members of the management team should be familiar with the types of improprieties that might occur within his or her area of responsibility and be alert for any indication of fraudulent activities.

Upon receiving a complaint of fraud from a subordinate employee, Department Directors/Managers shall compile all information provided by the reporting individual and report such information to the City Manager's office. The Director/Manager shall cooperate with the City Manager's office during the course of any investigation.

6. Employees' Responsibilities

Employees are required to sign a statement, upon commencement of employment, acknowledging and agreeing to abide by the City's Fraud Policy. All City employees are encouraged to be alert for possible fraudulent activity and are responsible for the reporting of any and all suspected violations of this Fraud Policy and/or other unethical practices.

Employees are required to promptly report any suspected fraudulent activity to the City Manager. Although employees are encouraged to identify themselves and otherwise cooperate in the process, employees may remain anonymous if they so desire.

7. Additional Responsibilities

On a case-by-case basis, the City Manager may delegate investigatory responsibility to appropriate City personnel who shall be required to report to the City Manager and who shall be required to comply with this Fraud Policy.

8. City Attorney's Responsibilities

To the extent directed by the City Manager or City Council, the City Attorney is authorized to assist in implementing this Fraud Policy.

9. Infractions/Disciplinary Action

Infractions of this Fraud Policy may result in disciplinary action, which may include suspension, termination and/or civil or criminal prosecution.

City employees who fail to report fraudulent activities shall be subject to disciplinary action, which may include suspension and/or termination.

False claims are governed by section "12" of this Fraud Policy.

10. Whistle-blower's Act

It is the City's intent to protect employees from retaliatory action due to reports of fraudulent activities in accordance with §112.3187, Florida Statutes ("Whistle-blower's Act"). The Whistle-blower's Act protects employees and persons who disclose information on their own initiative in a written and signed complaint from retaliatory action by an agency when that person reports to an appropriate agency a violation of law on the part of a public employer or independent contractor that creates a substantial and specific danger to the public's health, safety, or welfare. Additionally, the Act protects employees reporting improper use of a government office, gross waste of funds, or any other abuse or neglect of duty on the part of an agency, public officer or employee.

11. Confidentiality

To the extent permitted by law, the City Manager shall keep confidential the name or identity of any individual disclosing information related to fraudulent activities pursuant to this Fraud Policy and all information received or derived from fact-finding or investigation conducted pursuant to this Fraud Policy, and the same shall be exempt from public disclosure pursuant to Section 112.3188, Florida Statutes, and any other applicable law, as amended from time to time.

City employees with knowledge of a pending investigation are prohibited from discussing or commenting about the investigation without prior approval of the City Manager. All inquiries regarding a pending investigation shall immediately be forwarded to the City Manager.

12. Bad Faith Accusations

It is the intent of this Fraud Policy to discourage false accusations that could provide a basis for a lawsuit. The City Manager will not act on any claim that does not provide adequate documentation of fraud.

Specific information is necessary to substantiate and support a full investigation of any reported fraudulent activity. Unsubstantiated and inconclusive accusations, or accusations made in bad faith or with malice, shall not justify a full investigation under this Fraud Policy.

Any person who files a false claim of fraudulent activity in bad faith or with malice may be subject to civil or criminal penalties and if a City employee, the person may be subject to disciplinary action including and up to suspension and/or termination.

B. Reporting Fraud

A City employee or member of the public who desires to report suspected dishonest or fraudulent activity should notify the City Manager via facsimile at (321) 433-8690; or via email at swhitten@cocoaf1.gov. Reports of fraud should be made in writing using the Reporting Fraud Form attached to this Fraud Policy, even if the individual reporting fraud desires to remain anonymous, in order to ensure the necessary information is provided for the investigation.

REPORTING FRAUD Form:

Q. I saw something that isn't right. What can I do?

A. Per the City's Policy and Procedures for Handling and Reporting Fraudulent Activity, an incident of fraud/suspected fraud can be reported a number of ways:

- 1) Report your concerns to your direct supervisor/manager;
- 2) Complete this form and send it interoffice to the City Manager;
- 3) Complete this form and mail it to the City Manager at 65 Stone Street, Cocoa, FL 32922;
- 4) Complete this form and fax it to the City Manager at (321) 433-8690;
- 5) Complete this form and email it to swhitten@cocoafl.gov.

Q. Do I have to give my name?

A. While it can help the investigation, it is not required. An employee may remain unidentified if they choose. (Please note that the Whistle blower's Act (§ 112.3187, Fla. Stat.) protects public employees and persons from retaliatory action who disclose information on their own initiative in a *written and signed* complaint.)

Q. What type of information is required to report an incident?

A. You should report detailed factual information that substantiates your claim of fraud/suspected fraud. The following questions can be used as a guide. If you don't have all of the information, please provide as much as possible.

DEPARTMENT/DIVISION INVOLVED: _____

NAME(S) OF EMPLOYEE(S) INVOLVED: _____

DATE & TIME OF THE INCIDENT: _____

DESCRIBE THE INCIDENT: _____

NAME(S) OF ANY OTHER WITNESS (ES): _____

ANY PROOF ATTACHED? ___ YES ___ NO

PRINTED NAME (optional) DATE _____