



Attachment A

Agenda 24-253

July 23, 2024

FOM Sec. 21.3

FRAUD, WASTE OR ABUSE POLICY AND PROCEDURES

1. GENERAL POLICY

The City of Cocoa’s Fraud, Waste or Abuse Policy (the “Policy”) was established to facilitate the development of internal controls that will provide for the detection, prevention and reporting of fraud, waste and abuse directed against Cocoa government. The aim of this Policy is to safeguard the reputation, financial viability, and resources of the City of Cocoa by improved management of risk associated with fraud, waste, and abuse. It is the intent of this policy to promote awareness of the potential for fraud, waste and abuse throughout the City government; and to provide guidelines and assign responsibility for strengthening the City of Cocoa’s internal controls and systems; and to create an environment in which employees and/or citizens are encouraged and comfortable in reporting fraud, waste or abuse. Through these measures, the City of Cocoa seeks to be an organization that is accountable, transparent and ethical in its management and governance, and that retains the confidence and trust of its residents, staff, businesses and other external parties.

The policy is designed to:

- a. Prevent and detect fraud, waste, or abuse as defined in Florida Statutes sec. 11.45(1).
- b. Promote and encourage compliance with applicable laws, rules, contracts, grant agreements, and best practices.
- c. Support economical and efficient operations.
- d. Ensure reliability of financial records and reports.
- e. Safeguard assets.

The law in Florida protects employees from retaliatory or adverse personnel action for disclosing certain information, including, but not limited to, violations of laws which create and present a substantial and specific danger to the public’s health, safety or welfare and suspected improper use of governmental office, acts of gross mismanagement, gross waste of public funds, or any other abuse or gross neglect of duty on the part of an agency, public officer, or employee. These protections are detailed in Sections 112.3187 - 112.31895 of the Florida Statutes.

2. PURPOSE

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This directive provides instruction and guidance for implementing this Policy adopted by the Cocoa City Council.

3. SCOPE

This directive is applicable to all employees of the City of Cocoa provided that, if this 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. DEFINITIONS

4.1 "Fraud" means obtaining something of value through willful misrepresentation, including, but not limited to, intentional misstatements or intentional omissions of amounts or disclosures in financial statements to deceive users of financial statements, theft of an entity's assets, bribery, or the use of one's position for personal enrichment through the deliberate misuse or misapplication of an organization's resources.

The term "fraud" or "fraudulent activity," as used in this policy, shall include, but shall not be limited to, the following:

- a. Any dishonest or fraudulent act, including forgery or alteration of any document, or soliciting or accepting a bribe or kickback, or purchasing personal goods or services with City funds.
- b. Misappropriation of funds, securities, supplies, data, equipment, or any other City asset.
- c. Charging the City for goods and services that have not been delivered.
- d. Intentionally falsifying financial reporting information; or forging or falsifying City documents or records.
- e. Rigging the procurement process to ensure that a favored party wins and to exclude competitors.
- f. Receiving a pecuniary benefit in exchange for a favorable City permit.
- g. Improper handling or reporting of money or financial transactions.
- h. Deriving personal benefit as a result of inside knowledge.
- i. Intentional and unlawful destruction or disappearance of records, furniture, fixtures or equipment.
- j. Improperly accepting or seeking anything of material value from vendors or persons providing services or materials to the City for personal benefit.
- k. 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 data; or

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- I. 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 more specifically governed by the City's Employee Handbook.

- 4.2 "Waste" means the act of using or expending resources unreasonably, carelessly, extravagantly, or for no useful purpose.
- 4.3 "Abuse" means behavior that is deficient or improper when compared with behavior that a prudent person would consider a reasonable and necessary operational practice given the facts and circumstances. The term includes the misuse of authority or position for personal gain.

5. EMPLOYEES' RESPONSIBILITIES

- a. Employees are required to sign a statement, upon commencement of employment, acknowledging and agreeing to abide by this Policy.
- b. All City employees are encouraged to be alert for possible fraudulent, wasteful, or abusive activity and are responsible for the reporting of any and all suspected violations of this Policy and/or other practices which are unethical under applicable law such as the Code of Ethics for Public Officers and Employees (s.112.311-112.3261, Fla. Stat.).
- c. Employees are required to promptly report any suspected fraudulent, wasteful, or abusive activity to the City Manager.
- d. Although employees are encouraged to identify themselves when reporting fraudulent, wasteful, or abusive activities and otherwise cooperate in the process, employees may remain anonymous if they so desire. However, by remaining anonymous, there will be no way to contact you about your submission or what action, if any, is taken.

6. INVESTIGATIVE RESPONSIBILITIES

- 6.1 The City Manager has the primary responsibility for investigating all suspected fraudulent, wasteful and abusive activities as defined in this policy, and may delegate such responsibilities as deemed necessary to efficiently and effectively implement this Policy. If the investigation substantiates that a fraudulent, wasteful, or abusive act has occurred, the City Manager will address the matter as deemed appropriate and may refer the matter to the appropriate City department, the City Council, or other agency for proper handling. If the substantiated fraudulent, wasteful, or abusive act has criminal implications, the City Manager will consult with law enforcement agencies as necessary
- 6.2 The City Manager, is hereby authorized to make investigations into the City of Cocoa affairs and for that purpose may administer oaths and compel the production of books, papers and other evidence material to said inquiry.

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6.3 Conclusions to investigations must be supported with evidence that is relevant, reliable and sufficient. During the course of an investigation, the City must be alert to the possibility of conjecture, unsubstantiated opinion and bias of witnesses and others, and shall consider both exculpatory and inculpatory evidence. Professional Ethics makes clear that an investigator's report may conclude on a person's conduct; however, conclusions may not include the investigator's opinion regarding the legal guilt or innocence of any person or party. That determination is made by a judge or jury.

6.4 There are four possible outcomes to an investigation under this Policy: (1) substantiated; (2) unsubstantiated; (3) unsolved; and (4) unfounded.

- Substantiated: there is sufficient evidence to conclude that the alleged facts occurred, that these facts could constitute wrongdoing, and that the identified subject committed them.

- Unsubstantiated: there is insufficient evidence to conclude whether the alleged facts occurred and/or the facts could constitute wrongdoing, and/or whether the identified subject committed them.

- Unsolved: there is sufficient evidence to conclude that the alleged facts occurred, that the facts could constitute wrongdoing, but the subject did not commit them (i.e. she/he was cleared) or was never identified.

- Unfounded: there is sufficient evidence to conclude that the alleged facts did not occur, or the established facts did not constitute wrongdoing.

6.5 City Attorney's Responsibilities

To the extent directed by the City Manager or City Council, the City Attorney is authorized to assist and provide guidance regarding the implementation of this Policy.

7. CONFIDENTIALITY

The City Manager will treat all information received confidentially, to the extent allowed by law. Any employee, citizen, contractor, vendor or other interested party who has observed or suspects fraudulent, wasteful, or abusive activity should notify the City Manager immediately. Persons observing or suspecting fraudulent, wasteful or abusive activity should not attempt to investigate related to such activity themselves.

All information related to a fraud, waste or abuse allegation 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 on the investigation without prior approval of the City Manager. All inquiries regarding a pending investigation shall immediately be forwarded to the City Manager.

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8. PROCEDURES

- 8.1 A current or former City of Cocoa employee who suspects fraud, waste or abuse, and *does not desire anonymity*, should:
- a. Complete the **Reporting Fraud, Waste or Abuse 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.
 - b. Report the suspected fraud to the City Manager. **Call: (321) 433-8925 or E-mail: fraudhotline@cocoafl.gov**.
 - b. If requested, furnish a detailed written statement, under oath, outlining the suspected fraud.
 - c. Cooperate with the investigative process through the furnishing of written statements, interviews, etc.
- 8.2 A current or former City of Cocoa employee who suspects fraud, waste or abuse, and *wishes to remain anonymous*, should:
- a. Contact the City Manager through the fraud hotline and provide as much detailed information as possible regarding the suspected fraudulent, wasteful, or abusive conduct.
 - b. The caller, though anonymous, must be willing to share specific information regarding the suspected fraudulent, wasteful, or abusive conduct.
 - c. Complete the **Reporting Fraud, Waste or Abuse Form** and mail it to the attention of the City Manager.
 - d. However, while you can remain anonymous and not provide your contact information, there will be no way to contact you about your submission or what action, if any, is taken.
- 8.3 A member of the public, who suspects fraud, waste, or abuse, is encouraged to contact the City Manager with specific and detailed information regarding the suspected fraudulent conduct.
- 8.4 A supervisor or higher authority receiving a fraud, waste or abuse allegation should:
- a. Compile all information relayed by the reporting individual.
 - b. Contact the City Manager with all compiled information.
 - c. Cooperate with the investigative process.

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8.5 The City Manager will:

- a. Will process reports of fraud, abuse and waste in the order they are received, but reserves the right to prioritize investigating allegations based on severity and the effect on the public health, safety and welfare
- b. Maintain a Fraud, Waste and Abuse hotline and email address, and attempt to secure as much information as possible from the reporting individual.
- c. Contact law enforcement, and refer allegations to federal, state, or local agencies or departments, as appropriate in the circumstances, and provide fraud, waste and abuse information for consideration as to their involvement in the case.
- c. Evaluate reported conduct pertaining to any and all departments of the City and such other activities/ entities engaged in the expenditure of City funds.
- d. Report investigative findings to appropriate City Directors, City Attorney, or City Council as deemed appropriate and necessary.
- e. 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:
 1. Take control/limit employee access, and/or gain full access to, all City premises or computer systems, whether owned or rented;
 2. Examine, copy, and/or remove all or any portion of the contents of any public/private document in employee's work area;
 3. Suspend or terminate any employee, if appropriate, suspected of fraud, abuse, or wasteful activities during said investigation; and
 4. In cases where the City Manager finds evidence of fraudulent, abusive, wasteful activities, the City Manager may secure the services of a forensic fraud auditor to review, evaluate, supplement, and substantiate any preliminary or final findings made by the City Manager. These findings may be coordinated with the City Attorney for possible future legal action if necessary.

9. INFRACTIONS/DISCIPLINARY ACTION

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

City employees who fail to report fraudulent, abusive, or wasteful activities as defined under this Policy, may be subject to disciplinary

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action, which may include suspension and/or termination.

False claims are governed by section 11 of this 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. BAD FAITH ACCUSATIONS

It is the intent of this 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, abuse or waste.

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 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.

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REPORTING FRAUD, WASTE, OR ABUSE FORM

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

- A. Per the City's Fraud, Waste or Abuse Policy and Procedures, an incident of fraud, waste or abuse/suspected fraud, waste or abuse 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 email it to fraudhotline@cocoaf1.gov.

Q. Do I have to give my name?

- A. While it can help the investigation, it is not required. An employee may remain anonymous if they choose. However, by remaining anonymous, there will be no way to contact you about your submission or what action, if any, is taken. (Please note that if you provide your name, 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, waste or abuse/suspected fraud, waste or abuse. 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** _____

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