

**CITY OF NEW ORLEANS  
CHIEF ADMINISTRATIVE OFFICE**

**POLICY MEMORANDUM NO. 139**

**October 31, 2017**

**TO: All Departments, Boards, Agencies and Commissions**

**FROM: Jeffrey P. Hebert, Deputy Mayor and Chief Administrative Officer**

**SUBJECT: City of New Orleans Fraud, Waste, and Abuse Policy**

**I. PURPOSE**

The City of New Orleans (the "**City**") is committed to being a good and responsible steward of all public funds. The City has zero tolerance for the commission or concealment of acts of fraud, waste, or abuse. Allegations of such acts shall be vigorously investigated and pursued to conclusion, including but not limited to, consultation and coordination with the Ethics Review Board, state, local and federal authorities, and or law enforcement where warranted. All City employees - classified and unclassified – have an affirmative duty to immediately report any known or good faith suspected violations of this policy.

This policy applies to all City employees – classified and unclassified. This policy shall also apply to any external persons, entities or organizations contracting with the City.

**II. LAW AND GOVERNING AUTHORITY**

- **City Charter Article VII, Division 3, Subdivision I – Code of Ethics**
- **City Code Section 2-1120 – Office of Inspector General**
- **La. R.S. 42:1101 et seq – Code of Ethics**
- **La. R.S. 23:968 – Governmental Whistleblower Protection Statute**
- **La. R.S. 23:967 – Private Section Whistleblower Protection Statute**
- **Federal Statutes/Regulations**

**III. DEFINITIONS**

**Fraud** means intentional act or concealment of any act designed to inappropriately or illegally deriving a benefit (converting the gains to cash or other valuable commodity). Conduct falling under this definition does not require criminal charges to violate this policy. However, those engaged in fraud may also be subject to criminal charges, including but not limited to theft, embezzlement, and larceny –each of which may result in severe disciplinary and criminal penalties.

**Waste** means the unreasonable expenditure, consumption, mismanagement, use or

squandering of resources owned or operated by the City to the detriment or potential detriment of the City. Waste may also include the unreasonable incurring of unnecessary costs because of inefficient or ineffective practices, systems or controls. Waste does not normally lead to an allegation of "fraud;" however, it could.

**Abuse** means the intentional? excessive or improper use of something or the use of something in an unreasonable manner contrary to the natural or legal rules for its use; the intentional destruction, diversion, manipulation, misapplication, maltreatment, or misuse of resources owned or operated by the City of New Orleans; or the extravagant or excessive use so as to abuse one's position or authority. "Abuse" does not necessarily lead to an allegation of "fraud;" however, it could.

#### **IV. CITY OBLIGATIONS**

The City Chief Administrative Officer (CAO) or their authorized designee(s) shall be responsible for establishing internal controls to protect the City against risk and ensure the efficiency and effectiveness of all City operations. City department heads or their authorized designee(s) shall be responsible for implementing and monitoring all internal controls and shall regularly report to the CAO or their authorized designee(s) about the adequacy of such controls.

City department heads or their authorized designee(s) shall be responsible for informing the CAO or their authorized designee(s) about any known or reasonably suspected allegations of fraud reported by their employees. Upon receipt of such an allegation, the CAO or their authorized designee(s) shall be responsible for commencing and coordinating the investigation of the allegation(s).

#### **V. EXTERNAL PERSONS, ENTITIES OR ORGANIZATIONS OBLIGATIONS**

External persons, entities or organizations contracting with the City shall also be subject to this policy to ensure the responsible stewardship of public funds. All such persons, entities or organizations shall maintain industry-accepted internal controls and processes at all times while under contracting with the City. Failure to maintain such controls and processes may constitute a breach of contract and provide grounds for immediate termination for cause.

#### **VI. REPORTING**

**City Employee Complaint:** Any City employee who has knowledge of or a good faith belief that another City employee(s) or contractor(s) have committed or concealed any acts fraud, waste, or abuse, have an affirmative duty to immediately report such knowledge or belief, in accordance with the procedures outlined in this policy.

City employees shall immediately report such knowledge or good faith belief to their immediate supervisor. If the conduct directly or indirectly involves the supervisor or other department or City management personnel, the employee may report the conduct to the CAO or their authorized designee(s), the state or local Office of Inspector General, or other appropriate governmental or law enforcement entity. If the employee(s) report to any appropriate non-City entity, the employee must also notify the CAO or their authorized designee(s) to allow the City to immediately take measures to stop or mitigate such conduct. Employees are not required to notify the CAO if they can demonstrate that such notification would be futile.

The employee shall not make any attempt to investigate the suspected activity prior to reporting it. The CAO, in conjunction with the New Orleans Office of the Inspector General, and any other appropriate governmental or law enforcement entity shall coordinate all investigations of fraud, waste or abuse.

Intentional destruction of any document or record of any kind that the employee knows or should have known may be relevant to a past, present or future investigation of alleged fraud, waste or abuse may constitute a violation of this policy.

**Citizen or External Complaint:** Non-City personnel are highly encouraged to report any known or good faith suspicions of any instances of fraud, waste or abuse by any City employee(s) or contractor(s). Such knowledge or good faith belief may be reported to City management personnel, the CAO or their authorized designee(s), or the state or local Office of Inspector General, or other appropriate governmental or law enforcement entity.

**Commitment to Confidentiality and Anonymity:** The City shall take all reasonable efforts to protect the identity of any City employee(s) or non-City personnel who report known or good faith beliefs of instances of fraud, waste, or abuse. However, the City cannot guarantee absolute anonymity in all circumstances, as the City may be legally required to disclose such information under certain situation. The City shall take all reasonable efforts to notify any City employee(s) or non-City personnel prior to disclosure, but shall be under no obligation to legally defend against the disclosure on the reporting party's behalf.

**Retaliation:** Retaliation against any City employee or non-City personnel for reporting known or good faith belief suspicion of instances of fraud, waste or abuse shall not be tolerated. The City reserves the right to seek all administrative and legal remedies available by law to protect reporting parties and penalize those who retaliate against them.

**Baseless and Malicious Reporting:** Should the City or any other investigative entity find that reports of a violation of this policy are baseless and were made with malicious intent, the City reserves the right to seek all administrative and legal remedies by law against those making false reports. False reports may also subject the reporting party to additional legal remedies sought by those damages by such false reports.

**Non-Exclusivity:** Nothing in this policy shall be construed to limit the City's or any other oversight or law enforcement entity's ability to seek any additional administrative or legal remedies in addition to that listed above.

## **VII. INQUIRIES**

Questions regarding this memorandum should be addressed to the Department of Property Management.

JPH/CBB/cbb