

Clause embodied in Report No. 3 of the Audit Committee, as adopted by the Council of the City of Toronto at its regular meeting held on April 23, 24, 25, 26, 27, and its special meeting held on April 30, May 1 and 2, 2001.

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Policy: Fraud and Other Similar Irregularities

(City Council at its regular meeting held on April 23, 24, 25, 26, 27, and its special meeting held on April 30, May 1 and 2, 2001, adopted this Clause, without amendment.)

The Audit Committee recommends that:

- (1) the following report (January 31, 2001) from the City Auditor be adopted;
- (2) the Chief Administrative Officer be directed to ensure that all management employees are made aware of the policy set out in the report (January 31, 2001) from the City Auditor by September, 2001 and that management staff be required to review internal controls in all areas where City staff handle City revenues; and
- (3) the Chief Administrative Officer submit to the Audit Committee and City Council in October, 2001, a status report of the review requested in Recommendation No. (2) above.

The Audit Committee reports, for the information of Council, having adjourned its public session, in accordance with the Municipal Act, to meet in Camera to discuss matters arising from the report (January 31, 2001) from the City Auditor, having regard that such discussions dealt with the security of the property of the municipality or local board.

The Audit Committee submits the following report (January 31, 2001) from the City Auditor:

Purpose:

To provide a policy relating to the handling of fraud and other similar irregularities.

Financial Implications and Impact Statement:

There are no financial implications resulting from the adoption of this report.

Recommendations:

It is recommended that:

- (1) the policy, Fraud and Other Similar Irregularities, be approved;

- (2) the policy, Fraud and Other Similar Irregularities, be forwarded to all agencies, boards and commissions and special purpose bodies, and that such bodies be required to implement policies consistent with those contained in the City's policy, Fraud and Other Similar Irregularities; and
- (3) the appropriate City officials be authorized and directed to take the necessary action to give effect thereto.

Background:

On September 13, 2000, the City Auditor issued a report entitled, "Annual Report on the Status of Fraud and Related Matters." The report summarized in general terms the activities relating to fraud investigations conducted by the City Auditor's office since amalgamation. These investigations involved the investigation and collection of evidence relating to suspected fraudulent activity perpetrated by a number of City employees and external parties.

Certain of these incidents were brought to the attention of the City Auditor by staff, while other incidents were identified by the City Auditor. A number of these investigations related to activities which existed prior to amalgamation and were inherited by the new City.

The City Auditor has taken the lead role in conducting these investigations, in consultation with appropriate City Legal and Human Resources staff. In all cases, where there is appropriate evidence, the Toronto Police Service has been contacted. City Audit has worked co-operatively with the police in order to ensure that evidence is documented at a level that is sufficient to substantiate the laying of charges.

The City Auditor has reported on the results of completed investigations to the appropriate Commissioners. These reports included recommendations to improve internal administrative controls and to minimize the recurrence of such incidents. Our recommendations have been implemented or are in the process of implementation. In addition, we are also working with staff to ensure that internal control weaknesses are identified and procedures are being put in place to remedy such weaknesses. The Chief Administrative Officer has been kept informed of all instances of employee fraud. In addition, the Audit Committee has been provided with verbal updates of all occurrences of employee fraud.

Comments:

There currently exists a certain amount of uncertainty throughout the Corporation in relation to the steps to be taken regarding suspected employee fraud. Individuals with infrequent exposure to suspected fraud cases are much more likely to compromise an investigation than an experienced investigator or auditor. In this regard, it is important that a policy be established in order to address the issue of suspected fraud.

Included in the policy, which is attached as Appendix I, are specific directions that all suspected incidents of fraudulent activities be reported to the City Auditor. The policy also includes instructions that such activity:

- require full investigation of suspected wrongdoing;
- assign responsibility for conducting investigation;
- make all employees, including management, responsible for referring suspected wrongdoing directly to those responsible for investigation;
- forbid investigations by those not charged to do so;
- require consistent treatment of suspects and perpetrators;
- require that investigative results be reported to the Toronto Police Service; and
- require that all cases be reported to the Audit Committee.

The policy also include guidelines for the handling of cases so as to avoid charges of malicious prosecution, slander and libel and specific instructions to managers not to contact suspects prior to notification of the City Auditor's office.

Conclusions:

The primary responsibility for maintaining appropriate internal controls to prevent and detect fraud rests with management. Appropriate and adequate supervision is an important component of administrative internal control. Many of the issues which have required investigation have occurred generally as a result of inadequate middle management supervisory review. This matter has been addressed at the Commissioner level. One of the City Auditor's roles is to assist departments in identifying areas where there are opportunities for fraud, but more importantly, in ensuring that internal controls exist to minimize the occurrence of fraud. The City Auditor continues to work with departments to identify control issues and make recommendations where appropriate.

The policy on Fraud and Other Similar Irregularities clarifies the roles and responsibilities of all staff at the City and, in particular, requires that the City Auditor's office be contacted in all situations where such activity is suspected.

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Appendix I

Policy: Fraud and Other Similar Irregularities

Statement of Policy Principles

The City of Toronto is committed to protecting its revenue, property, information and other assets from any attempt, either by members of the public, contractors, sub contractors, agents, intermediaries or its own employees, to gain by deceit, financial or other benefits.

This policy sets out specific guidelines and responsibilities regarding appropriate actions that must be followed for the investigation of fraud and other similar irregularities.

Definitions

Fraud and other similar irregularities includes, but is not limited to:

1. Forgery or alteration of cheques, drafts, promissory notes and securities.
2. Any misappropriation of funds, securities, supplies or any other asset.
3. Any irregularity in the handling or reporting of money transactions.
4. Misappropriation of furniture, fixtures and equipment.
5. Seeking or accepting anything of material value from vendors, consultants or contractors doing business with the City in violation of the City's Conflict of Interest policy.
6. Unauthorized use or misuse of City property, equipment, materials or records.
7. Any computer related activity involving the alteration, destruction, forgery or manipulation of data for fraudulent purposes or misappropriation of City-owned software.
8. Any claim for reimbursement of expenses that are not made for the exclusive benefit of the City.
9. Any similar or related irregularity.

Applicability

This policy applies to Council Members, all employees of the City of Toronto and to employees of local Boards, Agencies and Commissions over which Council has authority to require general policies to be followed.

General Policy and Responsibilities

1. It is the City's intent to fully investigate any suspected acts of fraud, misappropriation 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.
2. Each Commissioner 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.
3. The City Auditor, in consultation with the City Solicitor, has the primary responsibility for the investigation of all activity as defined in this policy.

4. The City Auditor will notify the Chair of the Audit Committee and the Chief Administrative Officer of a reported allegation of fraudulent or irregular conduct upon the commencement of the investigation to the extent practical. Throughout the investigation these officials should be informed of pertinent investigative findings.
5. In all circumstances, where there are reasonable grounds to indicate that a fraud may have occurred, the City Auditor, subject to the advice of the City Solicitor, will contact the Toronto Police Service.
6. Upon conclusion of the investigation, the results will be reported to the Chair of the Audit Committee, the Chief Administrative Officer and the Commissioner.
7. The City will pursue every reasonable effort, including court ordered restitution, to obtain recovery of the City losses from the offender, or other appropriate source(s).

Procedures

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 the employee's supervisor may be involved, the employee shall immediately notify the Commissioner and the City Auditor.

The employee shall not discuss the matter with anyone other than his/her supervisor, the Commissioner, the City Auditor and the police. Employees who knowingly make false allegations will be subject to discipline up to and including dismissal.

2. Managers

Upon notification from an employee of suspected fraud, or if the manager has reason to suspect that a fraud has occurred, the manager shall immediately notify the Commissioner and the City Auditor. The manager shall not attempt to investigate the suspected fraud or to discuss the matter with anyone other than the person to whom the fraud was reported, the City Auditor and the police.

3. Commissioner

Upon notification from an employee or manager of suspected fraud, or if the Commissioner has reason to suspect that a fraud has occurred, the Commissioner shall immediately contact the City Auditor. The Commissioner shall not attempt to investigate the suspected fraud or to discuss the matter with anyone other than the City Auditor, City Solicitor and the police.

4. City Auditor

Upon notification or discovery of a suspected fraud, the City Auditor will promptly investigate the fraud. In all circumstances where there appears to be reasonable grounds for suspecting that a fraud has taken place, the City Auditor, in consultation with the City Solicitor, will contact the Toronto Police Service.

5. Contacts/Protocols

After an initial review and a determination that the suspected fraud warrants additional investigation, the City Auditor will notify the Chief Administrative Officer, the City Solicitor and the Chair of the Audit Committee of the allegations. The City Auditor shall coordinate the investigation with the appropriate law enforcement officials.

6. Security of Evidence

Once a suspected fraud is reported, the City Auditor, in consultation with the City Solicitor, 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 the City Auditor obtains the records to begin the audit investigation.

7. Confidentiality

All participants in a fraud investigation shall keep the details and results of the investigation confidential. However, the City Auditor, in consultation with the Corporate Access and Privacy Office of the City and the Toronto Police Service, may disclose particulars of the investigation with potential witnesses if such disclosure would further the investigation.

8. Personnel Actions

If a suspicion of fraud is substantiated by the investigation, disciplinary action, up to and including dismissal, shall be taken by the appropriate level of management, in consultation with the Human Resources Division, the City Auditor and the City Solicitor, in conformance with the City's Personnel Policies and Procedures.

Unless exceptional circumstances exist, a person under investigation for fraud shall be given notice in writing of the essential particulars of the allegations following the conclusion of the audit investigation and prior to final disciplinary action being taken. Where notice is given, the person against whom allegations are being made may submit a written explanation to the City Auditor no later than seven calendar days after the notice is received. This requirement is subject to any collective agreement provisions respecting the rights of employees during disciplinary proceedings.

9. Whistle-Blower Protection

No employer or person acting on behalf of an employer shall:

- dismiss or threaten to dismiss an employee;
- discipline or suspend or threaten to discipline or suspend an employee;
- impose any penalty upon an employee; or
- intimidate or coerce an employee,

because the employee has acted in accordance with the requirements of the policy. The violation of this section will result in discipline up to and including dismissal.

10. Media Issues

If the media becomes aware of an audit investigation, the City Auditor and any other person contracted by the media shall refer the media to the Director, Information and Corporate Communications Division. The alleged fraud and audit investigation shall not be discussed with the media other than through the Director, Corporate Communications Division.

11. Documentation

At the conclusion of the investigation, the City Auditor will document the results in a confidential memorandum report to the Chair of the Audit Committee with a copy to the Chief Administrative Officer and the Commissioner. If the report concludes that the allegations are founded, the report will be forwarded to the Toronto Police Service.

The City Auditor will also be required to make recommendations to the appropriate Commissioner which will assist in the prevention of future similar occurrences.

12. Completion of Investigation

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

13. Reporting to External Auditors

The City Auditor will report to the external auditors of the City all information relating to investigations.

14. Annual Report

As directed by Council, the City Auditor will report, on an annual basis, information related to investigations conducted during the year.