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November 12, 2019

VIA EMAIL

Ms. Jane Leonard, Chair  
Finance Advisory Committee  
City of Culver City—City Hall  
9770 Culver Boulevard  
Culver City, CA 90232

Re: Finance Advisory Committee  
November 20, 2019 Meeting  
Item S-1: Internal Controls Review  
The Fraud, Waste, and Abuse Hotline Needs Fixing

Dear Ms. Leonard:

I am a Culver City resident concerned about governmental efficiency, fiscal responsibility and accountability. Since 2016, my wife and I have encouraged Culver City to establish an effective fraud, waste, and abuse (FWA) hotline. Culver City recently began operating its FWA-hotline website. We have found numerous material problems with Culver City's current FWA hotline, and wish to bring them to the attention of the Finance Advisory Committee (FAC).

Effective FWA hotlines are a way of encouraging and supporting transparent government. "In the American tradition, whistle-blowers expose illegal ... acts that the powerful want to keep secret. ... [G]enuine whistle-blowers are ... stewards of our constitutional democracy. ... The Continental Congress passed the world's first whistle-blower protection legislation in 1778 in an effort to keep American elites honest." (10/6/19, *New York Times*, "Why American Needs Whistle-Blowers") According to the Association of Certified Fraud Examiners, the number-one source for the initial detection of fraud is through a tip.

However, the current operation of Culver City's FWA hotline is problematic:

(1) Staff secretly rejected Culver City's longstanding commitment to follow the recommendation of Moss Adams LLP (Moss) to cause a FWA-hotline-answering service forward reports it receives to Culver City's Internal Auditor.

(2) Culver City's FWA hotline does not provide complete whistle-blower protection, when that protection is readily available.

- (3) Culver City's FWA-hotline website is misleading, confusing and inconsistent.
- (4) Culver City operates a FWA hotline without a written policy/procedure.

The FAC should seriously examine my criticisms, and report its findings to the Ad-Hoc Subcommittee to Consider Internal Controls (Subcommittee).

*First*, before June 30, 2017, Culver City "committed" to follow Moss's recommendation that Culver City hire a FWA-hotline-answering service, and cause that service to forward its reports directly to Culver City's Internal Auditor. On October 4, 2019, Culver City contracted with Lighthouse Services LLC (Lighthouse)—a FWA-hotline-answering service—but Lighthouse is obligated to report only to City Attorney Carol Schwab, Chief Financial Officer [CFO] Onyx Jones, and Assistant City Manager Serena Wright. Neither Schwab, Jones, nor Wright qualifies as an Internal Auditor.

Moss's *Fraud, Waste, and Abuse Program Report (6/30/17) (Report)* repeatedly advised Culver City that only the Internal Auditor should receive FWA-hotline complaints. In 2019, the *Report* was reviewed by both the Subcommittee and the FAC, and reviewed and received by the City Council. The Report states, in pertinent part:

In order to facilitate reports of fraud, waste, or abuse, a FWA hotline is administered by a hotline contractor. The contractor receives calls on the FWA hotline and forwards the incident report to the City's Internal Auditor. [p. 1.]

...  
External Hotline Answering Company ... • The Contractor will provide notification of and the incident report to the City's Internal Auditor. [p. 10.]

...  
Hotline (anonymous reporting mechanism, internal vs. external) – all incident reports are forwarded to the City's Internal Auditor. [p. 10.]

...  
MANAGEMENT RESPONSE ... The City is committed to fully implement a Fraud, Waste and Abuse Program per the recommendations of Moss Adams. [p.17.]

(Underlined emphasis added.)

Since Moss currently functions as Culver City's internal auditor, it—not Schwab, Jones, or Wright—should receive complaints coming through the FWA hotline.

At the June 12, 2019 FAC meeting, CFO Jones informed City Manager John Nachbar, City Attorney Schwab, and others present that the FWA-hotline-answering service would forward complaints directly to Moss. CFO Jones stated that either Lighthouse or another would be selected to provide FWA-hotline-answering services, with Lighthouse the most likely choice. She further stated, in part, "What Lighthouse will do.... They're really just taking the calls. Then, what happens is that they would go through Moss's program and, then, Moss Adams would

then...." (Audio Recording of 6/12/19 FAC Meeting at 43:29.) The FAC recognized "use of Moss Adams as a neutral party." (6/12/19 FAC Not-Official Minutes, p. 6.)

On September 9, 2019, by formally presenting the *Report* to the City Council, staff publicly reaffirmed its commitment that the FWA-hotline-answering service's reports would go to the Internal Auditor.

But, promptly after the meeting, staff dishonored Culver City's "commit[ment]." Staff had informed us that the Culver City-Lighthouse contract was "sitting on [City Attorney Schwab's] desk," i.e., she negotiated it on behalf of Culver City. On September 26—only 17 days after the City Council meeting—Lighthouse signed the Culver City-Lighthouse contract. A few days later, City Manager Nachbar and City Attorney Schwab signed it. That contract requires Lighthouse to forward FWA complaints to Schwab, Jones and Wright—not the Internal Auditor. The contract states, in part: "**Alternative Routing Instructions** If a recipient for reports above [Schwab, Wright, Jones] is named as an offender in a report you may provide alternative routing instructions here: [blank]." (Double emphasis in original.) Thus, hypothetically, if a whistleblower reports that Schwab allegedly engaged in improper conduct, she would be notified of the complaint, and could use her position as City Attorney to suppress any investigation.

At the October 16, 2019 FAC meeting, staff represented that the Culver City-Lighthouse contract had been "finalized" and signed. Staff did not mention any of the contract's terms or provide the FAC with a copy of the contract.

Culver City stands alone. The City of Beverly Hills's internal auditor receives its FWA-hotline complaints. (August 2019 Trust & Innovation Portal – Procedures Manual, p. 4 ["The online portal ... system automatically notifies the City Auditor of the complaint for investigation...."].) The City Los Angeles's Office of the Controller receives its FWA-hotline complaints. In Los Angeles County, it is the Los Angeles County Auditor-Controller's Office of County of Investigations. In Pasadena, it is the Internal Audit Manager.

The FAC should determine and inform the Subcommittee:

- why did Culver City depart from its longstanding commitment to Moss's Internal-Auditor recommendation;
- what occurred between September 9 and September 26, 2019 to cause City Attorney Schwab and City Manager Nachbar to depart from Culver City's longstanding commitment to Moss's Internal-Auditor recommendation;
- when staff intends to inform the FAC, the Subcommittee, and City Council that Culver City departed from its longstanding commitment to Moss's Internal-Auditor recommendation;
- at the October 16 FAC meeting, why staff did not provide the FAC with a copy of the Culver City-Lighthouse contract;
- at the October 16 FAC meeting, why staff did not inform the FAC of its decision to ignore Moss's recommendation and Culver City's commitment; and

- whether Culver City should shutter its current FWA hotline until it authorizes Moss or another Internal Auditor to operate it.

*Second*, today's headlines spotlight the importance of whistle-blower-identity protection; something Culver City's FWA hotline lacks. The FWA hotline's current construction leaves a whistle-blower vulnerable to discovery by anyone issuing a Public Records Act (PRA) request. Culver City could easily remedy that flaw by using methods provided in PRA-request-shield legislation.

When faced with a PRA request for a whistle blower's identity, each city must decide whether the whistle-blower's right-to-privacy clearly outweighs the public interest in disclosure. (*City of San Jose v. Superior Court* (1999) 74 Cal.App.4th 1008.) Each PRA request involves a fact-specific-balancing test. Litigating the issue could get very expensive and time consuming. Further, potential whistle-blowers are discouraged from reporting violations because their identities might be revealed.

But in 2008, responding to the holding in *City of San Jose v. Superior Court*, the California Legislature enacted Government Code § 53087.6. If a city follows the procedural requirements, the statute ensures that a whistle-blower's identity is not disclosable—removes the PRA-request vulnerability—by stating, in part:

- (2) Any investigative audit conducted pursuant to this subdivision shall be kept confidential.... In any event, the identity of the individual ... reporting the improper government activity ... shall be kept confidential.

But only specifically designed FWA hotlines receive protection from PRA requests. Government Code § 53087.6(a) provides, in part:

- (1) A city ... auditor or controller who is elected to office may maintain a whistleblower hotline to receive calls from persons who have information regarding fraud, waste, or abuse by local government employees.
- (2) A city ... auditor or controller who is appointed by, or is an employee of, a legislative body or the government agency that is governed by the city ... shall obtain approval of that legislative body or the government agency, as the case may be, prior to establishing the whistleblower hotline.

(Emphasis added.) Here, Culver City does not qualify for (1) as it does not elect an auditor or controller. Further, (2) is not available, as the City Council has not approved any appointed auditor or controller to operate its FWA hotline.

Culver City's failure to use the PRA-request-protection legislation exposes Culver City to litigation and associated costs. If Culver City denies a PRA request seeking a whistle-blower's identity, the requestor could sue for the information. On the other hand, if Culver City identifies

the whistle-blower, the whistle-blower could sue Culver City for any resulting damages. Culver City gains nothing by assuming those avoidable risks.

But Culver City could readily obtain the benefits of Government Code § 53087.6(e) by formally appointing Moss as the Internal Auditor, as Moss currently functions as Culver City's Internal Auditor. In its Request for Proposals for Internal Auditing Services (RFP #1570, July 2015), which led to Moss's engagement, Culver City acknowledged that by stating, in part:

The City of Culver City is seeking proposals for internal audit services to be performed in place of an internal audit function.... These services will take the place of an in-house internal audit function....

Also, Culver City may soon employ its own Internal Auditor vis-a-vis contracting out the position. At the June 12, 2019 FAC meeting, CFO Jones informed everyone present of the "authorization by the City Manager to assign a position to move the project forward [and] establishment of an internal audit position." (6/12/19 Not-Official Minutes, p. 4.)

Culver City could: (1) formally appoint Moss to operate its FWA hotline until a Culver City employee fills the Internal Auditor position; and (2) amend the current Culver City-Lighthouse contract.

The FAC should determine and inform the Subcommittee:

- why Culver City did not use the procedure specified in Government Code § 53087.6 to assure whistle-blower-identity protection; and
- whether Culver City should shutter its current FWA hotline until it authorizes and approves only Moss or another Internal Auditor to receive and process reports.

*Third*, Culver City's FWA-hotline website fails to provide potential whistle-blowers with critical information. In addition, it sets forth misleading and inconsistent information, and, thus, discourages reporting.

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The FWA-hotline-website's instructions are confusing:

<p><b>Please do <u>not</u> use this program</b> to report ... employee <u>misconduct</u>, which should be reported to Human Resources. (Underlined emphasis added.)</p>	<p>What to Report</p> <ul style="list-style-type: none"> <li>● Theft....</li> <li>● Record falsification</li> <li>● Payroll fraud or time abuse</li> <li>● Kickbacks or bribes</li> </ul> <p style="text-align: center;">...</p> <ul style="list-style-type: none"> <li>● Contractor fraud</li> <li>● <u>Gross</u> mismanagement of resources, including careless expenditures</li> <li>● <u>Gross</u> disregard of policy and/or procedural controls</li> <li>● Ethics violations</li> </ul> <p>(Underlined emphasis added.)</p>
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The FWA hotline's entire purpose is to report *misconduct*, but, without defining the term, potential whistle-blowers are informed to use a process which renders their identities discoverable. Additionally, the website does not provide guidance to distinguish between "gross" and non-"gross."

The current FWA-hotline website misleads by assuring confidentiality by stating in part, "The City of Culver City, Finance Department operates a confidential hotline.... The confidential hotline is available.... In order to protect the confidential reporting process, updates of actions will not be provided." But the representations of confidentiality are not entirely true without employing the PRA-request shield in Government Code § 53087.6.

Statements on the Culver City's portion of the FWA-hotline website contradict those on Lighthouse's portion:

Culver City	Lighthouse
<p>The City's <u>Fraud, Waste, and Abuse unit will</u> conduct a <u>thorough analysis</u> of <u>each</u> complaint. (Emphasis added.)</p>	<p>Reports are submitted by Lighthouse to the <u>organization's designee</u>, and <u>may or may not</u> be <u>investigated</u> at the sole discretion of the organization." (Emphasis added.)</p>

Further, there is no definition of "thorough analysis" or a statement of what, if anything, occurs after the "thorough analysis." In addition, the website does not disclose the identities (name or title) of "Fraud, Waste, and Abuse unit." A potential whistle-blower might be concerned that the person against whom he/she complains is a member of the "[FWA] unit."

The FAC should determine and inform the Subcommittee:

- the time staff will need to clarify the verbiage on the FWA-hotline website; and
- whether Culver City should shutter its current FWA hotline until staff completely clarifies it.

*Fourth*, the City Council has not adopted any policy/procedure for operating the FWA hotline. Since none exists, lack of employee participation would more likely indicate lack of confidence in the FWA hotline, rather than clean government.

However, Culver City could cure the problem with minimal effort and expense by adopting appropriately modified FWA-hotline policies/procedures employed by other cities. For example, please see attached Beverly Hills's August 2019 Trust & Innovation Portal Procedures Manual. Incidentally, Beverly Hills's website combines its FWA hotline with a formal suggestion system.

The FAC should determine and inform the Subcommittee:

- whether staff has examined other cities' FWA-hotline policies/procedures and associated documents with the intent of adapting some for Culver City's purposes; and
- if so, whether it helped to reduce consulting fees?

###

In the past four years, Culver City has made little progress implementing an effective FWA hotline. Potential whistle-blowers, who rely upon Culver City to protect their identities by the best means possible, are being hoodwinked. The current FWA-hotline website misleads and confuses. One could reasonably argue that Culver City has designed its FWA hotline to fail. But Culver City could easily overcome the problems—if it wants to do so.

Again, I respectfully suggest that the FAC seriously examine my allegations, and relay its findings to the Subcommittee. Further, the FAC should request that staff present the FAC with a specific timetable of its plans to properly complete the FWA-hotline project. In the interim, Culver City should shutter its current FWA-hotline website.

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Ms. Jane Leonard, Chair  
Finance Advisory Committee  
November 12, 2019  
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Please communicate with me if further information is desired.

Yours truly,

LES GREENBERG

LG:pg

Attachments: Culver City *Fraud, Waste, and Abuse Program* (6/30/17) (Excerpts)  
City of Culver City – Standard General Services Agreement-  
With: Lighthouse Services, LLC – For: Anonymous Reporting  
Hotline Services (10/4/19) (Excerpts)  
City of Beverly Hills Trust & Innovation Portal Procedures Manual (8/26/19)

ec: Alex Fisch, Council Member, Ad-Hoc Subcommittee to Consider Internal Controls  
Thomas A. Small, Council Member, Ad-Hoc Subcommittee to Consider Internal Controls  
Meghan Sahli-Wells, Mayor  
Göran Eriksson, Vice Mayor  
Daniel Lee, Council Member  
Mr. John Nachbar, City Manager  
Ms. Carol A. Schwab, City Attorney  
Ms. Oynx Jones, Chief Financial Officer  
Ms. Serena Wright, Assistant City Manager





**Culver City**  
**Fraud, Waste, and Abuse Program**

June 30, 2017

Prepared by:

Moss Adams LLP

999 Third Avenue, Suite 2800

Seattle, WA 98104

(206) 302-6500

**MOSS ADAMS** LLP

Certified Public Accountants | Business Consultants

*Acumen. Agility. Answers.*

## I. EXECUTIVE SUMMARY

All City employees share the common purpose of serving the public and ensuring public funds are spent wisely. The work of the City should be conducted fairly, equitably, ethically, and transparently. Proactive steps must be taken to ensure community commitments and management objectives are met. It is important for employees and the public to be provided a mechanism to voice appropriate concerns when they see or feel something is not right.

Culver City employees are entrusted with public funds and have a duty to use those funds economically, efficiently, effectively, and ethically. If City employees do not honor that obligation, then it is imperative to identify and correct those actions.

As a result, Culver City has established a Fraud, Waste, and Abuse Program that is available to all City employees and the public. The program operates 24 hours a day, 7 days a week. Reports of suspected inappropriate activity can be made using the City's toll-free number, mail, phone, or in person. The City is committed to reviewing all complaints and investigating all legitimate concerns. All reports submitted are treated confidentially.

### **Purpose of a Fraud, Waste, and Abuse Program**

A Fraud, Waste, and Abuse (FWA) Program is a mechanism for employees or members of the public to report activities perceived to be misconduct, violations of City policy or ethics, theft, waste, or misuse of City assets. The objective of a FWA program is to identify and stop loss of City resources and act as a deterrent to fraud, waste, and abuse.

**In order to facilitate reports of fraud, waste, or abuse, a FWA hotline is administered by a hotline contractor. The contractor receives calls on the FWA hotline and forwards the incident report to the City's Internal Auditor.** Please do not use this program to report grievable labor issues, which should be reported to the Human Resources Department. Matters of threat to a person should be reported to the Police Department by calling 911.

### **Benefits of a Fraud, Waste, and Abuse Program**

There are numerous benefits to a Fraud, Waste, and Abuse Program. It is important for not only identifying and quantifying losses to the City, but also preventing future losses. Specific benefits include:

- Identification and termination of occurrences of fraud, waste, and abuse.
- Recovery of funds as a result of investigations.
- Deterrence of inappropriate behavior by increasing awareness of these actions
- A safe mechanism for employees and the public to voice concerns and report suspected inappropriate activity.
- Commitment to the City's core values through the promotion of the program.
- Improvement in the City's internal control processes.
- Enforcement of an ethical work environment.

Association of Certified Fraud Examiners, the number one source for the initial detection of fraud is through a tip, with over 50% of tips coming from an employee.

### External Hotline Answering Company

The City has elected to contract with a third party vendor to administer the offsite reporting system (the “Contractor”). Incident reports can be submitted in a number of ways and allows employees or members of the public to call and speak to an operator via a designated phone number staffed by the vendor. There are distinct benefits to managing the hotline in this manner. Examples include:

- Services are available 24 hours a day/7 days a week/365 days a year.
- The persons receiving the calls are hotline professionals, trained in how to obtain the information necessary for the City to determine an appropriate course of action.
- The Contractor has the ability to receive documents (Word, Excel, and PDF) and forward them to the City as evidence for the complaint, while maintaining the privacy of the caller.
- The Contractor has the ability to communicate back and forth with the caller without revealing the identity of the caller.
- **The Contractor will provide notification of and the incident report to the City’s Internal Auditor.**
- The Contractor will provide case management of calls received, including archiving and data retention.
- The Contractor will provide a summary of the calls received, including call type, disposition (open or closed), etc.

## C. METHODS FOR CAPTURING COMPLAINTS

The City is providing employees and members of the public a variety of methods for reporting suspected inappropriate activity and behavior. These methods include:

- **Hotline (anonymous reporting mechanism, internal vs. external) – all incident reports are forwarded to the City’s Internal Auditor.**
- Phone call – if received by the City’s Internal Auditor, the caller will be encouraged to call the FWA hotline, or the City’s Internal Auditor will handle the call by obtaining the information required to determine if an investigation is necessary. If a call is received by City personnel, then the incident/complaint will be forward to the FWA hotline or City’s Internal Auditor, as appropriate.
- Face-to-face – City personnel will take appropriate notes of the meeting and encourage the complainant to report the matter through the FWA hotline.
- Mail –mail will be forwarded to the City’s Internal Auditor for investigation, as appropriate.

## VIII. MANAGEMENT RESPONSE

Culver City established a Whistle Blower Policy #4011 in 2003 for employees to report unlawful conduct or conduct in violation of any City policy, directive, ordinance or charter provision. This Policy provides employees with three possible actions that an employee can take if they find something that needs to be reported. It also provides very detailed complaint procedures that should be followed. Culver City employees can file their complaints to the City Manager or City Council for further investigation. City employees also have the option to call the California State Attorney General Whistleblower Hotline and file a complaint. This information has been provided to new and current employees through the Human Resources Department.

Based on recommendations of Moss Adams, the City is also interested in holding a contract with an external hotline answering company to receive complaints from employees and residents of the Culver City. External hotline answering companies can receive complaints over the phone, web or by mail. The Finance Department has reached out to two companies suggested by Moss Adams. Their pricing and services will be reviewed by the City Manager and the CFO to make the final selection.

**The City is committed to fully implement a Fraud, Waste and Abuse Program per the recommendations of Moss Adams. The City will also provide initial and ongoing training to all City employees and update the Whistleblower Policy #4011 and Code of Ethics Policy #4006 to reflect current regulations.**

CITY OF CULVER CITY  
STANDARD GENERAL SERVICES AGREEMENT  
WITH: LIGHTHOUSE SERVICES, LLC  
FOR: ANONYMOUS REPORTING HOTLINE SERVICES

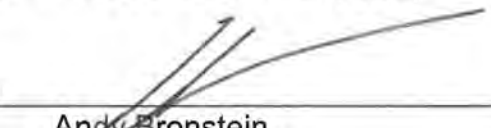
THIS AGREEMENT is made and entered into by and between THE CITY OF CULVER CITY, a municipal corporation, hereinafter referred to as "City," and LIGHTHOUSE SERVICES, LLC, hereinafter referred to as "Provider."

1. PROVIDER'S SERVICES. Provider agrees to perform, during the term of this Agreement, the tasks, obligations, and services set forth in the "Scope of Service" attached to and incorporated into this Agreement as Exhibit "A."
2. TERM OF AGREEMENT. The term of this Agreement shall be for a period of five years, commencing on the effective date pursuant to Section 29 of this Agreement. This Agreement shall remain in full force and effect until amended or terminated; provided, that the indemnification and hold harmless provisions shall survive the termination.
3. PAYMENT FOR SERVICES. City shall pay for the services performed by Provider pursuant to the terms of this Agreement, the compensation set forth in the "Schedule of Compensation" attached to and incorporated into this Agreement as Exhibit "B." The compensation shall be paid at the time and manner set forth in said Exhibit "B."
4. TIME FOR PERFORMANCE. Provider shall not perform any work under this Agreement until (a) Provider furnishes proof of insurance as required under Section 7 of this Agreement; and, (b) City gives Provider a written and signed Notice to Proceed.
5. DESIGNATED REPRESENTATIVE(S). \_\_\_\_\_ shall be the designated Provider Representative, and shall be responsible for job performance, negotiations, contractual matters, and coordination with the City. Provider Representative shall actually perform, or provide immediate supervision of Provider's performance of, the Scope of Service.
6. INDEMNIFICATION. To the fullest extent permitted by law, Provider shall indemnify, defend and hold harmless the City of Culver City, members of its City Council, its boards and commissions, officers, agents, and employees (hereinafter, "Indemnitees"), from and against all loss, damage, cost, expense, liability, claims, demands, suits, reasonable attorneys' fees and judgments arising out of or in any manner related to

30. AUTHORITY TO ENTER INTO AGREEMENT. The individual(s) executing this Agreement on behalf of each party is (are) authorized to execute this Agreement on behalf of said party. Each party has taken all actions required by law to approve the execution of this Agreement.


LIGHTHOUSE SERVICES, LLC,

Dated: 9/26/19

By   
Andy Bronstein  
Principal

**CITY OF CULVER CITY, CALIFORNIA**

Dated: 10/4/19

By   
John Nachbar  
City Manager

**APPROVED AS TO CONTENT:**

  
Onyx Jones  
Chief Financial Officer

**APPROVED AS TO FORM:**


  
Carol A. Schwab  
City Attorney

EXHIBIT A

CITY OF CULVER CITY

STANDARD GENERAL SERVICES AGREEMENT

WITH: LIGHTHOUSE SERVICES, LLC

FOR: ANONYMOUS REPORTING HOTLINE SERVICES

SCOPE OF SERVICE

Provider shall host an anonymous reporting hotline service (the "Services") for City, including, but not limited to, the following:

- Provide the Services to City on a twenty-four hour per day, seven days a week, 365 days per year basis.
- Provide City with an online Case Management System, a toll-free number, website, facsimile number and e-mail address that can be utilized by all United States, Canadian, and Mexican based employees or third parties.
- All contact reports will be assigned a unique File ID and shall be retained by Provider so long as City remains a client of Provider. Due to the requirements of City's records retention guidelines, in the event of expiration or termination of this Agreement, and upon request from City, Provider shall turn over all contact reports to City to be appropriately retained for all legally required periods.
- Provide City a copy in English of the information relayed by the reporter and will make its best effort not to jeopardize the anonymity of the reporter if he or she elected to remain anonymous. City is charged a \$75.00 fee for reports in languages other than English or Spanish.
- Provider will maintain network security as reasonably necessary to protect the anonymity of the reporter.
- Provide reporters with an option of follow-up communications.
- Provider will maintain adequate capacity on its network during the term of this Agreement to meet City's usage requirements.
- In Addendum A attached, City will list all recipients designated to receive the contact reports, which may be revised from time to time by City.

EXHIBIT B

CITY OF CULVER CITY

STANDARD GENERAL SERVICES AGREEMENT

WITH: LIGHTHOUSE SERVICES, LLC

FOR: ANONYMOUS REPORTING HOTLINE SERVICES

SCHEDULE OF COMPENSATION

(Fixed Cost Basis)

1. AMOUNT OF COMPENSATION. For performing and completing all work and services described in Exhibit A, City shall pay Provider a fee not to exceed a total amount of \$950.00 annually.
2. BILLING. Provider shall submit an invoice annually to the City at the following address:  
  
City of Culver City  
Attn: Onyx Jones, Chief Financial Officer  
9770 Culver Boulevard  
Culver City, CA 90232-0507
3. TIME OF PAYMENT. Payment to Provider shall be made within thirty (30) days after submittal of Provider's invoice and approval by City, in accordance with City's normal demand procedure.



## Addendum A – Report Recipients and User Type

**Report Recipients** - List below any individuals who will receive via email report notifications for report types which they are identified. It is considered a best practice to have more than one designated recipient per report, although not a requirement.

The Case Management System (CMS) is a database of your hotline activity. **You are required to have a minimum of one CMS Administrator.** There is no limit to the number of CMS users you can have.

**CMS User Types:**

- CMS Administrator - has unimpeded access to your entire online database of reports, updates information, assigns Investigators and manages users.
- CMS Investigator - has limited access to the CMS, can interact only with reports they have been assigned to by an Administrator.

For additional CMS users complete and return the workbook located [here](#).

**Fraud Report Recipients**

		CMS User Type (choose one)
Name <b>Carol Schwab</b>	Title <b>City Attorney</b>	Administrator or Investigator
Email Address <b>carol.schwab@culvercity.org</b>	Phone <b>(310) 253-5660</b>	<input checked="" type="checkbox"/>   <input checked="" type="checkbox"/>
Name <b>Onyx Jones</b>	Title <b>Chief Financial Officer</b>	Administrator or Investigator
Email Address <b>internal.controls@culvercity.org</b>	Phone <b>(310) 253-6016</b>	<input checked="" type="checkbox"/>   <input checked="" type="checkbox"/>
Name <b>Serena Wright</b>	Title <b>Assistant City Manager</b>	Administrator or Investigator
Email Address <b>serena.wright@culvercity.org</b>	Phone <b>(310) 253-5642</b>	<input checked="" type="checkbox"/>   <input checked="" type="checkbox"/>

**HR Report Recipients**

check if same as above

CMS User Type (choose one)

Name <b>Mark Steranka</b>	Title <b>Partner</b>	Administrator or Investigator
Name <b>Carol Schwab</b>	Title <b>City Attorney</b>	Administrator or Investigator
Email Address <b>carol.schwab@culvercity.org</b>	Phone <b>(310) 253-5660</b>	<input checked="" type="checkbox"/>   <input checked="" type="checkbox"/>
Name <b>Serena Wright</b>	Title <b>Assistant City Manager</b>	Administrator or Investigator
Email Address <b>serena.wright@culvercity.org</b>	Phone <b>(310) 253-5642</b>	<input checked="" type="checkbox"/>   <input checked="" type="checkbox"/>
Name <b>Onyx Jones</b>	Title <b>Chief Financial Officer</b>	Administrator or Investigator
Email Address <b>internal.controls@culvercity.org</b>	Phone <b>(310) 253-6016</b>	<input checked="" type="checkbox"/>   <input checked="" type="checkbox"/>

**Compliance and Ethics Report Recipients**

check if same as above

CMS User Type (choose one)

Name <b>Carol Schwab</b>	Title <b>City Attorney</b>	Administrator or Investigator
Email Address <b>carol.schwab@culvercity.org</b>	Phone <b>(310) 253-5660</b>	<input checked="" type="checkbox"/>   <input checked="" type="checkbox"/>
Name <b>Serena Wright</b>	Title <b>Assistant City Manager</b>	Administrator or Investigator
Email Address <b>serena.wright@culvercity.org</b>	Phone <b>(310) 253-5642</b>	<input checked="" type="checkbox"/>   <input checked="" type="checkbox"/>
Name <b>Onyx Jones</b>	Title <b>Chief Financial Officer</b>	Administrator or Investigator
Email Address <b>internal.controls@culvercity.org</b>	Phone <b>(310) 253-6016</b>	<input checked="" type="checkbox"/>   <input checked="" type="checkbox"/>



### **Coverage in Canada**

Check if reports will be received from Quebec.

### **Alternate Routing Instructions**

If a recipient for reports above is named as an offender in a report you may provide alternate routing instructions here:

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Check if alternate routed reports should be withheld from being uploaded to the CMS. As a result they will not be visible to CMS administrators.

# Preface

The City Auditor created a Trust & Innovation Portal that provides a means for the City of Beverly Hills employees and residents to interact with the City Auditor. The portal is designed to provide a means for the City Auditor to interact with the City Auditor. The portal is designed to provide a means for the City Auditor to interact with the City Auditor.

# **Trust & Innovation Portal**

## **Procedures Manual**

August 2019

Office of the City Auditor  
City of Beverly Hills

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# Preface

The City Auditor operates a Trust & Innovation Portal (TIP) to provide a means for City of Beverly Hills employees and residents to confidentially report: (1) alleged improper activity involving City operations, vendors, and employees; and (2) suggestions for improving the efficiency and effectiveness of City operations. This manual documents guidance on conducting fraud investigations (Fraud Hotline) that are entered into the TIP website. The process for reviewing suggestions for improvement are documented in the Audit Manual. Any reference to Fraud Hotline in this manual refers to fraud, waste, or abuse-related complaints made to the TIP. There is no separate Fraud Hotline.

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## **I. Overview of the Fraud Hotline and Complaint Program**

### **A. Introduction**

#### **1. Objective**

The objective of the Trust & Innovation Portal (TIP) is to provide a means for City of Beverly Hills employees, residents, vendors, and others to confidentially report: (1) any activity or conduct in which he/she suspects instances of fraud, waste, or abuse; (2) violations of certain federal or state laws and regulations relating to fraud, waste, or abuse as it is defined at California Government Code §53087.6(f)(2); and (3) offer suggestions for improving the efficiency and effectiveness of City operations.

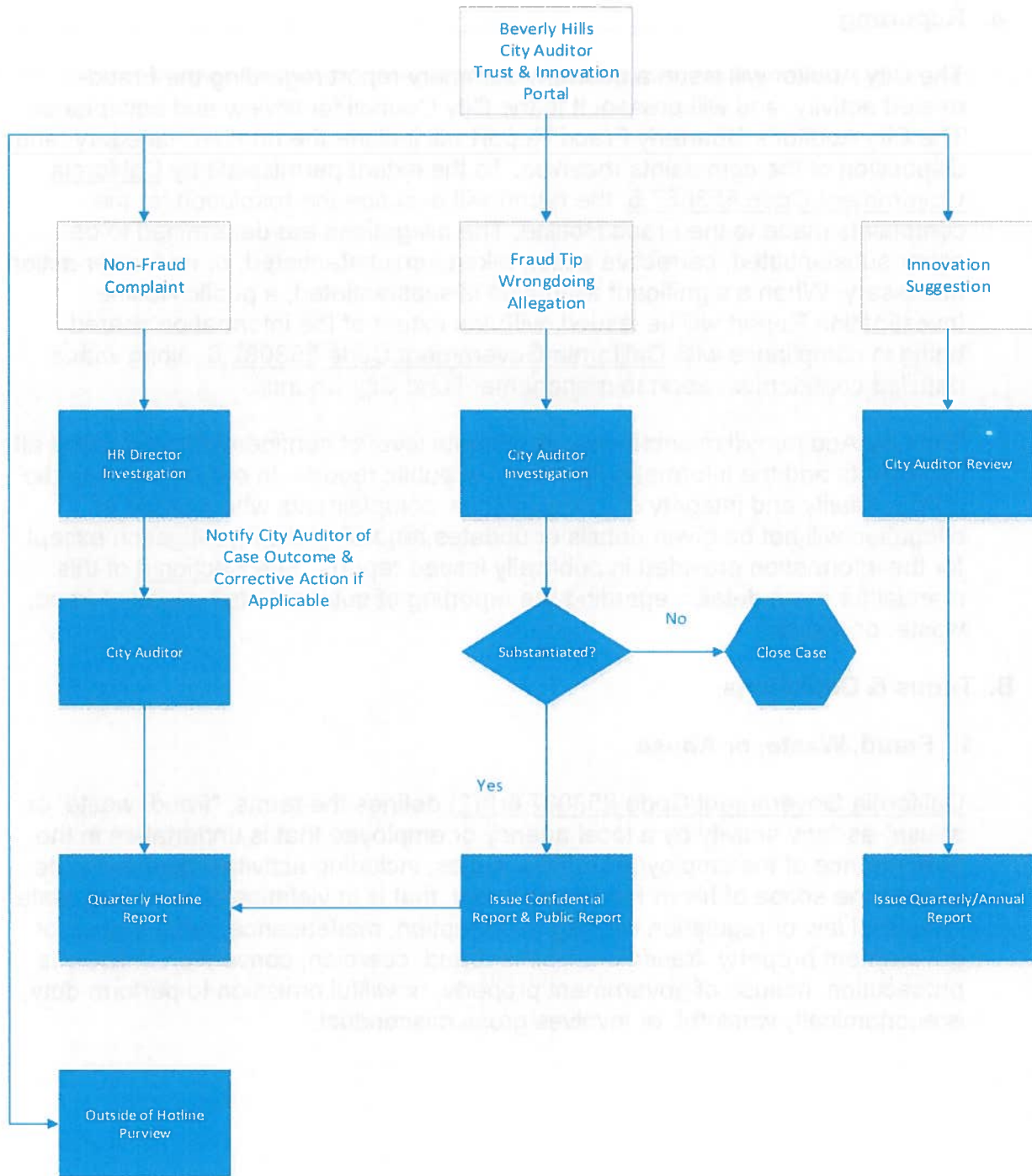
#### **2. City Auditor's Authority**

California Government Code §53087.6 establishes the City Auditor's authority to maintain a whistleblower hotline to receive information regarding fraud, waste or abuse. Per Municipal Code Title 2, Chapter 3, Article 13, effective 10-6-2017, City Auditor duties include investigating allegations of fraud, abuse, or illegal acts.

#### **3. Structure**

The City Auditor utilizes a third party web based application, TIP, (Trust & Innovation Portal) to allow City employees and the public to make confidential reports of alleged improper activity or offer suggestions to improve operations. The online portal can be accessed at <http://www.beverlyhills.org/TIP>. When a record is entered in TIP, the system automatically notifies the City Auditor of the complaint for investigation or referral as described in Section C4.

Employees and residents may also contact the Office of the City Auditor directly in person, by telephone, email, or by written correspondence. These communications are also treated confidentially. The dedicated phone number for receiving calls is (310) 288-2847 or by email address at [CityAuditorTIP@beverlyhills.org](mailto:CityAuditorTIP@beverlyhills.org).



- Insufficient Information  
Close case
- Refer to appropriate entity

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#### **4. Reporting**

The City Auditor will issue a quarterly summary report regarding the Fraud-related activity, and will present it to the City Council for review and acceptance. The City Auditor's Quarterly Fraud Report will include the number, category, and disposition of the complaints received. To the extent permissible by California Government Code §53087.6, the report will describe the resolution for the complaints made to the Fraud Hotline. The allegations are determined to be either substantiated, corrective action taken, unsubstantiated, or no further action necessary. When a significant allegation is substantiated, a public Hotline Investigation Report will be issued, with the extent of the information shared being in compliance with California Government Code §53087.6, along with a detailed confidential report to management and City Council.

The City Auditor will maintain the appropriate level of confidentiality regarding all complaints and the information provided in public reports. In order to protect the confidentiality and integrity of investigations, complainants who provide an allegation will not be given details or updates regarding the investigation except for the information provided in publically issued reports. See Section II of this manual for more details regarding the reporting of substantiated cases of fraud, waste, or abuse.

#### **B. Terms & Definitions**

##### **1. Fraud, Waste, or Abuse**

California Government Code §53087.6(f)(2) defines the terms, "fraud, waste, or abuse" as "any activity by a local agency or employee that is undertaken in the performance of the employee's official duties, including activities deemed to be outside the scope of his or her employment, that is in violation of any local, state, or federal law or regulation relating to corruption, malfeasance, bribery, theft of government property, fraudulent claims, fraud, coercion, conversion, malicious prosecution, misuse of government property, or willful omission to perform duty, is economically wasteful, or involves gross misconduct."



For the purposes of the administration of the Fraud Hotline, the Office of the City Auditor will apply the following definitions to the violations listed below.

Violation	Definition
Abuse	Official City action that is deficient or improper when compared with behavior that a prudent person would consider reasonable and necessary under the circumstances.
Bribery	The corrupt payment, receipt, or solicitation of a private favor or payment for official action.
Coercion	Compulsion by physical force or threat of physical force; threat of taking or withholding official action or causing an official to take or withhold an action.
Conversion	The wrongful possession of or interference with the City's property as if it were one's own.
Corruption	The impairment of a public official's duties, such as by bribery.
Fraud	Any intentional act or omission designed to deceive others, resulting in the victim (City of Beverly Hills) suffering a loss and/or the perpetrator achieving a gain.
Fraudulent claims	A misrepresentation of facts in a claim to receive compensation.
Gross misconduct	An indifference to, and a blatant violation of, a legal duty with respect to the rights of others.
Malfeasance	Wrongdoing or misconduct by a City official.
Malicious prosecution	Intentionally (and maliciously) instituting and pursuing (or causing to be instituted or pursued) a legal action that is brought without probable cause and dismissed in favor of the victim that caused damages.
Misuse of government property	The wrongful misuse of the City's property.

Violation	Definition
Theft of government property	Unauthorized taking in to one's possession of property owned by the City.
Waste	The intentional or unintentional, thoughtless or careless expenditure, consumption, mismanagement, use, or squandering of City resources. Waste also includes incurring unnecessary costs because of inefficient or ineffective practices, systems, or controls.
Willful omission to perform duty	Intentional failure to take action required by law or contract.

Complaints received by the Fraud Hotline that allege certain labor/management issues (e.g. discrimination, sexual harassment, substance abuse, and workplace violence/threats) are generally forwarded to the Human Resources Director for review with no further action by the City Auditor. The complete facts of each case will determine the disposition, in consultation with Human Resources and relevant agencies, as necessary.

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## **2. Third-Party Provider**

The City Auditor utilizes a third party web based application, named ACL, dba Galvanize, and referred to as the City's Trust & Innovation Portal, to allow City employees and the public to make confidential reports of alleged improper activity or offer suggestions to improve operations. Online reporting can be accessed at <http://www.beverlyhills.org/TIP> Case Management System

The TIP system allows the City Auditor to document and manage all cases in a single, centralized system.

## **3. Fraud Hotline Reports**

Information received from the caller, such as when the alleged incident occurred and where, is documented in TIP. This information is organized into a report. These reports are disseminated to the City Auditor's designated recipients. Information received by the Office of the City Auditor in person, by telephone, email, or by written correspondence are also entered into TIP.

## **4. Resolution**

The resolution to a complaint describes the results of the investigation, and action taken based on the investigation of the Fraud Hotline complaint.

# **II. Processing of Fraud Hotline Complaints**

## **A. Receipt and Control of Complaints**

City employees and the general public can access TIP to enter specific information about an alleged improper activity on the City's webpage. Information from such online reports is recorded on a Fraud Hotline report.

In order to process a complaint/concern, the following information is generally required:

1. The alleged misconduct involves a City of Beverly Hills employee, a contractor, or a vendor that has been or is currently doing business with the City of Beverly Hills;
2. Name(s) of the individual(s) involved, if known;
3. Specific information regarding the alleged misconduct;
4. When the alleged misconduct occurred; and
5. Where, or in what department, the alleged misconduct occurred;
6. Circumstances surrounding how the alleged misconduct occurred; and
7. Any supporting documentation.

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Upon completion of a complainant's call or online report, the City Auditor is notified of the complaint and makes the determination of how the complaint will be investigated. At the time of the call, in the instance where the complainant has identified him/herself, the TIP system will prompt the reporting party whether the City Auditor may share his/her identity with persons outside of the Office of the City Auditor. The City Auditor will contact the complainant to verify if his/her identity may be shared. Identities of complainants will not be shared outside of the Office of the City Auditor without such permission, in writing, and will be in compliance with the California Government Code §53087.6. Incomplete reports will result in a request for more information via the third-party provider's case management system. The case will close if the necessary details are not provided within 30 days.

**B. Complaint Investigation Assignments**

Based on the nature of the allegation made in the complaint, the City Auditor may investigate or may determine that the complaint should be investigated by one of the following entities:

**1. Fair Political Practices Commission**

Alleged violations of the Political Reform Act of 1974 (The Act) will be referred to the California Fair Political Practices Commission, 1102 Q Street, Suite 3000, Sacramento, CA 95811. In summary, The Act regulates campaign finance, lobbying activity, and conflicts of interest.

**2. Sworn Public Safety Employees – Police and Fire**

Complaints against sworn police officers will be forwarded directly to the Beverly Hills Police Department Professional Standards Unit and handled under the Peace Officers Bill of Rights. Complaints against firefighters will be handled in accordance with the Firefighters Procedural Bill of Rights Act and management agreements.

**3. Human Resources Director**

1. Complaints that include but are not limited to issues such as employee relations, customer relations, labor/management issues and personnel related complaints will be referred to the Human Resources Director.
2. A standardized department referral email (see Section VIII of this manual) is sent to the HR Director, along with the attached Fraud Hotline report generally within two business days of receiving the complaint. The email advises of the filing of the complaint and requests a resolution in 30 days,

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if possible. The City Auditor will grant extensions on a case-by case basis. The email also advises that the response should be provided by a level of management that is at least one level above those allegedly involved, and the response should not be provided by any of the individuals named in the complaint. The email states that no attempt should be made to determine the identity of an anonymous complainant.

3. The City Auditor may also send a copy of the standardized department referral email to the City Manager, Assistant City Manager, or other Appointing Authority, as appropriate.
4. At the discretion of the City Auditor or his/her designee, and based on the facts and circumstances of the complaint, all high risk complaints will be addressed promptly.<sup>1</sup>
5. The resolution completed by the HR Director will be reviewed by the City Auditor to determine if the investigative actions and disposition are sufficient. The City Auditor can request additional information or clarification to resolutions.

## **C. Investigation Procedures**

### **1. Department Investigation**

1. Department directors and any other personnel involved in the investigation of a Fraud Hotline complaint referred by the City Auditor or HR Director for resolution shall not share the substance of a complaint with anyone except those individuals who are directly involved in and are essential to conducting the investigation. Any personnel provided with this information are required to hold and maintain all information obtained as confidential.
2. The department/division head and those conducting the investigation will disclose the nature of the allegation(s) only to the extent necessary to receive information sought. Such a disclosure may be made by providing only a summary of the allegation(s). However, care should be taken to provide no information that would compromise the complainant's or any witness' identity or otherwise violate applicable confidentiality restrictions. No attempt should be made to determine the identity of an anonymous complainant. Sharing allegation(s) outside of the City Auditor's review process may be a violation of California State law, and/or the policies and procedures of the City and may constitute cause for a legal claim of defamation, slander, invasion of privacy or other possible legal claims.

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<sup>1</sup> See Section 4.5 for a list of high-risk/priority complaints.

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3. Any breaches of confidentiality may result in disciplinary action.
4. If a complaint involves a department head that includes but is not limited to issues such as employee relations, customer relations, labor/management issues and personnel related complaints, it may be forwarded to the City Manager for investigation and review, or investigated by the City Auditor.
5. If the City Auditor determines that the resolution is sufficient, the case will be closed. A closing email will be sent to the appropriate director indicating that the case has been closed and no further action is necessary. See Section XI for a sample closing email.
6. If the City Auditor determines that the response inadequately addresses the allegation(s) raised in the complaint, the City Auditor will communicate their concerns or questions to the appropriate director and request that the director address the concerns. The division or department head will be provided with an opportunity to provide further clarification, which may include any internal investigative reports.

#### **4. City Auditor Investigations**

1. The City Auditor or his designee will conduct an investigation generally following the procedures recommended by the Association of Certified Fraud Examiners' Fraud Examiners Manual for any allegations of improper financial activity and fraud, waste, or abuse. The scope of the investigation will be to determine if the accusations made are valid, and to determine if there is any potential internal control weaknesses that need to be corrected that allowed fraud, waste, or abuse to occur.
2. For each fraud, waste, or abuse allegation that is determined to be significant, preliminary evidence will be gathered, such as reviewing the information provided via the hotline, reviewing other pertinent records, and interviewing appropriate witnesses to assess if the allegation appears to be valid. The City Auditor will notify and consult with the appropriate law enforcement agency for any allegations that appear to involve criminal activity. Once a referral is made to a law enforcement agency, no investigative contacts will be made by the City Auditor without the full concurrence of the law enforcement agency to which the matter has been referred.
3. When the City Auditor receives a Fraud Hotline matter that is the subject of pending City litigation, investigation, or other legal proceeding, the City Auditor, in consultation with the City Attorney, will evaluate the impact of an investigation on the legal proceeding, prior to pursuing its own

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investigation. In some cases, it may be appropriate for the City Auditor to cooperate with or conduct concurrent investigations; in other cases, the City Auditor should withdraw from the investigation to avoid interfering with the legal proceeding.

4. Investigative procedures will continue for each significant allegation until, in the City Auditor's sole discretion based on the facts and circumstances, a reasonable case can be made for a referral to an appropriate agency for prosecution, or it is determined that there is insufficient evidence to substantiate the allegation of fraud, waste, or abuse.
5. The order that cases are worked on often depends on the importance of the cases. Important high priority cases may include safety concerns, criminal activity, significant losses to the City, high-level staff involvement, collusion of multiple wrongdoers, a major department-wide issue, or need for immediate action to stop a potential major issue. Based on the discretion of the City Auditor, addressing these items could take priority over other investigations and audits.
6. Investigative procedures will generally include, but are not limited to:
  - i. Documenting the allegation in writing.
  - ii. Interviewing potential witnesses and documenting the information gathered. The form included in Section XII of this manual will be used and signed by interviewees when the Fraud Investigator suspects that criminal conduct may be involved.
  - iii. Identifying facts or circumstances or indicators of fraud related to the allegation.
  - iv. Notifying and consulting with the Beverly Hills Police Department and City Attorney, as appropriate.
  - v. Developing an investigative plan and determining the type of evidence to pursue.
  - vi. Gathering evidence and performing analysis as is appropriate, such as:
    - 1) Reviewing accounting records, payroll records, bank records, canceled checks, and credit card records.
    - 2) Downloading and analyzing electronic data.
    - 3) Reviewing emails and written correspondence.
    - 4) Consulting with trained computer forensics specialist to image computer hard drives and from the image review the files and activities.

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7. When an investigation by the City Auditor substantiates that fraud, waste, or abuse may have occurred, a draft confidential report will be issued to the appropriate City management with statements of facts and evidence supporting the conclusion that the allegation is substantiated so that the appropriate corrective action can be taken. Once the appropriate City management staff has reviewed the facts in the draft report, and provides the City Auditor with a response, the confidential report will be finalized and issued to the appropriate City management. A public Fraud Hotline investigation report will also be issued for all significant cases, or if the City Auditor deems the information is necessary to serve the interests of the public. The public hotline report will be posted on the City Auditor's website. The City Auditor will include the information related to the public report in the Quarterly Report of Fraud Hotline Activities that is provided to the Audit Committee.
8. Pursuant to California Government Code §53087.6(e)(2), the City Auditor has the discretion to "issue any report of an investigation that has been substantiated, or to release any findings resulting from a completed investigation that are deemed necessary to serve the interests of the public."
9. The City Auditor will maintain the appropriate level of confidentiality regarding all complaints and the information provided. Any Hotline investigative report issued to the public will not include any details of confidential information that cannot be disclosed under applicable laws, such as personnel issues. In accordance with California Government Code §53087.6, the identities of individual or individuals reporting the improper government activity, and the subject employee or employees shall be kept confidential, and their identities will not be included in any public reports.
10. Any significant internal control weaknesses that are identified and substantiated or appear to be substantiated during any investigation of Hotline complaints will be addressed in a Hotline report to management. The Hotline report will include recommendations to management to correct the internal control weaknesses identified. The Finance Director and the external auditor will also be informed of the identified internal control weaknesses.
11. If the subject of the complaint is a supervisor/manager at any level, the complaint will be forwarded to, and should be resolved by, a level of management that is at least one level above those allegedly involved, and the response should not be provided by any of the individuals named in the complaint.



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12. When an investigation substantiates an allegation of City employee wrongdoing, a detailed confidential hotline report describing the evidence obtained will be issued to management staff. The report will generally include a recommendation for management to review the information and conduct an independent fact-finding investigation in order to take any corrective and/or disciplinary action that is appropriate. The City Auditor will be given an opportunity to present the evidence obtained to the City staff conducting the fact-finding investigation panel.

13. Complaints alleging criminal activity (e.g. theft) will be referred to the appropriate law enforcement agency for investigation as soon as the Fraud Investigator develops firm indications that criminal activity has occurred.

#### **D. Law Enforcement Referrals**

##### **1. Procedures**

1. The following is a summary of the procedures the Office of the City Auditor intends to follow with respect to Fraud Hotline investigations that may involve criminal conduct.
2. When information obtained through a Fraud Hotline investigation indicates that criminal acts may have occurred, may be occurring, or may occur in the future, the Office of the City Auditor intends to act in accordance with this manual, and as follows:
3. The City Auditor will evaluate the potential impact of the Fraud Hotline investigation on a criminal investigation.
4. The City Auditor will notify and consult with the appropriate law enforcement agency for any allegations that appear to involve criminal activity.
5. The appropriate law enforcement agency to be contacted for consultation may include, but is not limited to: the Beverly Hills Police Department, the County of Los Angeles District Attorney's Office, and Federal law enforcement agencies, at the discretion of the City Auditor.
6. Notice to the City's management of the ongoing criminal investigation will be made in accordance with the wishes of the law enforcement agency based on the need to maintain the integrity of the criminal investigation, or other determination by the law enforcement agency.

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7. Once a referral is made to a law enforcement agency, no investigative contacts by the Office of the City Auditor will be made without the full concurrence of the law enforcement agency to which the matter has been referred.
  - i. In some instances, it may be appropriate for Office of the City Auditor's Investigator to work with law enforcement investigators or other legal authorities who are conducting criminal investigations.
  - ii. In other instances, the Office of the City Auditor may close the Fraud Hotline case based on the referral to law enforcement. A status of "No further action necessary" may be used for public reporting purposes when Fraud Hotline cases are referred to law enforcement for investigation.
  
8. Fraud Hotline investigation reports and other information provided to law enforcement by the Office of the City Auditor are subject to the confidentiality provisions of applicable City, State, and Federal statutes, rules, and regulations. Compliance will be achieved as follows.
  - i. Pursuant to California Government Code §53087.6(e)(l), "The identity of the person providing the information that initiated the investigative audit shall not be disclosed without the written permission of that person, unless the disclosure is to a law enforcement agency that is conducting a criminal investigation."
  - ii. The City Auditor will be the point of contact for dissemination of Fraud Hotline investigation documents, including any employee personnel documents, to law enforcement for referrals made by the Office of the City Auditor.
  - iii. A log of documents requested by a law enforcement agency will be generated and forwarded to the Human Resources Department Director for review and approval, in consultation with the City Attorney, prior to dissemination in order to ensure that the confidentiality of employee personnel documents is maintained, as required. The log will include the following information:
    - 1) date of request
    - 2) source of the record
    - 3) custodian of the record
    - 4) description of the record
    - 5) conclusion regarding disclosure (disclose, disclose with redactions, or do not disclose without Court order)

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### **III. Processing of All Other Employee and Resident Complaints Received Outside of the Fraud Hotline**

#### **A. Procedures**

1. The Office of the City Auditor may receive communications that can be considered complaints by means other than through the Fraud Hotline (e.g. in person, e-mail, telephone, or letter). Complainants may remain anonymous.
2. If the communication is provided in person, by telephone, email, or written correspondence, City Auditor logs, in writing, the factual allegation(s) of the complaint and attempts to obtain adequate information to facilitate an effective review.
3. The City Auditor will review the communication and make the determination whether or not the communication is a Fraud Hotline complaint.
4. If it is determined that the communication is in the purview of the Fraud Hotline, the complaint is entered into the third-party provider Case Management System as soon as possible.
5. Once entered into the Case Management System, the complaint is processed according to procedures as set forth in Section II of this manual.

### **IV. City Auditor Self-Initiated Investigations**

#### **A. Policy**

1. Beverly Hills Municipal Code Title 2—Administration, Personnel, and Procedures, Chapter 3, Article 13 Office of the City Auditor: provides the City Auditor the authority to initiate investigations. The City Auditor may initiate investigations based on professional judgment or when information is received during the course of business or proactively obtained by other means, indicating potential fraud, waste or abuse is occurring related to a City activities.
2. The City Auditor will review the information received and determine whether the allegation is in the purview of the Fraud Hotline and warrants an investigation.
3. If it is determined that an investigation is warranted, the information is entered into the third-party provider Case Management System as soon as possible.
4. Once entered into the Case Management System, the case is processed according to procedures as set forth in Section II of this manual.

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## **V. Escalation Procedure for High Risk Threats**

### **A. Procedures**

1. When a report is received that is considered a high risk/threat situation, it may be designated for escalation by the City Auditor. These situations include, but are not limited to, workplace violence or threats, substance abuse, and retaliation of whistleblowers. Escalation will be triggered if the complaint received is considered high risk and if it is determined the incident is likely to happen within 24 hours. The City Auditor will refer high risk complaints to the appropriate authority for a response. When a report is received that involves a City employee which is considered a time sensitive/high risk situation or needs immediate attention, it will be referred to the City Manager or Human Resources Director as soon as practicable.

## **VI. Security for Complaints and Associated Reports, Working Papers, and Other Documents**

### **A. Policy**

1. All complaints, associated reports, working papers, and other documents detailing employee and resident complaints, received either through the Fraud Hotline, by mail, e-mail, and those documents or notes of any oral conversations with City employees or residents, shall remain confidential at all times.
2. Such complaints, associated reports, working papers, and other documents shall only be discussed with the officials in the offices of the City Auditor, City Attorney, Law Enforcement, and other individuals as determined by the City Auditor. Details regarding fraud risks associated with prior complaints may be discussed with City Auditor staff as part of the Audit Planning and Risk Assessment processes. No copies are to be made of any complaints, associated reports or emails, working papers, and other documents or when complaints are forwarded to a department head for investigation and resolution. Original complaints, associated reports, working papers, and other documents shall be maintained in a secure manner by City Auditor staff, usually the Assistant to the City Auditor.
3. Fraud Hotline reports or information provided therein shall only be provided to individuals who are responsible and essential for conducting the investigation or reviewing of the complaint. These individuals are required to hold such information in strict confidence.
4. The confidentiality of all complaints, associated reports, working papers, and other documents shall be maintained at all times by the Office of the City Auditor and investigating/reviewing departments, who shall take such measures as they

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determine are reasonable and necessary to maintain the confidentiality of such information and documents.

5. City Auditor staff and City department staff responsible for investigating allegations made in a Fraud Hotline complaint can make investigative disclosures of information contained in a complaint to the extent necessary for obtaining additional information or information otherwise unavailable.
6. Only the City Auditor, or his/her designee, in conjunction with the Office of City Attorney, is authorized to determine the distribution or release of any complaints, associated reports, working papers, other documents and correspondence associated thereto, in accordance with the California Government Code §53087.6, and any other applicable law.
7. The City Clerk shall refer to the City Auditor any Public Records Act or other requests for information or documents regarding Fraud Hotline complaints.

## **B. Confidentiality**

1. The City Auditor will prominently mark all complaints, associated reports, emails, working papers and other documents, in both hard copy and electronic formats, concerning the review or investigation of complaints as "Confidential." The City Auditor and departments will maintain strict confidentiality throughout the processing of all complaints and through disposition of the investigation and thereafter. The City Auditor shall comply with the California Government Code §53087.6 that governs the confidentiality of hotline whistleblower complaints filed with municipal governments.
2. In connection with complaints and investigations under the Fraud Hotline, the confidentiality of such investigations and results shall be strictly protected by all City employees and officers in accordance with California Government Code §53087.6. Any breaches of the confidentiality provisions of this manual or applicable laws may result in disciplinary action. In the event any subsequent California or local laws or regulations relating to municipal whistleblower hotlines are enacted, all City Officers and employees shall comply with such later enacted applicable laws or regulations.

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### **C. Custodian of Complaint Documents**

1. The City Auditor shall maintain custody of complaints, associated reports, working papers, emails, and all other pertinent information regarding any investigations of complaints. Other parties involved in the investigation shall also retain their own documentation. All such documents shall be retained and or disposed of in accordance with applicable document retention policies of the City.

## **VII. Referral of Employee Complaints**

### **A. Policy**

1. All such complaints and concerns shall be processed as described in Section II of this manual. Any complaint that does not meet the statutory definition of fraud, waste, or abuse, may be closed with no further action by the Office of the City Auditor and may be referred to an appropriate authority.

### **B. Filing of Malicious Complaints**

1. The City Auditor will not tolerate malicious complaints. The processing of a complaint requires staff time and attention regardless of its appropriateness. Mistaken complaints are not considered malicious. Complaints made frivolously, in bad faith or without factual basis may constitute defamation and may be legally actionable. Malicious complaints made in bad faith may result in disciplinary action in accordance with applicable City policies and procedures, up to and including dismissal. Lodging a malicious complaint is, in itself, a category of unethical behavior.

### VIII. Sample Department Referral Email

Send	To...	
	Cc...	
	Subject	CONFIDENTIAL Trust & Innovation Report Number CASE NUMBER

Good Morning/Afternoon,

Attached is a copy of a confidential incident report that was filed with the City's Trust & Innovation Portal. This office received the report regarding the alleged issue or concern and determined should be referred to your department for resolution. The response should be provided by a level of management that is at least one level above those allegedly involved, and the response should not be provided by any of the individuals named in the complaint. No attempt should be made to determine the identity of an anonymous complainant. Our office is privy to full disclosure of all pertinent information, including personnel actions taken.

In order to help sustain the integrity and success of the hotline, send the attached Resolution Form to (name & email) within 30 days of receiving this e-mail. The attached Resolution Form should be completed and returned once you resolve the allegation.

Thank you for your assistance in this matter.

Kind regards,

**Eduardo Luna**  
City Auditor  
City of Beverly Hills  
455 N. Rexford Drive  
Beverly Hills, CA 90210

Office (310) 285-6865  
Fax (310) 273-3078  
[eluna@beverlyhills.org](mailto:eluna@beverlyhills.org)



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**IX. Sample Resolution Form**

**City of Beverly Hills**  
**Office of the City Auditor**  
**Confidential Trust & Innovation Portal Resolution**

<b>Report #</b>	<b>Resolution date:</b>
<b>Describe how you resolved the issue/concern below</b>	
<b>Name &amp; Title (Print)</b>	
<b>Date:</b>	

Please Return to \_\_\_\_\_, Executive Assistant to the City Auditor  
Office of the City Auditor



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## X. Resolution Received E-mail

end

To...  
Cc...  
Subject **CONFIDENTIAL Trust & Innovation Portal Report Number CASE NUMBER**

Good Morning/Afternoon,

Thank you for your response. Let me review the response and if I have no further questions, this report will be closed. I will let you know the outcome.

Thank you for your cooperation.

Kind regards,

**Guiseppe Luna**  
City Auditor  
City of Beverly Hills  
55 N. Rexford Drive  
Beverly Hills, CA 90210

Office (310) 285-6865  
Fax (310) 273-3078  
[luna@beverlyhills.org](mailto:luna@beverlyhills.org)



## XI. Sample Closing Email

Send	To...	
	CC...	
	Subject	CONFIDENTIAL Trust & Innovation Portal Report Number CASE NUMBER

Good Morning/Afternoon,

Our office received your response to the Fraud Hotline Report referenced above. I have reviewed the response and deem the response satisfactory; therefore, our office will close this case, and no further action will be taken regarding this matter.

If you have any questions regarding this report or the process, contact [insert name](#).

We appreciate your contributions to improving the City's ethical climate.

Thank you,

**Eduardo Luna**  
 City Auditor  
 City of Beverly Hills  
 455 N. Rexford Drive  
 Beverly Hills, CA 90210

Office (310) 285-6865  
 Fax (310) 273-3078  
[eluna@beverlyhills.org](mailto:eluna@beverlyhills.org)



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## XII. Sample Fraud Hotline Investigation Admonishment Form

### Fraud Hotline Investigation Admonishment

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This Fraud Hotline Complaint investigation is being conducted pursuant to California Government Code Section 53087.6 which grants the City Auditor authority to receive calls from persons who have information regarding fraud, waste, or abuse by City employees.

California Government Code Section 53087.6(e)(2) also states: "any investigative audit conducted pursuant to this subdivision shall be kept confidential, except to issue any report of an investigation that has been substantiated, or to release any findings resulting from a completed investigation that are deemed necessary to serve the interests of the public. In any event, the identity of the individual or individuals reporting the improper activity, and the subject employee or employees shall be kept confidential."

The purpose of this questioning is to obtain information to assist the City Auditor in investigating a confidential Fraud Hotline Complaint. The City Auditor is not questioning you for the purpose of instituting criminal proceedings against you. However, during the course of this questioning, if you do disclose information which indicates that you may be guilty of criminal conduct, your self-incriminating statements, and any fruits thereof, may be used against you in any criminal proceeding. You have the right to refuse to answer any questions. However, for administrative purposes only, the evidentiary weight of your refusal to answer an incriminating question may be considered as a factor in the City Auditor's investigation and subsequent administrative conclusion.

I have read and understand this admonishment.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

Printed Name, Title

\_\_\_\_\_  
Witness Signature

\_\_\_\_\_  
Date

Printed Name, Title

### XIII. California Government Code Section 53087.6.

#### GOVERNMENT CODE - GOV



**TITLE 5. LOCAL AGENCIES [50001 - 57550]** (*Title 5 added by Stats. 1949, Ch. 81.*)

**DIVISION 2. CITIES, COUNTIES, AND OTHER AGENCIES [53000 - 55821]** (*Division 2 added by Stats. 1949, Ch. 81.*)

**PART 1. POWERS AND DUTIES COMMON TO CITIES, COUNTIES, AND OTHER AGENCIES [53000 - 54999.7]** (*Part 1 added by Stats. 1949, Ch. 81.*)

**CHAPTER 1. General [53000 - 53162]** (*Chapter 1 added by Stats. 1949, Ch. 81.*)

**ARTICLE 4. Miscellaneous [53060 - 53087.6]** (*Article 4 added by Stats. 1951, Ch. 522.*)

(a) (1) A city, county, or city and county auditor or controller who is elected to office may maintain a whistleblower hotline to receive calls from persons who have information regarding fraud, waste, or abuse by local government employees.

(2) A city, county, or city and county auditor or controller who is appointed by, or is an employee of, a legislative body or the government agency that is governed by the city, county, or city and county, shall obtain approval of that legislative body or the government agency, as the case may be, prior to establishing the whistleblower hotline.

(b) The auditor or controller may refer calls received on the whistleblower hotline to the appropriate government authority for review and possible investigation.

(c) During the initial review of a call received pursuant to subdivision (a), the auditor or controller, or other appropriate governmental agency, shall hold in confidence information disclosed through the whistleblower hotline, including the identity of the caller disclosing the information and the parties identified by the caller.

(d) A call made to the whistleblower hotline pursuant to subdivision (a), or its referral to an appropriate agency under subdivision (b), may not be the sole basis for a time period under a statute of limitation to commence. This section does not change existing law relating to statutes of limitation.

(e) (1) Upon receiving specific information that an employee or local government has engaged in an improper government activity, as defined by paragraph (2) of subdivision (f), a city or county auditor or controller may conduct an investigative audit of the matter. The identity of the person providing the information that initiated the investigative audit shall not be disclosed without the written permission of that person, unless the disclosure is to a law enforcement agency that is conducting a criminal investigation. If the specific information is in regard to improper government activity that occurred under the jurisdiction of another city, county, or city and county, the information shall be forwarded to the appropriate auditor or controller for that city, county, or city and county.

(2) Any investigative audit conducted pursuant to this subdivision shall be kept confidential, except to issue any report of an investigation that has been substantiated, or to release any findings resulting from a completed investigation that are deemed necessary to serve the interests of the public. In any event, the identity of the individual or individuals reporting the improper government activity, and the subject employee or employees shall be kept confidential.

(3) Notwithstanding paragraph (2), the auditor or controller may provide a copy of a substantiated audit

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report that includes the identities of the subject employee or employees and other pertinent information concerning the investigation to the appropriate appointing authority for disciplinary purposes. The substantiated audit report, any subsequent investigatory materials or information, and the disposition of any resulting disciplinary proceedings are subject to the confidentiality provisions of applicable local, state, and federal statutes, rules, and regulations.

(f) (1) For purposes of this section, “employee” means any individual employed by any county, city, or city and county, including any charter city or county, and any school district, community college district, municipal or public corporation, or political subdivision that falls under the auditor’s or controller’s jurisdiction.

(2) For purposes of this section, “fraud, waste, or abuse” means any activity by a local agency or employee that is undertaken in the performance of the employee’s official duties, including activities deemed to be outside the scope of his or her employment, that is in violation of any local, state, or federal law or regulation relating to corruption, malfeasance, bribery, theft of government property, fraudulent claims, fraud, coercion, conversion, malicious prosecution, misuse of government property, or willful omission to perform duty, is economically wasteful, or involves gross misconduct.

*(Amended by Stats. 2010, Ch. 80, Sec. 1. Effective January 1, 2011.)*