



*City of Las Cruces*

**CMP #2.3**  
**Effective Date: 6/1/12**

**Subject: Fraud Policy**

**PURPOSE:**

This policy is established to facilitate the development of controls that will aid in the detection and prevention of fraud against the City of Las Cruces (City). It is the intent of the City to promote consistent organizational behavior by providing guidelines and assigning responsibility for the development of controls and conduct of investigations.

**POLICY:**

This policy applies to any irregularity, or suspected irregularity, involving employees and employees with relationships with consultants, vendors, contractors, and/or any other parties in a business relationship with the City.

Any investigative activity required will be conducted without regard to the suspected wrongdoer's length of service, position/title, or relationship with the City.

This is a zero tolerance policy.

**PROCEDURE:**

All City employees are responsible for the detection, prevention, and reporting of fraud, misappropriation of resources, and other irregularities. Fraud is defined as the intentional, false representation or concealment of a material fact for the purpose of inducing another to act upon it to his or her detriment. Occupational fraud is defined as the use of one's occupation for personal enrichment through the deliberate misuse of misapplication of the employing organization's resources or assets. Division Directors will be familiar with the types of improprieties that might occur within his or her area of responsibility, and be alert for any indication of irregularity.

**EXAMPLES OF FRAUD & OCCUPATIONAL FRAUD:**

The terms embezzlement, misappropriation, and other fiscal irregularities refer to, but are not limited to:

- Any fraudulent act

- Misappropriation of funds, securities, supplies, or other assets.
- Forgery or alteration of any document or account belonging to the City.
- Impropriety in the handling or reporting of money or financial transactions.
- Obtaining a financial or personal benefit as a result of knowledge of City activities.
- Disclosing confidential information to outside parties.
- Disclosing to other person's securities activities engaged in or contemplated by the City.
- Embezzlement
- Accepting or seeking either monetary value or a personal benefit (including benefit to a household or immediate family member) from contractors, vendors, or persons providing services/materials to the City where the intent or perception is to influence either party.
- Destruction, removal or inappropriate use of records, furniture, fixtures, and equipment; and or
- Any similar or related irregularity.

If there is any question as to whether an action constitutes fraud, contact the Internal Audit Office or the Legal Department for guidance.

Suspected improprieties concerning an employee's moral, ethical or behavioral conduct should be resolved by departmental management and the Human Resources Department.

## **REPORTING PROCEDURES:**

An employee who discovers or suspects fraudulent activity must report it immediately to their supervisor. The supervisor will be responsible for providing a written report to the Department Director for further action. If an employee is unable to report suspected fraud to their supervisor, he/she may by-pass their supervisor and report directly to the Division Director, Assistant City Managers, or Internal Audit Office. If an employee feels that they are unable to report to any of the mentioned individuals then they shall have unrestricted, confidential access to the City's Hotline Service (see CMP 2.4)

Individuals bringing complaints forward will be notified when the matter is complete.

Any fraud that is detected or suspected must be reported immediately to any Supervisor, Office of City Manager, Internal Audit Office, or the Hotline, who coordinates all investigations with Internal Audit Office and other affected areas, both internal and external. The Internal Audit Office will then consult with the Office of City Manager and/or Legal Department.

## **INVESTIGATION RESPONSIBILITIES:**

Great care must be taken in the investigation of suspected improprieties or irregularities so as to avoid mistaken accusations or alerting suspected individuals that an investigation is under way.

All inquiries concerning the activity under investigation from the suspected individual or any other inquirer should be directed to the Legal Department. No information concerning the status of an investigation will be given out.

The Internal Audit Office has the primary responsibility for the investigation of all suspected fraudulent acts as defined in this policy. Should the Internal Audit Staff not have the expertise to investigate the fraudulent activity; the investigation will be turned over to an outside fraud investigator. If the investigation substantiates that fraudulent activities have occurred, the Internal Audit Office will issue reports to the Office of City Manager and the State Auditor as required by NMAC 2.2.2.

Decisions to prosecute or refer the examination results to the appropriate law enforcement and/or regulatory agencies for independent investigation will be made in conjunction with the Office of City Manager and the Legal Department.

## **CONFIDENTIALITY:**

The Internal Audit Office treats all information received confidentially. Any employee who suspects dishonest or fraudulent activity will notify any of the proper parties as identified in this policy. Employees should not attempt to personally conduct investigations or interview/interrogations related to any suspected fraudulent act.

Investigation results will not be disclosed or discussed with anyone other than those who have a legitimate or legal need to know. This is important in order to avoid damaging the reputations of persons suspected but subsequently found innocent of wrongful conduct and to protect the City from potential civil liability.

To the extent possible, the confidentiality of the person making the complaint and that of the respondent will be maintained. However the following may apply:

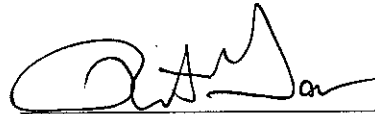
- Information contained in the report of inquiry may be used in disciplinary actions resulting from the investigation.
- Investigative reports are deemed confidential unless otherwise directed by a competent court of jurisdiction or by order of the City Manager.
- If a fraud investigation is the basis of disciplinary action, the employee will be provided a summary of the investigation.

## **AUTHORIZATION FOR INVESTIGATING SUSPECTED FRAUD:**

The Internal City Auditor and his/her designee will have:

- Except as protected by law, free and unrestricted access to all City records and premises, whether owned or rented; and
- Upon written authority from the Office of City Manager to examine, copy, and/or remove all or any portion of the contents of files, desks, cabinets, and other storage facilities on the premises without prior knowledge or consent of any individual who might use or have custody of any such items or facilities when it is within the scope of their investigation.

City employees shall cooperate with an investigation and be truthful with the investigator. Failure to cooperate and to be truthful may result in disciplinary action.



Robert Garza, City Manager

6-1-12

Date