THE CITY OF SAN DIEGO

DATE: January 13, 2011

TO: Honorable Members of the Audit Committee

FROM: Eduardo Luna, City Auditor

SUBJECT: **City Auditor's Quarterly Fraud Hotline Report – Qtr 2 Fiscal Year 2011**

The Office of the City Auditor administers the City's Fraud Hotline program. The primary objective of the Fraud Hotline is to provide a means for an employee or citizen of the City of San Diego to confidentially report any activity or conduct—related to or involving City personnel, resources, or operations—for which he or she suspects instances of fraud, waste, or abuse.

The Network Inc., an independent third-party provider, accepts calls from City employees and the public at (866) 809-3500. Callers can choose to remain anonymous, providing complete confidentiality. The Network prepares a report for each complaint received and sends them to the Office of the City Auditor via email. Complaints can also be submitted directly to the Office of the City Auditor.

Fraud Hotline Law Changes

The amendments to Government Code section 35087.6 enacted by Assembly Bill 1666 became effective on January 1, 2011. The revisions specify that a city auditor may maintain the whistleblower hotline to receive calls from persons who have information regarding fraud, waste, or abuse. The law now defines "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.

The revised statute now clearly authorizes the City Auditor to provide a copy of a substantiated audit report or investigation to the appropriate appointing authority for disciplinary purposes, as specified.

Fiscal Year 2011 Second Quarter Results by Complaint Types

During the second quarter of FY 2011 (October 2010 – December 2010), 16 complaints were filed with the Hotline. Five of the complaints were categorized as Fraud-Related and 11 were categorized as Non-Fraud Related. The following table lists the number of complaints received by category and whether the complaint was investigated by the City Auditor, referred to the appropriate Department for resolution, or was a complaint that did not relate to City operations.

Table 1

Category: Fraud	Qtr 1 Jul-Sep	Qtr 2 Oct-Dec	Sub-total	% of City-Related Total	City Auditor	Referred to Dept	Non-City
Accounting/Audit Irregularities	2	0	2	5.13%	2	0	0
Fraud	4	1	5	12.82%	2	1	2
Fraudulent Insurance Claims	1	0	1	2.56%	0	1	0
Theft of Goods/Services	2	2	4	10.26%	0	3	1
Theft of Time	2	0	2	5.13%	0	2	0
Waste and Abuse	0	2	2	5.13%	1	1	0
Subtotal Fraud	11	5	16	41.03%	5	8	3
Category: Non-Fraud							
Employee Relations	1	2	3	7.69%	0	3	0
Customer Relations	0	4	4	10.26%	0	2	2
Policy Issues	4	4	8	20.51%	3	4	1
Retaliation of Whistleblowers	3	0	3	7.69%	0	1	2
Safety Issues and Sanitation	1	0	1	2.56%	0	0	1
Substance Abuse	1	0	1	2.56%	0	1	0
Wage/Hour Issues	2	0	2	5.13%	0	2	0
Workplace Violence/Threats	0	1	1	2.56%	0	1	0
Subtotal Non-Fraud	12	11	23	58.97%	3	14	6
Total Complaints FY11	23	16	39	100.0%	8	22	9

Source of Hotline Complaints

A caller to the Fraud Hotline can either make the complaint anonymously, or the caller can provide his or her identity and contact information. Table 2 represents the breakdown of the caller profile by fiscal year.

Table 2

FY	Anonymous		Identified		Total
2009	69	49%	71	51%	140
2010	28	46%	33	54%	61
2011	16	41%	23	59%	39

Status of Hotline Complaints Received in the Second Quarter of Fiscal Year 2011 and Unresolved Complaints from the Previous Quarter

As reported, 16 complaints were made to the Hotline between October 2010 and December 2010. In addition, at the previous quarter-end, September 30, 2010, 24 complaints remained open and unresolved for a total of 40 open complaints at the start of the second quarter. Table 3 below summarizes the status of these 40 complaints. Eleven (11) of the 40 remain open and unresolved, and 29 were closed. Of the 29 that were closed, 9 were substantiated and/or corrective actions were taken, 15 were unsubstantiated, and 5 did not relate to City operations.

Table 3

Complaint Status	City Auditor Investigations	Referred to Dept	Sub-Total	Percent (City Operations Only)	Not Related to City Operations	Total
Complaints Unresolved 9/30/2010	**10**	**13**	**23**		**1**	**24**
Complaints Received in 2nd Qtr	**2**	**10**	**12**		**4**	**16**
Subtotal	**12**	**23**	**35**		**5**	**40**
Complaints Closed	**-5**	**-19**	**-24**		**-5**	**29**
Substantiated/ Corrective Action	**3**	**6**	**9**	**37.5%**	**0**	**9**
Unsubstantiated	**2**	**13**	**15**	**62.5%**	**5**	**20**
Complaints Unresolved 12/31/2010	**7**	**4**	**11**		**0**	**11**

City Auditor Investigations Summary – Second Quarter of Fiscal Year 2011

Table 4 below summarizes the status of the 12 City Auditor Fraud Hotline investigations for the second quarter of FY 2011 (December 31, 2010), including the call category, a description of the complaint, and the case status.

Table 4

No.	Call Category	General Description of Complaint	Outcome / Status
1	Fraud 113304452	Allegation of lack of fiscal control in managing City contracts	Complaint found to be Substantiated
2	Customer Relations 901135085	Allegation of lack of coordination of projects that require street excavation	Included in the Streets Performance Audit Corrective Action Taken
3	Customer Relations 905074206	Allegation of lack of coordination of projects that require street excavation	Included in the Streets Performance Audit Corrective Action Taken
4	Fraud 114220637	Allegation relates to City contract bidding irregularities	City RFP canceled, No Further Action Necessary
5	Policy Issues	Allegation relates to City responsibility for Brush Management	Complaint Found to be Unsubstantiated
6	Waste and Abuse 907292434	Allegation of committing funds to projects that are not likely to come to fruition	Open/Unresolved
7	Fraud 113058084	Allegation of misappropriation of City funds	Open/Unresolved
8	Accounting/Audit Irregularities 114042861	Allegation of misappropriation of City funds	Open/Unresolved
9	Policy Issues 114220720	Allegation relates to inappropriate extension of temporary promotions	Open/Unresolved
10	Accounting/Audit Irregularities 114326757	Allegation relates to reimbursement timing issues with City contracts	Open/Unresolved

No.	Call Category	General Description of Complaint	Outcome / Status
11	Policy Issues 114364469	Allegation relates to mismanagement at City facility	Open/Unresolved
12	Waste and Abuse 114638660	Allegation relates performance or outside employment activity while on City Duty	Open/Unresolved

City Auditor Substantiated Complaints

The Office of the City Auditor conducted an investigation of the Greater Golden Hill Community Development Corporation (GGHCDC) and the City's Office of Small Business (OSB) in response to a complaint made to the City's Fraud Hotline. The complaint alleged a lack of fiscal control in the administration of contracts between the OSB and the GGHCDC. The investigation concluded that the allegations are substantiated in part. The investigation found that the OSB did not document the required on-site monitoring visits, and it appeared that the GGHCDC did not properly solicit enough bids before a contract was awarded. The Department agreed in part with the recommendations and indicated a check list for on-site visits will be developed. The Department also suggested amending the annual contract so that the responsibility to comply with procurement procedures is more clearly defined. The Hotline Report of this investigation, including management's response, can be found on our website at:
http://www.sandiego.gov/auditor/reports/fy11_pdf/hotline/11-5_hotline_inv.pdf

Complaints Referred to Departments that were Substantiated and/or had Corrective Actions Taken

Complaints made to the Fraud Hotline that are determined to be unrelated to material fraud, waste, or abuse are forwarded to the respective department so that it may address the issue(s) or concern(s) reported. The departments are advised that callers to the Hotline are provided a report number and a date to call back to check the status of their complaints. Additionally, this report number allows City Auditor staff to request additional information from the complainants as their allegations are investigated.

The department is required to report its plan to resolve the matter back to the City Auditor and then submit a follow-up report when the final resolution is determined. The City Auditor will follow up to ensure replies are received from the departments.

During the second quarter of FY 2011, departments provided the City Auditor a total of six replies that identified complaints as substantiated or as having corrective action(s) taken. In order to maintain compliance with California law regarding confidentiality requirements for whistleblower hotlines and still provide the public with pertinent information, we have prepared Table 5 below with a general description of these complaints and the action taken by the departments.

Table 5

No.	Call Category	General Description of Complaint	Outcome / Status
1	Theft of Time 114155112	Allegation relates to conducting personal recreation activities while on City duty	The department modified physical training approval procedures and disciplined employee.
2	Retaliation of Whistleblowers 114371905	Allegations of complaints and cross-complaints between an employee, co-workers , and a supervisor	Although retaliation could not be substantiated, higher level supervisors conducted meetings with involved employees and all were required to review office policies, roles, and responsibilities.
3	Discrimination 908133820	Allegation relates to discrimination of non-minority patrons at City facility	Although discrimination could not be substantiated, the department improved due diligence in outreach and inclusion activities.
4	Employee Relations 114191084	Allegation relates to the manner in which employees were selected for overtime assignments	The department modified overtime request and approval procedures, increasing level of authorization for overtime.
5	Theft of Goods/Services 114191126	Allegation relates to use of City computer for inappropriate personal matters	An analysis of employee's computer determined inappropriate sites were visited before shift started or after shift ended. Disciplinary action is pending.
6	Employee Relations 114596796	Allegation relates to the manner in which employees were selected for overtime assignments	The department revised procedures to increase specificity regarding nature of overtime work needed.

Conclusion

The Office of the City Auditor is dedicated to investigating all of the reported claims of material fraud, waste, and abuse. During FY 2011 we have spent approximately 778 hours administering the Fraud Hotline, coordinating Intake and Review Committee activities, and investigating Fraud Hotline complaints.

I will be prepared to discuss this report at the next available Audit Committee meeting.

Eduardo Luna

Eduardo Luna
City Auditor

cc: Honorable Mayor Jerry Sanders
Honorable City Council Members
Jay M. Goldstone, Chief Operating Officer
Wally Hill, Assistant Chief Operating Officer
Mary Lewis, Chief Financial Officer
Ken Whitfield, City Comptroller
Jan Goldsmith, City Attorney
Andrea Tevlin, Independent Budget Analyst