



THE CITY OF SAN DIEGO

DATE: February 2, 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 2012**

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 a City employee or citizen to confidentially report any activity or conduct—related to or involving City personnel, resources, or operations—for which he or she suspect 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.

California Government Code §53087.6(e)(2) 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.”

Fraud Hotline marketing efforts that will begin in the third quarter of fiscal year 2012 will include:

- Posting a link on the CityNet webpage to the Fraud Hotline quarterly report
- Sending a broadcast email to all employees reminding them that the Fraud Hotline is a viable method of reporting fraud, waste, and abuse
- Mailing a memo, business card, and Fraud Hotline Brochure titled “Doing What’s Right” to employees.

The overall marketing objective is to remind employees of their obligation under the City's Administrative Regulation 95.60, which strongly encourages employees to fulfill their own moral obligations to the City by disclosing improper governmental activities within their knowledge. The objective is also to increase the level of employee confidence in our Fraud Hotline as a viable means to address fraud, waste, and abuse in City operations.



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TO REPORT FRAUD, WASTE, OR ABUSE CALL OUR FRAUD HOTLINE (866) 809-3500



Complaints Received in the Second Quarter of Fiscal Year 2012

During the second quarter of fiscal year 2012 (October 2011 – December 2011), 13 complaints were filed with the Hotline. Five (5) of the complaints were assigned to the Office of the City Auditor for investigation. Eight (8) were referred to City Departments for investigation through the Intake and Review Committee. These 13 complaints were added to the inventory of Fraud Hotline complaints received in the current fiscal year. Table 1 below summarizes the 28 complaints received during Fiscal Year 2012.

Table 1 – Complaints Received by Quarter in Fiscal Year 2012

| Office of the City Auditor Investigations | Qtr 1 | Qtr 2 | Total |
|--|------------------|------------------|--------------|
| Conflicts of Interest | 2 | 0 | 2 |
| Fraud | 0 | 1 | 1 |
| Accounting/Audit Irregularities | 0 | 2 | 2 |
| Waste and Abuse | 0 | 1 | 1 |
| Retaliation of Whistleblowers | 0 | 1 | 1 |
| Subtotal OCA Investigations | 2 | 5 | 7 |
| Complaints - Referred to City Departments for Investigation | | | |
| Customer Relations | 2 | 5 | 7 |
| Policy Issues | 1 | 0 | 1 |
| Fraudulent Insurance Claims | 1 | 0 | 1 |
| Safety and Sanitation Issues | 0 | 2 | 2 |
| Theft of Time | 0 | 1 | 1 |
| Waste and Abuse | 2 | 0 | 2 |
| Subtotal Department Investigations | 6 | 8 | 14 |
| Total Complaints Received In Purview of Fraud Hotline | 8 | 13 | 21 |
| Non-City Complaints or Complaints Not in Purview of Fraud Hotline | | | |
| Referred to Proper Authority | 7 | 0 | 7 |
| Total Complaints Received in FY2012 | 15 | 13 | 28 |

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 below represents the breakdown of the caller profile for all calls to Fraud Hotline by fiscal year.

Table 2 – Caller Profile by Fiscal Year

| Fiscal Year | Anonymous | | Identified | | Total |
|--------------------|------------------|-----|-------------------|-----|--------------|
| 2009-4 Qtrs | 69 | 49% | 71 | 51% | 140 |
| 2010-4 Qtrs | 28 | 46% | 33 | 54% | 61 |
| 2011-4 Qtrs | 35 | 46% | 41 | 54% | 76 |
| 2012- 2 Qtrs | 9 | 32% | 19 | 68% | 28 |

Status of Hotline Complaints Received in the Second Quarter of Fiscal Year 2012 and Unresolved Complaints from the Previous Quarter

As reported, 13 complaints were filed with the Hotline between October 2011 and December 2011. In addition, at the end of the previous quarter, 10 complaints remained open and unresolved for a total of 23 active complaints in the purview of the City’s Fraud Hotline in the second quarter. One complaint was received in the first quarter of fiscal year 2012 but was not in the purview of the City’s Fraud Hotline; this complaint was referred to the proper authority in the second quarter of fiscal year 2012. Table 3 below summarizes the status of the 23 active complaints. Ten (10) of the 23 remain open and unresolved, and 13 were closed. Of the 13 that were closed, four (4) were substantiated, one (1) was unsubstantiated but the Department took preventative action, and the allegations made in eight (8) complaints were unsubstantiated.

Table 3 – Status of Complaints Received in Second Quarter of Fiscal Year 2012 and Unresolved Complaints from the Previous Quarter

| Complaint Status | City Auditor Investigations | Referred to Dept | Total | Not In Purview of Fraud Hotline | Total | Percent |
|---------------------------------|------------------------------------|-------------------------|--------------|--|--------------|----------------|
| Complaints Unresolved 9/30/2011 | 6 | 4 | 10 | 1 | 11 | |
| Complaints Received in 2nd Qtr | 5 | 8 | 13 | 0 | 13 | |
| Subtotal | 11 | 12 | 23 | 1 | 24 | |

| <i>Complaint Status... Continued</i> | <i>City Auditor Investigations</i> | <i>Referred to Dept</i> | <i>Total</i> | <i>Not In Purview</i> | <i>Total</i> | <i>Percent</i> |
|---|------------------------------------|-------------------------|--------------|-----------------------|--------------|----------------|
| Complaints Closed | -3 | -10 | -13 | -1 | -14 | |
| Substantiated | 2 | 2 | 4 | | | 30.8% |
| Unsubstantiated w/ Preventative Actions | 0 | 1 | 1 | | | 7.7% |
| Unsubstantiated | 1 | 7 | 8 | | | 61.5% |
| Complaints Unresolved as of 12/31/2011 | 8 | 2 | 10 | 0 | 10 | |

City Auditor Investigations Summary – Second Quarter of Fiscal Year 2012

Table 4 below summarizes the status of the 11 active City Auditor Fraud Hotline investigations for the second quarter of fiscal year 2012, including the incident type, a general description of the complaint, and the case status.

Table 4 – Status of City Auditor Hotline Investigations

| No. | Incident Type | General Description of Complaint | Outcome / Status |
|------------|--|--|---|
| 1 | Fraud 115102160 | Allegation of vendor submitting fraudulent claims for grant fund reimbursement | Complaint Substantiated, Public Report Issued |
| 2 | Accounting/Audit Irregularities 115236027 | Allegation of accounting irregularities with non-profit organization under City contract | Complaint Substantiated, Public Report Issued |
| 3 | Fraud 115141715 | Allegation that vendor was fraudulently billing citizen for services under City contract | Complainant failed to provide records to verify allegation. Complaint closed—not enough information |
| 4 | Accounting/Audit Irregularities 114042861 | Allegation of misappropriation of City funds | Open/Unresolved |

| <i>No.</i> | <i>Incident Type</i> | <i>General Description of Complaint</i> | <i>Outcome / Status</i> |
|------------|--|--|-------------------------|
| 5 | Accounting/Audit Irregularities 115250128 | Allegation of misappropriation of fees paid to the City | Open/Unresolved |
| 6 | Theft of Goods/Services 115262891 | Allegation of employee thefts of City property | Open/Unresolved |
| 7 | Fraud 115846914 | Allegation of diversion of development impact funds | Open/Unresolved |
| 8 | Waste and Abuse 115859496 | Allegation of favoritism and unnecessary overtime assignments | Open/Unresolved |
| 9 | Accounting/Audit Irregularities 116005801 | Allegation of misstating accounting records in public reports | Open/Unresolved |
| 10 | Accounting/Audit Irregularities 116018238 | Allegation of non-assessment and collection of lease revenue due to the City | Open/Unresolved |
| 11 | Retaliation of Whistleblower 116014775 | Allegation of retaliation for reporting professional ethics code violations | Open/Unresolved |

City Auditor Substantiated Complaints

The Office of the City Auditor conducted an investigation into an allegation that a non-profit organization knowingly submitted a Community Development Block Grant (CDBG) reimbursement request for over \$20,000 for work that did not qualify for reimbursement. In order to qualify for reimbursement under the CDBG contract, approval of a project must be obtained before the work is started. The complaint alleged that the organization submitted the request for work to be done knowing that the work had already been completed. The Department terminated all existing CDBG contracts and issued a demand for repayment of misused CDBG funds.

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/111025hotline.pdf

The Office of the City Auditor, with the assistance of the Office of Economic Development and the Office of the City Treasurer, conducted an investigation into an allegation that the Pacific Beach Community Development Corporation (PB-CDC) was operating in violation of its contract with the City. The PB-CDC is a non-profit corporation that contracts with the City to manage the Pacific Beach Business Improvement District (PB-BID). The complainant alleged that the PB-CDC was in violation of its contract with the City by not securing multiple bids for contracts with vendors that exceed \$5,000, and that it committed Brown Act violations by taking board votes on issues that were either not properly noticed and/or not listed as action items on the agenda. The complainant also alleged that specific businesses in the PB-BID were underpaying their BID assessment and City Business Taxes by underreporting to the City the number of employees in the business. The PB-CDC took corrective actions relating to the Brown Act and obtaining multiple bids for contracts exceeding \$5,000. The City Treasurer's verification of reported employee counts by businesses identified in the complaint generated approximately \$3,000 in BID assessments and business taxes.

The Hotline Report of this investigation can be found on our website at:

http://www.sandiego.gov/auditor/reports/fy11_pdf/hotline/111215hotline.pdf

Complaints Referred to Departments that were “Substantiated” and Findings that Serve the Interests of the Public

The City Auditor, through the Intake and Review Committee, reviews the final resolution of complaints investigated by the departments to ensure that the department has taken the proper actions to resolve the complaint. A complaint whose allegations cannot be substantiated can still result in the department taking corrective, proactive, or preventative measures to reinforce a policy or procedure or to improve customer service.

During the second quarter of fiscal year 2012, the Intake and Review Committee received two (2) resolutions from departments that indicated that the complaint was substantiated and corrective action(s) were taken as a result of the complaint, and received one (1) resolution that indicated that, although the complaint could not be substantiated, the Department took proactive action as a result of the complaint. In order to maintain compliance with California law regarding confidentiality requirements for whistleblower hotlines and still provide findings that serve the interests of the public concerning actions initiated by a Fraud Hotline complaint, we have prepared Table 5 below with a general description of these complaints and the action taken by the departments.

Table 5 – Department-Investigated Complaints that were Substantiated and/or had Findings that Serve the Interests of the Public

| No. | Incident Type | General Description of Complaint | Outcome / Status |
|-----|--|--|--|
| 1 | Safety and Sanitation Issue 115729245 | Allegation of waste code violations at apartment complex | Solid Waste Code Enforcement officer made inspection, determined that there were waste code violations, and cited property owner. Environmental Services Field Operations crew dispatched to remove illegally dumped items at site Substantiated and Corrective Action Taken |
| 2 | Theft of Time 115807741 | Allegation that City employee conducted personal business while driving City vehicle | The Department determined that the allegation was substantiated and took disciplinary actions Substantiated and Corrective Action Taken |
| 3 | Safety and Sanitation Issue 115919440 | Allegation that rogue contractor replaced street lights without proper shields | The Department confirmed the existence of a valid street light replacement contract and also that light shields were included in the contract with the street light replacement vendor. The Department requested that the vendor expedite the shield replacement and contacted the complainant to advise light shields will be replaced. Unsubstantiated and Proactive Action Taken |

Conclusion

The Office of the City Auditor is dedicated to investigating all of the reported claims of material fraud, waste, and abuse related to City operations. During the first two quarters of fiscal year 2012, we have spent approximately 639 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.

Respectfully Submitted,

A handwritten signature in cursive script that reads "Eduardo Luna". The signature is written in black ink and is positioned above a horizontal line.

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