

Report from the City Auditor

AUDIT OF EMPLOYEE ETHICS POLICIES



OFFICE OF THE CITY AUDITOR

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City of Palo Alto

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Honorable City Council
Attn: Policy and Services Committee
Palo Alto, California

AUDIT OF EMPLOYEE ETHICS POLICIES

Ethics is an important issue in public service. Many cities have adopted codes of ethics that represent best practices. The objective of this audit was to review the City of Palo Alto's procedures for ascertaining and handling potential conflicts of interest among City employees, and to assess the need for an employee ethics policy. While Palo Alto has a plethora of rules and regulations, and many employees are members of professional organizations with codes of ethics, the City does not have a formal employee code of ethics or employee ethics program.

In compliance with the State's Political Reform Act of 1974 and Fair Political Practices Commission regulations, Palo Alto designates certain staff positions for which state conflict of interest regulations apply. The City's conflict of interest code applies to about 24% of City employees. All of the 260 employees who were required to file disclosure statements in fiscal year 2006-07 did so. However, being in a designated staff position means more than just filing an annual form, and we recommend the City periodically provide or make available training for employees in designated positions, and that department heads and supervisors review employee Form 700s for potential conflicts of interest.

Existing rules and regulations are scattered and a centralized resource is needed. City employees are subject to a number of state ethics regulations, Municipal Code conflict of interest and ethics provisions, internal City policies and procedures that outline ethics rules in further detail, and City merit system rules and regulations. We recommend that the City develop a section on the City's intranet site that employees can use to find the City or State policies, procedures, laws, or regulations that may apply.

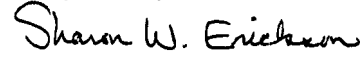
The City should adopt an employee code of ethics and formalize its employee ethics program. While not even the best ethics code will substitute for good government or good people, codes of ethics are commonly used to promote ethical values and help avoid problems. While Palo Alto has a plethora of rules and regulations, and offers some ethics training for employees, it does not have a formal employee code of ethics or employee ethics program. We recommend the City adopt an employee code of ethics, formalize its ethics training, and consider participating in the League of California Cities' assessment of ethical culture.

The City should establish an employee hotline and whistleblower protection policy and procedures. Many organizations have established hotlines and provide whistleblower protections to ensure that employees have the opportunity to report fraud, waste, abuse, or misconduct. These programs can be provided at minimal cost. Studies indicate that the City

could minimize potential losses by establishing a hotline and whistleblower policy and procedures.

Our report includes a total of 7 recommendations to improve the City's ethics program. Staff has reviewed the information in this report and the City Manager's response is attached. We will be presenting this report to the Policy and Services Committee on January 23, 2008.

Respectfully submitted,



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City Auditor

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INTRODUCTION

In accordance with the fiscal year 2007-08 annual audit work plan, the City Auditor's Office has completed an audit of the City's employee ethics policies and procedures. The objective of this audit was to review procedures for ascertaining and handling potential conflicts of interest among City employees, and to assess the need for an employee ethics policy. The audit focused only on City employees; it excluded elected officials and appointed members of the City's boards and commissions.

Background

The principles of public service ethics underlie trust in democratic institutions: *"Public service is a public trust. Citizens expect public servants to serve the public interest with fairness and to manage public resources properly on a daily basis. Fair and reliable public services inspire public trust. Public service ethics are a prerequisite to, and underpin, public trust, and are a keystone of good governance."*¹ Nonetheless, attention to ethics is often scandal-driven and can be short-lived.²

Santa Clara University's Markkula Center for Applied Ethics defines ethics as *"standards of behavior that tell us how human beings ought to act in the many situations in which they find themselves."*

The Government Finance Officers Association has recommended that *"every government establish policies and procedures to encourage and facilitate the reporting of fraud or abuse and questionable accounting or auditing practices. At a minimum, a government should do all of the following:*

- *Formally approve, and widely distribute and publicize an ethics policy that can serve as a practical basis for identifying potential instances of fraud or abuse and questionable accounting or auditing practices.*
- *Establish practical mechanisms (e.g., hot line) to permit the confidential, anonymous reporting of concerns about fraud or abuse and questionable accounting or auditing practices to the appropriate responsible parties. A government should regularly publicize the availability of these mechanisms and encourage individuals who may have relevant information to provide it to the government...*³

California Government Code Section 53234 provides the following definition: *"Ethics laws include, but are not limited to, the following:*

- (1) *Laws relating to personal financial gain by public servants, including, but not limited to, laws prohibiting bribery and conflict-of-interest laws.*

¹ Organization for Economic Co-operation and Development, *Building Public Trust, Ethics Measures in OECD Countries* (September 2000)

² Carol W. Lewis and Stuart C. Gilman, *The Ethics Challenge in Public Service* (2005)

³ See Appendix 1 for full text; also available online at <http://www.gfoa.org/downloads/fraudandabuse.pdf>.

- (2) *Laws relating to claiming prerequisites of office, including, but not limited to, gift and travel restrictions, prohibitions against the use of public resources for personal or political purposes, prohibitions against gifts of public funds, mass mailing restrictions, and prohibitions against acceptance of free or discounted transportation by transportation companies.*
- (3) *Government transparency laws, including, but not limited to, financial interest disclosure requirements and open government laws.*
- (4) *Laws relating to fair processes, including, but not limited to, common law bias prohibitions, due process requirements, incompatible offices, competitive bidding requirements for public contracts, and disqualification from participating in decisions affecting family members.”*

City of Palo Alto Mission and Values

The City has promulgated high standards of conduct for employees.

<p style="text-align: center;">City of Palo Alto Mission and Values</p> <p style="text-align: center;"><i>The government of the City of Palo Alto exists to promote and sustain a superior quality of life in Palo Alto. In partnership with the community, our goal is to deliver cost-effective services in a personal, responsive, and innovative manner.</i></p> <p style="text-align: center;"><i>The City of Palo Alto's Values:</i></p> <p style="text-align: center;"><i>Quality – Superior delivery of service.</i></p> <p style="text-align: center;"><i>Courtesy – Providing service with respect and concern.</i></p> <p style="text-align: center;"><i>Efficiency – Productive, effective use of resources.</i></p> <p style="text-align: center;"><i>Integrity – Straight-forward, honest and fair relations.</i></p> <p style="text-align: center;"><i>Innovation – Excellence in creative thought and implementation.</i></p> <p style="text-align: center;"><i>It's a Matter of Pride!</i></p>
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Audit Scope and Methodology

We conducted this review in accordance with generally accepted governmental auditing standards. To meet our audit objectives, we researched federal and state conflict of interest codes and ethics guides; city and county ordinances, regulations, and conflict of interest and ethics orientation materials; professional and academic articles on conflicts of interest and ethics codes; and codes of ethics adopted by several corporations and professional organizations.

We reviewed the Municipal Code, city policies and procedures, and conflicts of interest and ethics orientation/training guides. We reviewed FPPC Form 700s filed by individual Palo Alto employees in designated positions for fiscal years 2005-06 and 2006-07. We contacted the cities of Milpitas, Santa Clara, Mountain View, San Jose, Phoenix, and Portland, to discuss their conflict of interest and code of ethics programs. We contacted the City of Stockton and

two service providers that provide third party services for receiving and handling hotline and whistleblower calls.

As part of our review, we searched more than 34 websites, including 4 federal websites, 7 state websites, 4 county websites, 15 city websites, and 4 professional organization websites in California and throughout the nation. We reviewed the codes of ethics developed by U.S. Government agencies, California and other states, nearby cities and counties, and other cities. We compared conflict of interest and ethics codes among the federal, state, city, and county entities, and compared them with the Palo Alto conflict of interest and ethics codes.

Finding 1: In compliance with the State’s Political Reform Act of 1974 and Fair Political Practices Commission regulations, Palo Alto designates certain staff positions for which state conflict of interest regulations apply

In compliance with the State’s Political Reform Act of 1974 and Fair Political Practices Commission regulations, Palo Alto Municipal Code section 2.09 requires the adoption by the City Council of a list of designated positions who *“are deemed to make or participate in the making of decisions which may foreseeably have a material effect on a financial interest.”* The code requires that *“each designated employee shall file statements of economic interests disclosing his or her interest in investments, real property, and income designated as reportable under the category to which the employee’s position is assigned.”* With some exceptions, this section also applies to consultants hired by the City.

California FPPC disclosure requirements apply to about 24% of City employees

In November 2006, the City Council adopted the current conflict of interest code amending the list of designated positions and disclosure categories (Resolution No. 8671). The conflict of interest code incorporates by reference the applicable provisions of the Political Reform Act and regulations promulgated by the Fair Political Practices Commission (FPPC).

Designated employees are filing Form 700s

In practice this means that employees in designated positions are required to file disclosure annual statements (FPPC Form 700, Statement of Economic Interests) of economic interests detailing investments, income, assets, business entities, trusts, real property, income, loan, business positions, gifts, travel payments, advances, and reimbursements.

For example, in fiscal year 2006-07, 260 of the City’s 1,080 employees were required to file disclosure statements for the previous calendar year. The City Clerk’s Office notified designated employees of the filing requirements, followed up with those employees to ensure that Form 700s are filed, and retained the forms in the Clerk’s Office. During our review, we verified that each designated employee did in fact file a Form 700.⁴

California laws and regulations govern the conduct of employees holding designated positions

As stated above, the City Clerk’s efforts are focused on alerting designated employees that they are required to submit a Form 700, and following up with employees to ensure the forms are submitted. What is less clear is whether

⁴ For purposes of this review, we verified that all designated employees had filed the Form 700. We did not verify the accuracy of those forms.

those designated employees understand that being in a designated position means that certain restrictions apply. For example, designated employees may not understand how state requirements for disqualification apply to them, or that state revolving door provisions⁵ and certain restrictions on honoraria, travel, and loans also apply to them. The issues can be complex.

RECOMMENDATION #1: The City should periodically provide (or make available) ethics training targeted for designated employees, and remind employees that the FPPC is available to answer questions.

Need for supervisory review of Form 700s

During our review of Form 700s filed by employees in designated positions, we noted that several employees own stocks or have spouses who work for companies that may do business with the City of Palo Alto. This could result in conflicts of interest if the employee were in a position to make decisions or recommendations that involved those businesses.

Once a year, designated employees fill out their Form 700 and return the form to the City Clerk's Office. In our opinion, it is important that the City have a process to identify and refer potential conflicts of interest to the appropriate supervisor. We believe this would be most easily done by simply having supervisors and department heads review completed Form 700s (which are public documents) before they are submitted to the City Clerk's Office, so that supervisors and department heads can be alert to any potential conflicts of interest in their work group.

RECOMMENDATION #2: Department heads and supervisors of employees in designated positions should review, and initial, employee Form 700s before the forms are filed with the City Clerk.

⁵ California law (Government Code Section 87406) imposes restrictions on local officials for one year after they leave office. The one year restrictions prohibit certain local officials from being paid to act as an agent or to represent other persons by appearing or communicating with the City in an attempt to influence decisions that involve making rules, permits, licenses, contracts, or transactions with the City. This regulation may apply to designated City employees (i.e. employees on the designated positions list who file Form 700s).

FINDING 2: Existing rules and regulations are scattered and a centralized resource is needed

The State of California has adopted a number of ethics laws, and City of Palo Alto has a number of policies and procedures related to ethics issues. Applicable State laws are on the web, and many of the City's policies and procedures are available on the City's intranet. However, a City employee might have to research at least 9 policies, 2 Municipal Code sections, and 3 sections of the merit system rules to find the City's ethics rules and regulations pertaining to a particular situation, or to determine what they should do when a conflict of interest situation exists. To determine what California rules allow, the answer might be in one of at least 12 California Government Code sections or in a number of court cases.

City employees are subject to many state ethics regulations

California regulations include at least 13 major requirements addressing conflict of interest and ethics issues. Four laws are widely known, such as the laws related to open meetings (the Brown Act, Government Code Section 54950), bribery (Penal Code Section 68), access to public records (Government Code Section 6250), and non-discrimination and anti-harassment. At least 9 other ethics laws address items such as (1) ethics training, (2) conflicts of interest in contracts, (3) leaving office, (4) gifts, (5) honoraria bans, (6) misuse of public funds, (7) prohibitions against gifts of public funds, (8) free or discounted transportation, and (9) common law conflicts.

Some of these regulations apply only to designated local government employees (as discussed in Finding 1), and some apply to all local government employees. State ethics laws include:

Laws prohibiting bribery: California Penal code Section 68 specifies that any employee who asks, receives, or agrees to receive any bribe is punishable by imprisonment in the state prison for two, three, or four years; payment of a restitution fine; and is forever disqualified from holding any office, employment, or appointment in the state.

Laws prohibiting conflicts of interest: California Government Code Section 87100 specifies that "*no public official at any level of state or local government shall make, participate in making or in any way attempt to use his official position to influence a governmental decision in which he knows or has reason to know he has a financial interest.*" In addition, California Government Code Section 1090 specifies that city employees shall not be financially interested in any contract made by them in their official capacity. Neither can employees be suppliers or purchasers at any sale or purchase made by them in their official capacity.

Disclosure of confidential information for financial gain: Government Code Section 1098 forbids disclosure by employees for financial gain of confidential information acquired in the course of official duties. It states that any employee who willfully and knowingly discloses for financial gain to any other person, confidential information acquired in the course of their official duties, or uses any such information for financial gain, is guilty of a misdemeanor.

Misuse of public funds: California Penal Code Section 8314 makes it unlawful for any employee *“to use or permit others to use public resources for a campaign activity or personal or other purposes which are not authorized by law.”*

Prohibitions against gifts of public funds: Article 16 Section 6 of the California constitution prohibits the gift of any public money or thing of value to any individual or corporation.

Brown Act: The intent of the Brown Act (California Government Code Section 54950-54963) is to ensure that the actions of California’s public agencies be taken openly and that their deliberations be conducted openly. It prescribes that all meetings of legislative bodies shall be open and public and provide opportunity for public comment. It prescribes public posting of agendas.

California Public Records Act: The Public Records Act (California Government Code Section 6250-6270) defines public records as *“any writing containing information relating to the conduct of the public’s business prepared, owned, used, or retained by any state or local agency regardless of physical form or characteristics.”* The Act defines records that are exempt from disclosure, and prescribes timely access to records or copies of records. The City has adopted a Public Records Requests policy and procedures in compliance with the Public Records Act.⁶

AB 1234 training requirements: In May 2006, the City Council adopted the AB1234 compliance program. In compliance with state law, the plan requires ethics training for City Council members and members of City boards and commissions. Palo Alto’s compliance plan requires biannual ethics training for department heads and staff liaisons to City boards and commissions.

The Municipal Code includes restrictions on employee behavior

Conflict of interest: As discussed in Finding 1, the conflict of Interest code (Palo Alto Municipal Code section 2.09 and City Council Resolution 8671) applies to designated employees.

Ethics in contracting: Municipal Code section 2.30 states that *“City employees shall discharge their duties impartially so as to assure fair competitive access to city contracting opportunities by responsible contractors.”* The section includes restrictions relating to contracts and relationships with contractors doing business with the City. It prohibits City employees from participating directly or indirectly in

⁶ City of Palo Alto Policy and Procedures 1-43/CLK

a City contract when the employee knows that the employee or a relative has a financial or economic interest in the contract, such as potential employment. It prohibits employees from soliciting or accepting gratuities, discounts, or offers of employment in connection with a City contract.

City policy against arbitrary discrimination: Municipal Code section 9.73.010 provides that *“it is the policy of the city of Palo Alto to affirm, support and protect the human rights of every person within its jurisdiction. These rights include, but are not limited to, equal economic, political, and educational opportunity; equal accommodations in all business establishments in the city; and, equal service and protection by all public agencies of the city... It is the policy of the city of Palo Alto to protect and safeguard the right and opportunity of every person to be free from arbitrary discrimination on the basis of their race, skin color, gender, age, religion, disability, national origin, ancestry, sexual orientation, housing status, marital status, familial status, weight or height.”*

Post-employment regulations (revolving door policy): Palo Alto Municipal Code section 2.07 provides that City employees whose appointment requires confirmation by the City Council shall not represent for pay another person or entity for the purpose of influencing any action, permit, purchase of goods, etc., for one year after the employee has left City employment.⁷

Internal City policies and procedures outline ethics rules in further detail

City policies and procedures further define restrictions on employee activity. City employees are expected to understand and comply with these policies: *“Failure to comply with certain policies stating mandatory legal requirements and/or City prescribed standards of conduct may result in employment and/or legal consequences.”*⁸ These policies include:

Prohibition on acceptance of gifts and gratuities: The City’s policy on gifts and gratuities⁹ states *“it is contrary to the City of Palo Alto’s ethical standards and merit system for any city employee to accept gifts or gratuities from any individual, business, or organization doing business, or seeking to do business, with the City or who is seeking permits or other entitlements from the City. It is the City’s policy to provide impartial and excellent customer service. To accept gifts can convey an appearance of favoritism and conflict of interest. Gifts can be perceived as attempts to influence City operations or as compensation for*

⁷ It should be noted that this is an instance where Palo Alto requirements appear to be less stringent than some other jurisdictions. For example, New York City’s conflicts of interest law prohibits public servants from discussing possible future employment with a firm that the employee deals with in their City job. It also forbids any employee who leaves City service from communicating with their former agency on behalf of a private firm for one year after they leave City service, or from ever working on a matter that they personally and substantially worked on while with the City (see APPENDIX 5). In another example, Santa Clara County requires former county employees to wait one year before lobbying the county on any issue that was within his or her responsibility as a county employee. Furthermore, the former employee may never lobby the county on a matter in which he or she personally participated as a county employee.

⁸ City of Palo Alto Policy and Procedures 1-01/MGR (revised December 2002)

⁹ City of Palo Alto Policy and Procedures 2-21/HRD – Gifts and Gratuities

services rendered and can erode the public confidence in the impartiality of decisions made by City officials.” The policy cites as additional references: Gift limitations of the Political Reform Act of 1974, City of Palo Alto Merit System Rules and Regulations 1301, and the City of Palo Alto Purchasing Manual.¹⁰

Restrictions on outside employment: The City’s Policy on outside employment¹¹ states that *“unless otherwise indicated, when a person accepts employment with the City of Palo Alto, it is assumed that the employment is to be his/her primary job. If the person undertakes supplemental work, such work is assumed to be secondary in importance and is subject to the approval of the City... Outside employment will be reviewed on a basis of compatibility with the proper discharge of employee’s official City duties and tendency, if any, to impair employee’s independence of judgment or action in performance of his official duties... The use for purposes of outside employment of City property, equipment, supplies and records is prohibited.”* In addition, Section 1302 of the Merit System Rules and Regulations requires regular City employees who wish to engage in outside employment to obtain departmental approval for such employment according to procedures established by the City Manager.

Misuse of City computer and information resources: The City policy regulating employee use of computer resources such as the internet, intranet, e-mail, passwords and other information resources, specifies that computer resources are provided to Palo Alto employees *“for uses related to municipal business... Only incidental and occasional personal use is permitted... Inappropriate, unauthorized or excessive work time spent utilizing the Internet and any violation of this policy may be cause for disciplinary action.”*¹²

Fair and equal treatment of employees: The City’s policy on equal employment opportunity¹³ states that *“the City’s policy on equal opportunity conforms to applicable State and Federal law. Employment and promotion by the City of Palo Alto shall be based on merit and fitness, free of personal and political considerations, and shall not be affected or influenced by race, religious creed, color, national origin, ancestry, age, marital status, sexual orientation, sex and disability, as protected by law.”*

Anti-harassment policy: The City’s anti-harassment policy¹⁴ states that *“the City of Palo Alto is committed to providing a work environment free from all forms of harassment... Because the City is committed to a workplace free from harassment of any kind, the City’s policy sets a higher standard for behavior than is set by law. Under both federal and state law, illegal harassment occurs when it is based on a person’s protected class (race, color, religion, national origin,*

¹⁰ On the other hand, **gifts to the City** are encouraged, and are covered under a separate policy (Policy and Procedures 1-18 – Gifts to the City) which states that *“gifts accepted by the City become the property of the City of Palo Alto and are to be used for public benefit.”*

¹¹ City of Palo Alto Policy and Procedures 2-05/HRD – Outside Employment

¹² City of Palo Alto Policy and Procedures 1-40/ASD, Employee Computer Use Policy: Password, Internet, Intranet, E-Mail and Information Resources

¹³ City of Palo Alto Policy and Procedures 2-12/HRD – Equal Employment Opportunity

¹⁴ City of Palo Alto Policy and Procedures 2-13/HRD – Anti-Harassment Policy

ancestry, disability, medical condition, marital status, sex, sexual orientation, or age) and the harassment reaches a level that is sufficiently severe and pervasive to alter a person's working conditions. However, the City's policy against harassment covers all harassing behaviors based on a person's protected class whether or not it would be found to be illegal. This policy reflects the City's desire to maintain work environments that are harmonious and productive. Those found to have violated the City's policy will be subject to discipline, which is commensurate with the severity of the offense... Retaliation against a person bringing a complaint or against a person participating in an investigation of a complaint is strictly prohibited. Those engaging in retaliatory behavior will be subject to discipline up to and including termination."

Public records: In conformance with State law, *"It is the policy of the City to facilitate an efficient and timely response to all requests for access to, or copies of, public information within reasonable limitations imposed by workload and pursuant to the Public Records Act."*¹⁵

Confidential records: On the other hand, protection of confidential records is also a staff responsibility. For example, the Interim Guidelines and Procedures for Protecting Confidential Utilities Information¹⁶ protect individual customer privacy, as well as information about corporate customers' proprietary operations.

City merit system rules and regulations define limits on some activities

The City's merit system rules and regulations apply to all City employees and prescribe ethical limits for employees regarding nepotism, conflicts of interest, misuse of city property, and others. Violations of these rules can be cause for disciplinary action. The objective of the Merit System Rules and Regulations, approved by the City Council and administered by the City Manager, is *"to facilitate effective and economical services to the public and to provide for a fair and equitable system of personnel management in the municipal service. These rules set forth in detail those procedures which insure similar treatment for employees, and define the obligations, rights, privileges, benefits and prohibitions placed upon all employees in the service of this City."*

The merit system rules address:

- Nepotism (section 302). *"No employee... shall employ, appoint, recommend for appointment or in any other manner participate or attempt to participate in the hiring, promotion, demotion, termination or discipline of any member of his or her immediate family."*
- Inexcusable neglect of duty, offensive treatment of the public or another employee, misuse of city property, theft, or conflict of interest are all causes for disciplinary action (section 1002).

¹⁵ City of Palo Alto Policy and Procedures 1-43/CLK

¹⁶ City of Palo Alto Policy and Procedures 1-35/UTL

- Gratuities (section 1301) – *“No officer or employee of the City shall solicit or accept any gratuity for services rendered.”*
- Conflicts of interest (section 1305) – *“No employee, whether paid or unpaid, shall engage in any business transaction or shall have a financial interest, direct or indirect, which is incompatible with the proper discharge of his/her official duties in the public interest or would tend to impair his/her independence of judgment or action in the performance of his/her official duties... No employee shall fail to comply with the provision of Chapter 2.09 of the Palo Alto Municipal code relating to the filing of statements of economic interest and disqualification from making or participating in decisions affecting the employee’s financial interest.”*

A centralized resource is needed for employee reference

This plethora of rules and regulations that govern employee behavior is, apparently, not unusual. According to a 1998 California Research Bureau study, *“At a minimum, public officials need to know and understand the ethics laws that direct their behavior. Yet the CRB survey found that California local government ethics standards are frequently scattered among an assortment of state laws and local ordinances, guidelines, policies and departmental administrative regulations. They are rarely drawn together into a coherent package.”*¹⁷

Some cities, like San Francisco, Phoenix, and Portland, Oregon, provide a central resource that employees can use to review their employer’s code of ethics, check related laws and regulations, review related policies and procedures, and determine if they are complying with their employer’s requirements.

RECOMMENDATION #3: The City should develop a section on the City’s intranet site that links city employees to the City or State policy, procedure, law, or regulation that addresses each of the major requirements for avoiding conflicts of interest and for acceptable and ethical behavior.

¹⁷ Simmons, Roland, and DeWitt, *Local Government Ethics Ordinances in California* (California Research Bureau, California State Library, March 1998). Available at www.library.ca.gov/crb/98/02/98002.pdf.

Finding 3: The City should adopt an employee code of ethics and formalize its employee ethics program

Not even the best ethics code will substitute for good government or good people.¹⁸ Nonetheless, codes of ethics are commonly used to promote ethical values and help avoid problems. While Palo Alto has a plethora of rules and regulations, and offers some ethics training for employees, it does not have a formal employee code of ethics or employee ethics program.

Ethics programs in other jurisdictions

Many cities have adopted codes of ethics that represent best practices. Federal government codes of ethics provide additional examples of best practices. These codes of ethics are designed to facilitate recognition of potential conflicts of interest and help employees avoid violations of ethics laws. For example,

- The goals of the City of Santa Clara's code of ethics are to build mutual respect and trust and to promote the highest standards of personal and professional conduct. The code of ethics require representatives of the city to be trustworthy, truthful, impartial, fair, and to extend equal opportunities and due process to all parties. They are to show respect and to be professional, service oriented, fiscally responsible, organized, communicative, collaborative, and progressive. The City of Santa Clara won an award for its code of ethics.
- The City of Phoenix, Arizona, vision and values statements are dedicated to serving the city's customers; valuing and respecting diversity; working as a team; and orienting employees to doing all that they can. The values include striving to learn, change and improve; focusing on results; and working with integrity. Over 1,000 city employees participated in the development of the city's vision and values. The vision and values were augmented with an ethics policy that calls for the city to uphold, promote, and demand the highest standards of ethics from its employees and officials. Accordingly, all city employees are expected to maintain the utmost standards of personal integrity, truthfulness, honesty, and fairness in carrying out their public duties. They are to avoid improprieties in their roles as public servants and never to use their position or powers for improper personal gain.
- The City and County of San Francisco and the City and County of Los Angeles provide additional models of codes of ethics that are enforced by formal ethics commissions.
- The U.S. Government Office of Ethics provides oversight for standards of ethical conduct for employees of the executive branch. Each federal agency is required to develop codes of ethics that apply to all employees. The Government Office of Ethics standards address gifts from outside sources,

¹⁸ Carol W. Lewis and Stuart C. Gilman, *The Ethics Challenge in Public Service* (2005)

gifts between employees, conflicting financial interests, impartiality in performing official duties, seeking employment, misuse of positions, and outside activities. In determining whether an employee's conduct is improper, the agency applies 14 principles that include conflicts of financial interest, improper use of government information to further private interest, gifts from parties doing business with the government, unauthorized commitments or promises, impartiality or preferential treatment, and outside employment and activities.

In addition, many professional organizations have long established professional standards and codes of ethics for their members. Many City staffers are members of these organizations and comply with their codes of ethics.

Codes of ethics are meant to promote ethical conduct and to help avoid problems

The recent scandals involving many public companies and government entities have resulted in mandates for codes of ethics to be developed. For example, the Securities and Exchange Commission (SEC) has implemented the internal control provisions of the Sarbanes-Oxley Act and has required companies to establish and adopt ethics standards.

Many professional organizations and best practices cite the importance of developing codes of ethics. In October 2007, the Government Finance Officers Association recommended that *"at a minimum, a government should formally approve, and widely distribute and publicize an ethics policy that can serve as a practical basis for identifying potential instances of fraud or abuse and questionable accounting or auditing practices."*¹⁹

According to the Josephson Institute, a dynamic program built of ethics includes using public office as a trust for advancing public interest and not for personal gain; and making decisions on merit free from conflicts of interest. The Josephson Institute further adds that government should be conducted openly, efficiently, equitably, and honorably so that officials are held accountable; the letter and spirit of the laws should be observed; public confidences should be safeguarded and the integrity of the government should be protected by avoiding the appearances of improper and unbecoming conduct.

Governments at all levels have developed codes of ethics. Many federal agencies, as mandated by the U.S. Office of Government Ethics, have developed codes of ethics. The California State Government through the FPPC, the State Attorney General, the League of California Cities, the Institute of Local Government, and other agencies has promoted the importance of codes of ethics. Some examples include:

- At the federal level, executive order 12674 outlines principles of ethical conduct for executive branch officers and employees (see APPENDIX 4).

¹⁹ See full text in Appendix 1.

- The San Mateo County Transit District's Personnel Policies and Procedures Manual includes an ethics policy that outlines expected standards of conduct in a brief 1-1/2 pages (see APPENDIX 2).
- The City of Portland's code of ethics is written into the Municipal Code (see APPENDIX 3). The code of ethics addresses the four broad areas of trust, objectivity, accountability, and leadership.
- The City of Milpitas adopted a code of ethics to foster public trust and public confidence and to promote and maintain the highest standards of conduct. To gain and keep the people's confidence and trust, the city's code of ethics addresses six areas – honesty, respect, fairness, teamwork, stewardship, and accountability. Staff members are required to sign the code of ethics.

The League of California Cities' Institute for Local Government provides numerous examples of codes of ethics adopted by other agencies online at <http://www.cacities.org/trust>.

Codes of ethics in the private sector

AT&T, the largest telecommunications company in the United States, has adopted a Code of Business Conduct to help employees make responsible and ethical decisions. At least once a year, employees must sign an agreement stating that they understand and will adhere to the code, both in letter and in spirit. Violations are considered a serious matter and may result in disciplinary action, including dismissal.

AT&T Code of Business Conduct²⁰

- *Employees are expected to comply with all applicable laws, regulations, court and commission rulings governing our business in every country in which we operate.*
- *Employees must avoid activities that create a conflict of interest or even the appearance of a conflict.*
- *Employees must treat our customers with courtesy and respect, and they must maintain and respect customers' privacy, as required by law.*
- *Employees are expected to provide full and accurate disclosure of corporate data, including financial results. Furthermore, they must ensure that company property is used appropriately and only for the benefit of AT&T, its customers and stockholders.*
- *Employees are required to adhere to federal securities laws and to refrain from buying or selling AT&T stock and the stock of any other company based on information that is not yet disclosed to the public.*

Like the above cited codes, *"the best public codes focus on prohibited conduct and a clear set of values to guide public servants to principled behavior."*²¹ Some

²⁰ AT&T, 2006 Social Responsibility Report.

²¹ Carol W. Lewis and Stuart C. Gilman, *The Ethics Challenge in Public Service* (2005), p. 192

companies require that new employees read critical policies and procedures upon hire, and sign an acknowledgment form. It should be noted that adoption of a citywide employee ethics policy may be subject to meet and confer.

RECOMMENDATION #4: The City should develop a code of ethics that employees can use as a guidepost for avoiding conflicts of interest, for ethical behavior, for deciding what actions are needed when conflicts of interest occur, and for making decisions. Employees should be required to read and sign an acknowledgment of the policy.

Why ethics training?

Adopting a code of ethics and providing useful guidance about where to find applicable rules and regulations will help ensure that Palo Alto has done due diligence with regards to ethics. Ethics training is also an important component of most ethics programs.

According to a study by the California Research Bureau, *“Lack of training leaves agency officials at risk of unintentionally violating ethics standards, thereby undermining the agency’s substantive work and exposing officials to bad publicity, investigation and possible prosecution.”*²² Recognizing that public officials frequently face complex ethical issues, the Office of Government Ethics provides ethics training classes for 400,000 to 600,000 federal officials a year.

It is also important to acknowledge that *“Ethics training is not a once-in-a-lifetime inoculation. It is perishable. People forget, change jobs, get promoted, and face different ethics challenges. And regulations and laws change. For these reasons regular ethics training is a key systemic component.”*²³

Ethics training in Palo Alto

The City has offered ethics training classes through the citywide training program administered by the Human Resources Department. The sample curriculum for one course titled “Everyday Ethics” included the following:

Ethical decision making as a city employee requires knowledge of the applicable state and local rules on such matters as conflict of interest, disclosure and disqualification, Government Code Section 1090, and the City policies on gratuities and contracting with commission members. It can also require courage. What are those basic rules, where can we find them on the web, how do we create a climate in which ethical conduct is the ‘natural’ thing to do? How can we deal with internal conflicts on the

²² Simmons, Roland, and DeWitt, *Local Government Ethics Ordinances in California* (California Research Bureau, California State Library, March 1998). Available at www.library.ca.gov/crb/98/02/98002.pdf.

²³ Carol W. Lewis and Stuart C. Gilman, *The Ethics Challenge in Public Service* (2005), p. 203

right course of action? When and how do you need to take a problem up the chain of command? When is it whistle-blowing and when is it insubordination?

The City has also offered training sessions as part of its Management Academy. The curriculum for the session on ethics included:

This session starts with an exercise to get us thinking about the source of our own personal ethical values – our families, our friends, our professional standards, religion, and the law. What are the ethical standards that govern our conduct as public employees and citizens, and how do we put best practices into action? Knowing and obeying the rules and standards that govern us is a form of ‘self care’, as well as an obligation to others. In settings where there is pressure to break rules, or where rules have broken down, what can and should we do?

In 2005, the City offered a series of “Ethics in the workplace” trainings for Utility employees. The curriculum for those trainings included:

- What do we mean by Ethics in the Workplace?
- Personal and City of Palo Alto ethics.
- Ethical workplace behavior
- Ethical dilemma resolution process

In June 2006, to comply with California Government Code Section 53234-53235 (AB 1234), the City Attorney’s Office provided ethics training to City Council members, members of boards and commissions and their staff liaisons, and executive staff. The City Attorney’s Office has scheduled the next round of training for January 2008.

Finally, to comply with California Government Code Section 12950 (AB 1825), all city supervisors are required to take two hours of violence and harassment training at least once every two years. The City offers this training periodically.

As a result of these efforts, many employees already have been exposed to ethics training. However, the city does not have a comprehensive policy outlining who needs to take what ethics training, and does not keep training records for all employees who attend these sessions. In our opinion, a regular program clarifying and reminding employees about City ethics policies would help protect the City and its employees from misconduct. Documentation should be retained to ensure that all employees have reviewed relevant ethics policies and have attended required training.

<p>RECOMMENDATION #5: The City should formalize its policy on ethics training and ensure that employees attend periodic training updates.</p>
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The City should consider participating in the League of California Cities' assessment of ethical culture

The League of California Cities' Institute for Local Government has developed an assessment survey to enable local agencies to self-check their ethical culture. The assessment is meant to *"either provide reassurance that the agency's ethical house is in order, or as an indication of potential ethical blind spots that, if left un-addressed, could lead to embarrassment or worse down the road."* The assessment is an employee survey that could be administered online.

RECOMMENDATION #6: The City should survey employees using the League of California Cities' Institute for Local Government's ethical culture assessment tool.
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FINDING 4: The City should establish an employee hotline and whistleblower protection policies and procedures

Many organizations have established hotlines and provide whistleblower policies and procedures to ensure that employees have the opportunity to report fraud, waste, abuse, or misconduct. These programs can be provided at minimal cost. Studies indicate that the City could minimize potential losses by establishing an employee hotline and whistleblower protection policies and procedures.

Confidential employee hotlines and whistleblower protection programs have been shown to reduce potential losses

The Sarbanes-Oxley Act of 2002 requires corporations to establish confidential mechanisms for reporting complaints. As a result, many corporations have implemented telephone hotlines which provide caller anonymity, confidentiality, and facilitate data collection for follow-up investigations. The City does not have a hotline for reporting fraud, waste, abuse, or misconduct.

A recent "Internal Auditor" article about whistleblower hotlines indicated an average of 14.9 incidents reported per 1,000 employees. Sixty-five per cent of the incidents reported were serious enough to warrant an investigation, and 46% of those resulted in corrective actions.

A study by the Association of Certified Fraud Examiners reports that 479 organizations that had fraud hotlines or other anonymous reporting mechanisms were compared with 581 organizations that did not have fraud hotlines. Organizations with hotlines had a median loss of \$100,000 per scheme and detected the frauds within 15 months of inception. By contrast, organizations without hotlines suffered median losses of \$200,000 and took 24 months to detect the frauds. The loss ranged from \$71,000 to \$17 million and 34.2% of the frauds were detected by tips from employees, customers, vendors, and anonymous calls.

In October 2007, the Government Finance Officers Association recommended that every government agency *"establish practical mechanisms (e.g., hot line) to permit the confidential, anonymous reporting of concerns about fraud or abuse and questionable accounting or auditing practices to the appropriate responsible parties. A government should regularly publicize the availability of these mechanisms and encourage individuals who may have relevant information to provide it to the government."*²⁴

The hotlines may be internally operated by the corporation or externally outsourced to independent third parties that receive, follow up, or refer the information to designated entities for further investigation, follow-up action, and reporting of the hotline call results. For example, third party vendors, such as

²⁴ See full text in Appendix 1

Ethics Point and *The Network*, provide hotlines that are outsourced so that complainants can anonymously file complaints and provide information that is passed on to designated city departments.

Employees have whistleblower protection

The Sarbanes-Oxley Act of 2002 established a whistleblower protection program for employees under Title VIII: *Corporate and Criminal Fraud Accountability Act of 2002*. The whistleblower protection programs prohibit the employers from taking certain actions against employees who lawfully disclose information involving fraud.

To protect the whistleblowers, the federal and state of California governments have established by law whistleblower programs that are applicable respectively to federal and state employees. At the Federal level, the U.S. Office of Special Counsel is responsible for protecting whistleblowers and enforcing 12 prohibited personnel practices, including reprisals for whistleblowing.

The **California Whistleblower Protection Act** was written to protect employees of state agencies who disclose activities that (1) violate state or federal laws or regulations, (2) constitute economic waste, or (3) involve gross misconduct, incompetence or inefficiency. The Bureau of State Audits is responsible for receiving and investigating complaints of improper governmental activities. The Whistleblower Protection Act defines an improper governmental activity as any action by a state agency or employee during the performance of official duties that violates any state or federal law or regulation; that is economically wasteful; or that involves gross misconduct, incompetence, or inefficiency. The Whistleblower Act authorizes the state auditor to investigate allegations of improper governmental activities and to publicly report on substantiated allegations. For example, in September 2007, the California State Auditor reported the results of 9 investigations and updates on 4 previously reported issues.²⁵

The California Labor Code includes provisions to protect employees who report, or refuse to participate in, potential violations of state or federal statutes, rules, or regulations, or violations of fiduciary responsibility (California Labor Code Section 1102-1106).

The **Local Government Disclosure of Information Act** extends whistleblower protections to the municipal level by encouraging local government employees to disclose information regarding gross mismanagement, abuse of authority, or dangers to public health and safety. (California Government Code Section 53296-53299).

The City does not have a formal whistleblower protection program, but state law applies. To our knowledge, these protections have not been publicized.

²⁵ California State Auditor, *Investigations of Improper Activities by State Employees: February 2007 Through June 2007* (<http://www.bsa.ca.gov/pdfs/reports/l2007-2.pdf>)

Employee hotlines and whistleblower policies and procedures in other cities

Other cities have established whistleblower programs and hotlines to facilitate reporting of improper activity. For example, the City of Phoenix has established the “Integrity Line” (see APPENDIX 6) for employees to report concerns about violations of laws or regulations, fraud, loss, or waste.

The City of Stockton recently installed a hotline and adopted a whistleblower policy and procedures. The purpose of the hotline is to give employees a means to report possible misconduct, violations of City policy, theft, waste, or misuse of City assets.²⁶ For about \$3,000 per year, Stockton contracts with an outside vendor that provides employees with the ability to file an anonymous report 24 hours a day, 7 days a week using a secure website or by dialing a toll-free number provided by the vendor.

RECOMMENDATION #7: The City Manager should form a working group to (1) establish policies and procedures for handling employee complaints of waste, fraud, and abuse through normal supervisory channels; (2) establish and monitor a hotline for anonymously reporting fraud, waste and abuse; (3) develop procedures for reporting, investigating, handling, and following-up on hotline reports; and (4) develop whistleblower policies and procedures.

²⁶ Issues related to harassment, discrimination, and grievable labor issues are filed with the Stockton Human Resources Department, not the hotline.

CONCLUSION

While the City of Palo Alto has a plethora of rules and regulations prescribing employee ethics, it does not have a code of ethics or formal ethics program. With full knowledge that not even the best ethics code will substitute for good government or good people, we make several recommendations to foster appropriate employee behavior.

Recommendations

RECOMMENDATION #1: The City should periodically provide (or make available) ethics training targeted for designated employees, and remind employees that the FPPC is available to answer questions.

RECOMMENDATION #2: Department heads and supervisors of employees in designated positions should review, and initial, employee Form 700s before the forms are filed with the City Clerk.

RECOMMENDATION #3: The City should develop a section on the City's intranet site that links city employees to the City or State policy, procedure, law, or regulation that addresses each of the major requirements for avoiding conflicts of interest and for acceptable and ethical behavior.

RECOMMENDATION #4: The City should develop a code of ethics that employees can use as a guidepost for avoiding conflicts of interest, for ethical behavior, for deciding what actions are needed when conflicts of interest occur, and for making decisions. Employees should be required to read and sign an acknowledgment of the policy.

RECOMMENDATION #5: The City should formalize its policy on ethics training and ensure that employees attend periodic training updates.

RECOMMENDATION #6: The City should survey employees using the League of California Cities' Institute for Local Government's ethical culture assessment tool.

RECOMMENDATION #7: The City Manager should form a working group to (1) establish policies and procedures for handling employee complaints of waste, fraud, and abuse through normal supervisory channels; (2) establish and monitor a hotline for anonymously reporting fraud, waste and abuse; (3) develop procedures for reporting, investigating, handling, and following-up on hotline reports; and (4) develop whistleblower policies and procedures.

Office of the City Manager

MEMORANDUM



From: Emily Harrison, Assistant City Manager
Date: January 16, 2008
Subject: Response to 2008 Audit of Employee Ethics Policies

The Office of the City Manager is pleased to respond to the City Auditor's "Audit of Employee Ethics Policies." Below are the responses to the audit's recommendations.

RECOMMENDATION #1: The City should periodically provide (or make available) ethics training targeted for designated employees, and remind employees that the FPPC is available to answer questions.

Staff will work with the City Attorney's Office to develop an ethics training program for designated employees by June 30, 2008.

RECOMMENDATION #2: Department heads and supervisors of employees in designated positions should review, and initial, employee Form 700s before the forms are filed with the City Clerk.

The City Attorney's Office will take the lead in developing and implementing a training program on employee form 700s. In conjunction with that training, a procedure requiring department head review prior to submission to the City Clerk will be developed and implemented. Development of the program will be accomplished by June 30, 2008.

RECOMMENDATION #3: The City should develop a section on the City's intranet site that links city employees to the City or State policy, procedure, law, or regulation that addresses each of the major requirements for avoiding conflicts of interest and for acceptable and ethical behavior.

A link to relevant City and State policies, procedures, laws and regulations for conflict of interest and ethical behavior will be developed and implemented on the City's internal website by June 30, 2008.

RECOMMENDATION #4: The City should develop a code of ethics that employees can use as a guidepost for avoiding conflicts of interest, for ethical behavior, for deciding what actions are needed when conflicts of interest occur, and for making decisions. Employees should be required to read and sign an acknowledgment of the policy.

Staff will research what other cities have developed in terms of a comprehensive ethics policy and develop a policy for the City of Palo Alto by June 30, 2008.

RECOMMENDATION #5: The City should formalize its policy on ethics training and ensure that employees attend periodic training updates.

An ethics training program for all employees will be developed and for the next training season.

RECOMMENDATION #6: The City should survey employees using the League of California Cities' Institute for Local Government's ethical culture assessment tool.

Staff will look at the League's ethical culture assessment and determine whether and in what manner to survey the City staff.

RECOMMENDATION #7: The City Manager should form a working group to (1) establish policies and procedures for handling employee complaints of waste, fraud, and abuse through normal supervisory channels; (2) establish and monitor a hotline for anonymously reporting fraud, waste and abuse; (3) develop procedures for reporting, investigating, handling, and following-up on hotline reports; and (4) develop whistleblower policies and procedures.

The City Manager's Office will form a working group to develop and a policy and procedure to ensure that employees have a way to report fraud, abuse, and waste, and that such complaints will be appropriately investigated and followed up on. Staff has a number of reservations about the Auditor's recommendation to create a hotline for complaints, and will take the opportunity to talk to other cities and professional organizations prior to making a final determination as to how to achieve the very appropriate goals that led to this recommendation.

APPENDIX 1

GFOA Recommended Practice

Encouraging and Facilitating the Reporting of Fraud and Questionable Accounting and Auditing Practices (2007) (CAAFR)

Background. Statement on Auditing Standards (SAS) No. 112, *Communicating Internal Control Related Matters Identified in an Audit*, emphasizes the need for governments to have a financial reporting system in place that is sufficient to provide reasonable assurance that management can prepare financial statements in conformity with generally accepted accounting principles (GAAP). To meet that objective, a financial reporting system must be designed to detect not only material fraud or abuse, but also any questionable accounting or auditing practices that could jeopardize the integrity of financial reporting. SAS No. 112 instructs independent auditors that inadequate “anti-fraud programs and controls” constitute, at a minimum, a *significant deficiency* that would need to be reported.

In most cases, potential instances of fraud or abuse and questionable accounting or auditing practices come to the attention of responsible parties thanks to employees or citizens who become aware of such practices. Governments can and should take practical steps to encourage and facilitate such reporting.

Recommendation. The Government Finance Officers Association recommends that every government establish policies and procedures to encourage and facilitate the reporting of fraud or abuse and questionable accounting or auditing practices. At a minimum, a government should do all of the following:

- Formally approve, and widely distribute and publicize an ethics policy that can serve as a practical basis for identifying potential instances of fraud or abuse and questionable accounting or auditing practices.
- Establish practical mechanisms (e.g., hot line) to permit the *confidential, anonymous reporting* of concerns about fraud or abuse and questionable accounting or auditing practices to the appropriate responsible parties.¹ A government should regularly publicize the availability of these mechanisms and encourage individuals who may have relevant information to provide it to the government.
- Since ensuring or enhancing confidentiality can significantly increase costs, consider minimizing those costs by providing a separate reporting mechanism for employees, who typically desire greater assurance of confidentiality than do outside parties. In this regard, a government may wish to explore the possibility of engaging the services of an outside vendor to receive complaints from employees. The use of an outside vendor offers a number of potential advantages, including the following:
 - Employees may be more readily persuaded of the confidentiality of their calls if they are made directly to a party outside the government.
 - Vendors may be able to provide extended hours of service, thus avoiding the need to place a call during regular working hours (i.e., while the employee is still at work).

¹ While providing mechanisms to promote the reporting of fraud is an important element of an overall fraud prevention program there are other elements necessary for a complete program that are outside the scope of this recommended practice.

- Train those answering calls from the general public to recognize calls that are reporting fraud or abuse and direct them appropriately to ensure that reports of instances of fraud or abuse by outside parties receive the appropriate disposition even when they are not made through the mechanism established for that purpose.
- Make internal auditors (or their equivalent) responsible for the mechanisms used to report instances of potential fraud or abuse and questionable accounting or auditing practices. Emphasize that they should take whatever steps are necessary to satisfy themselves that a given complaint is without merit before disposing of it. Further, they also should document the disposition of each complaint received so it can be reviewed by the audit committee.
- Have the audit committee, as part of its evaluation of the government's internal control framework, examine the documentation of how complaints were handled to satisfy itself that the mechanisms for reporting instances of potential fraud or abuse, and questionable accounting or auditing practices are in place and working satisfactorily.

Approved by the GFOA's Executive Board, October 19, 2007.

APPENDIX 2 SAN MATEO COUNTY TRANSIT DISTRICT ETHICS POLICY

San Mateo County Transit District
Personnel Policies and Procedures Manual
Chapter: 1
Subject: **Ethics**

Section: 3
Page: 1 of 2
Revised: 5/23/03
Effective: 6/29/03

As trustees of public funds and public safety, the District must carry out its mission efficiently and effectively while maintaining the highest level of ethical conduct. Employees are expected to comply with all laws, codes, regulations, financial reporting standards and other established procedures of the District.

Employees have an obligation to avoid all situations in which their personal interests conflict or could be construed as being in conflict with those of the District. A conflict of interest exists when an employee or a member of their family is in the position to benefit personally, directly or indirectly, from his or her dealings with an organization, contractor, consultant or person conducting business with the District. Employees shall not use public funds or other resources and assets of the District, JPB or Transportation Authority as contributions to political parties, candidates or campaigns. All dealings with public officials should be conducted in a manner that does not compromise the integrity and reputation of the official, the employee, the District, JPB or Transportation Authority. When engaging in political activity employees shall not display a District, JPB or Transportation Authority logo, pin or emblem nor distribute District issued business cards.

It is up to the employees of the District to pay attention to what is going on in and around the workplace and to recognize behavior that might be interpreted as questionable -- conduct that might be seen by others as unethical or reflecting a conflict of interest. Employees are obligated to report violations of lawful requirements and to seek clarification of situations that appear to fall short of the District's high standard of performance. In turn, the District prohibits retaliation in any form of employees who report violations. Each employee can and should make basic ethical decisions him or herself, and can and should consult with his or her supervisor or department head on difficult or questionable decisions. If for any reason that is undesirable or impractical, employees may seek advice directly from the District's Employee Relations Officer, Civil Rights Officer, Manager, Employee Relations and Civil Rights or the Director, Human Resources.

Employees are expected to apply their education, training, experience and skills to the best of their ability in the performance of their job, to be efficient and economical in their use of resources and assets, and not permit the abuse of resources or assets by others. Employees possess good

judgement and are expected to use it in the workplace. Supervisors, in turn, are obligated to provide timely, complete and accurate feedback on performance to employees.

It is not the purpose of this policy to address every situation, but merely to make each employee aware of the general scope and application of ethics in our workplace. The principles set forth in this policy are designed to emphasize and promote the highest possible standards of ethical conduct. Violations of this policy may result in corrective or other disciplinary action, up to and including termination.

APPENDIX 3
CITY OF PORTLAND CODE OF ETHICS
(Municipal Code Section 1.03)

1.03.010 Definitions.

- A.** "City official" means any elected official, employee, appointee to a board or commission, or citizen volunteer authorized to act on behalf of the City of Portland, Oregon.
- B.** "Ethics" means positive principles of conduct. Some ethical requirements are enforced by federal, state, or local law; others rely on training, or on individuals' desire to do the right thing. The provisions of this Chapter which are not elsewhere enforced by law shall be considered advisory only.

1.03.020 Trust. The purpose of City government is to serve the public. City officials treat their office as a public trust.

- A.** The City's powers and resources are used for the benefit of the public rather than any official's personal benefit.
- B.** City officials promote public respect by avoiding even the appearance of impropriety.
- C.** Policymakers place long-term benefit to the public as a whole above all other considerations, including the concerns of important individuals and special interests. However, the public interest includes protecting the rights of under-represented minorities.
- D.** Administrators implement policies in good faith as equitably and economically as possible, regardless of their personal views.
- E.** Whistle-blowing is appropriate on unlawful or improper actions.
- F.** Citizens have a fair and equal opportunity to express their views to City officials.
- G.** City officials do not give the appearance of impropriety or personal gain by accepting personal gifts.
- H.** City officials devote City resources, including paid time, working supplies and capital assets, to benefit the public.
- I.** Political campaigns are not conducted on City time or property.

1.03.030 Objectivity. City officials' decisions are based on the merits of the issues. Judgment is independent and objective.

- A.** City officials avoid financial conflict of interest and do not accept benefits from people requesting to affect decisions.
- B.** If an individual official's financial or personal interests will be specifically affected by a decision, the official is to withdraw from participating in the decision.
- C.** City officials avoid bias or favoritism, and respect cultural differences as part of decision-making.
- D.** Intervention on behalf of constituents or friends is limited to assuring fairness of procedures, clarifying policies or improving service for citizens.

1.03.040 Accountability. Open government allows citizens to make informed judgments and to hold officials accountable.

- A.** City officials exercise their authority with open meetings and public records.

- B.** Officials who delegate responsibilities make sure the work is carried out efficiently and ethically.
- C.** Campaigns for election allow the voters to make an informed choice on appropriate criteria.
- D.** Each City employee and appointee is encouraged to improve City systems by identifying problems and proposing improvements.
- E.** City government systems are self-monitoring, with procedures in place to promote appropriate actions.

1.03.050 Leadership.

- A.** City officials obey all laws and regulations.
- B.** City officials do not exploit loopholes.
- C.** Leadership facilitates, rather than blocks, open discussion.
- D.** Officials avoid discreditable personal conduct and are personally honest.
- E.** All City bureaus and work teams are encouraged to develop detailed ethical standards, training, and enforcement.
- F.** The City Auditor will publish a pamphlet containing explanations and examples of ethical principles.

Source: <http://www.portlandonline.com/auditor/index.cfm?a=bced&c=cggfd#code>

APPENDIX 4
PRINCIPLES OF ETHICAL CONDUCT FOR EXECUTIVE BRANCH OFFICERS AND
EMPLOYEES (EXECUTIVE ORDER 12674)

"Part I Principles of Ethical Conduct

"Section 101. Principles of Ethical Conduct. To ensure that every citizen can have complete confidence in the integrity of the Federal Government, each Federal employee shall respect and adhere to the fundamental principles of ethical service as implemented in regulations promulgated under sections 201 and 301 of this order:

"(a) Public service is a public trust requiring employees to place loyalty to the Constitution, the laws, and ethical principles above private gain.

"(b) Employees shall not hold financial interests that conflict with the conscientious performance of duty.

"(c) Employees shall not engage in financial transactions using nonpublic Government information or allow the improper use of such information to further any private interest.

"(d) An employee shall not, except pursuant to such reasonable exceptions as are provided by regulation, solicit or accept any gift or other item of monetary value from any person or entity seeking official action from. doing business with, or conducting activities regulated by the employee's agency, or whose interests may be substantially affected by the performance or nonperformance of the employee's duties.

"(e) Employees shall put forth honest effort in the performance of their duties.

"(f) Employees shall make no unauthorized commitments or promises of any kind purporting to bind the Government.

"(g) Employees shall not use public office for private gain.

"(h) Employees shall act impartially and not give preferential treatment to any private organization or individual.

"(i) Employees shall protect and conserve Federal property and shall not use it for other than authorized activities.

"(j) Employees shall not engage in outside employment or activities, including seeking or negotiating for employment, that conflict with official Government duties and responsibilities.

"(k) Employees shall disclose waste, fraud, abuse, and corruption to appropriate authorities.

"(l) Employees shall satisfy In good faith their obligations as citizens, including all just financial obligations, especially

those such as Federal, State, or local taxes-that are imposed by law.

"(m) Employees shall adhere to all laws and regulations that provide equal opportunity for all Americans regardless of race, color, religion, sex, national origin, age, or handicap.

"(n) Employees shall endeavor to avoid any actions creating the appearance that they are violating the law or the ethical standards promulgated pursuant to this order."

APPENDIX 5 NEW YORK CITY CODE OF ETHICS

The City's Conflicts of Interest Law prohibits public servants from using or appearing to use their City positions for their own personal benefit. To comply with the law, you cannot:

- Use your City position to gain any private advantage for yourself, a close family member, or anyone with whom you have a financial relationship.
- Use City resources for any non-City purpose, or disclose confidential City information to any private person or firm.
- Accept any valuable gift from someone doing business with any City agency, or *anything* from anyone for performing your City job.
- Take a second job with a firm, or own all or part of a firm, that has business with any City agency, unless you receive approval from the Board and your agency.
- Enter into any kind of private financial relationship with a superior or subordinate.
- Ask a subordinate to work on a political campaign or make a political contribution.
- Take part in a not-for-profit organization's business dealings with any City agency.
- Discuss possible future employment with a firm you are currently dealing with in your City job.
- Communicate with your former agency on behalf of a private firm for one year after you leave City service, or ever work on a matter you personally and substantially worked on while with the City.

For information or to get advice on the City's Ethics Law, call the Conflicts of Interest Board at
212-442-1400 (calls are confidential)
or visit our website at <http://nyc.gov/ethics>

This material is intended as a general guide. It is not intended to replace the text of the law (Charter § 2604). For more particular information or answers to specific questions, please write or call the Board. Also, bear in mind that individual agencies may have additional restrictions on the acceptance of gifts, moonlighting, and other issues. Contact your agency counsel for more information.

1/05

Source: www.nyc.gov/html/conflicts/downloads/pdf/ethicsguide.pdf

APPENDIX 6 CITY OF PHOENIX INTEGRITY LINE

Do you know where to report inappropriate employee conduct?

The recommended course of action is to report it to your supervisor or department head. But in cases where you do not feel comfortable doing this, there are other options. The table below can guide you:

Issue	Refer issue to
Hiring process, recruitments, employee qualifications, performance evaluations	Department Personnel Officer <i>or</i> Personnel Department @ (262-6609 or 261-8687 (TDD))
Sexual Harassment (A.R. 2.35A) or Protected Category Harassment (A.R. 2.35B)	Department Personnel Officer <i>or</i> Equal Opportunity Department's Compliance and Enforcement Division @ 262-7486 or 534-1557 (TDD)
Discrimination / denial of equal employment opportunities (A.R. 2.35)	Department Personnel Officer <i>or</i> Personnel Department @ (262-6609 or 261-8687 (TDD))

For all other types of issues, call the **Integrity Line** (formally referred to as *the MAC line*) at **261-8999** or 534-5500 (TDD). The types of concerns that can be reported to the Integrity Line include, but are not limited to:

- violations of laws or regulations
- embezzlement
- contract fraud
- vendor kickbacks
- loss or waste of city money or property
- falsified documents
- specific danger to public health or safety



To find out more about the Integrity Line, go to <http://inphx:8000/AUDITOR/integrity.html>. You will find out how the process works and what information you should have when you call. It even gives you the option to report a problem via the computer.