



## FRAUD, WASTE AND ABUSE POLICY

**PURPOSE:** The City of Baldwin Park's Fraud, Waste, and Abuse Reporting policy is established to facilitate the development of controls that will aid in the detection and prevention of fraud, waste, and abuse against the City of Baldwin Park (City). In the spirit of transparency it is the intent of the City to provide guidelines for the development of controls and conduct of investigations related to Fraud, Waste and Abuse.

**POLICY STATEMENT:** The City will offer a mechanism for City employees, residents, and other interested complainants to confidentially report (1) any activity or conduct in which he/she suspects instances of fraud, waste, or abuse and (2) violations of certain Federal or State laws and regulations relating to fraud, waste, and abuse as it is defined in California Government Code §53087.6(£) through the establishment of a Fraud, Waste, and Abuse Hotline and/or utilization of a third party to receive and track complaints under the direct oversight of Human Resources.

**POLICY SCOPE:** This policy applies to any wrongdoing, or suspected irregularity, involving employees as well as consultants, vendors, contractors, outside agencies doing business with employees of such agencies, and/or any other parties with a business relationship with the City. Any investigative activity required will be conducted without regard to the suspected wrongdoer's length of service, position/title, or relationship to the City.

**POLICY** Management is responsible for the detection and prevention of fraud, waste, and abuse. California Government Code §53087.6(£) (2) defines the terms, "fraud, waste, or abuse" as follows:

- Any activity by a local agency or employee that is undertaken in the performance of the employee's official duties, including activities deemed to be outside the scope of his or her employment, that:
- Is in violation of any local, state, or federal law or regulation relating to:
  - fraud,
  - corruption,
  - malfeasance,
  - bribery,
  - theft of government property,
  - fraudulent claims,
  - coercion,
  - conversion,
  - malicious prosecution,
  - misuse of government property,
  - willful omission to perform duty.

Fraud, Waste, and Abuse Policy (Rev 5/2020)

- is economically wasteful,
- involves gross misconduct

Each member of the City's Executive Team will be familiar with the types of improprieties that might occur within his or her area of responsibility, and be alert for any indication of irregularity. Any irregularity that is detected or suspected must be reported immediately to the Director of Finance and Director of Human Resources herein referred to as the Human Resources and Risk Manager, and/or a third party contracted to receive complaints or coordinate investigations with the appropriate entities and personnel. Some of these improprieties may be defined as follows:

<b>Violation</b>	<b>Definition</b>	<b>Complaint Code</b>
Fraud	A known misrepresentation of the truth or misstatement of fact intended to result in personal or financial gain to the City's detriment.	Fraud, Accounting/ Audit Irregularities
Theft of government property	Unauthorized taking into one's possession of property owned by the City	Theft of Cash, Goods, and Services
Fraudulent claims	A misrepresentation of facts in a claim to receive compensation	Fraudulent Insurance Claims
Conversion	The wrongful possession of or interference with the City's property as if it was one's own	Theft of Cash, Goods and Services
Misuse of government property	Misuse of City's property	Waste
Corruption	The impairment of a public official's duties by bribery	Release of Proprietary Information
Malfeasance	Wrong doing or misconduct by a public official	Conflict of Interest Theft of Time Unauthorized Discounts Wage and Hour Issues Customer Relations Policy Issues Safety Issues and Sanitation Product Quality Concerns
Bribery	The corrupt payment, receipt, or solicitation of a private favor for official action	Kickbacks Improper Loans to City Officials
Coercion	Compulsion by physical force or threat of physical force; threat of taking or withholding official action or causing an official to take or withhold an action	Retaliation Against Whistleblowers

Malicious prosecution	Intentionally (and maliciously) instituting and pursuing (or causing to be instituted or pursued) a legal action that is brought without probable cause and dismissed in favor of the victim that caused damages	Abuse
Willful omission to perform duty	Intentional neglect to take action required by law or contract	Abuse

Complaints received that allege certain Labor-Management Issues such as Discrimination, Sexual Harassment, Substance Abuse, and Workplace Violence/Threats are not included in the statutory definition of fraud, waste, or abuse and are not in the purview of this policy. However, these complaints are forwarded to the appropriate management and human resources for review and action.

**INVESTIGATION RESPONSIBILITIES:**

The Director of Finance and Human Resources and Risk Manager have the primary responsibility for the investigation of all suspected acts as defined in the policy. If the investigation substantiates that inappropriate activities have occurred, the Director of Finance and Human Resources and Risk Manager will issue reports to appropriate designated personnel and, if appropriate, to the City Council in accordance with the Brown Act. If a complaint involves the City Manager, Director of Finance, Human Resources and Risk Manager and Appointed or Elected Officials, an outside investigator shall be appointed to conduct the investigation.

Decisions to prosecute or refer the examination results to the appropriate law enforcement and/or regulatory agencies for independent investigation will be made in conjunction with legal counsel and the City Manager, as will final decisions on disposition of the case except to the extent that the initiation of litigation may require approval by the City Council.

**CONFIDENTIALITY:**

The Director of Finance and Human Resources and Risk Manager shall treat all information received confidentially. Any employee who suspects inappropriate activity shall notify the Director of Finance and Human Resources and Risk Manager immediately, and should not attempt to personally conduct investigations or interviews/interrogations related to any suspected act (see REPORTING PROCEDURE section below).

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

**AUTHORIZATION FOR INVESTIGATING SUSPECTED FRAUD, WASTE, AND ABUSE:**

The Director of Finance and Human Resources and Risk Manager, or authorized representative, will have access to, and authority to examine any and all records, documents, systems and files of the City and/or other property of any City department, office or agency. It is the duty of any officer, employee or agent of the City having control of such records to permit access to, and examination thereof, upon the request of the Director of Finance and Human Resources and Risk Manager or their authorized representative. It is also the duty of any such officer, employee or agent to fully cooperate with the Director of Finance and Human Resources and Risk Manager, or authorized representative, and to make full disclosure of all pertinent information. The Director of Finance and Human Resources and Risk Manager shall also be permitted access to any and all records, documents, systems and files of any City vendor or contractor as allowed by City agreements and contracts.

**REPORTING PROCEDURES:**

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

Any employee, or other interested complainant, who discovers or suspects fraudulent activity will have different options to report. Reporting can occur by:

- Hotline Reporting- calling the City's third party reporting firm.
- Hotline Reporting – calling the City’s hotline number managed by Human Resources.
- Online Reporting – Web intake form located on the City of Baldwin Park website.

The following information is necessary to begin and continue processing a complaint/concern:

- The alleged misconduct involves a City employee, a contractor, or a vendor doing business with the City.
- Name of the individual(s) involved.
- Specific information regarding the alleged misconduct.
- Circumstances surrounding how the alleged misconduct occurred.
- Where or in what department the alleged misconduct occurred.
- When the alleged misconduct occurred.
- The conduct should meet the statutory definition of fraud, waste, and abuse found at California Government Code §53087.6(f) (2).

During the initial review of complainant report(s), the Director of Finance and Human Resources and Risk Manager will hold in confidence information disclosed through the Hotline, and disclosed through the vendor contracted to investigate including the identity of the caller disclosing the information and the parties identified by the caller as allowed under applicable state law.

The complainant may remain anonymous to the extent allowed by law. All inquiries concerning the activity under investigation from the suspected individual, his or her attorney or representative, or any other inquirer should be directed to the Director of Finance and Human Resources and Risk Manager: No information concerning the status of an investigation will be given out. The proper response to any inquiry is: "There is no information to report at this time." No reference should be made to "the allegation," "the crime," "the fraud," "the forgery," "the misappropriation," or any other specific fraud reference when referring to any report.

The reporting individual should be informed of the following:

- Do not contact the suspected individual in an effort to determine facts or demand restitution.
- Do not discuss the case, facts, suspicions, or allegations with anyone unless specifically asked to do so by the City Attorney or the Director of Finance and Human Resources and Risk Manager.

**DISCIPLINE:**

Once the investigation provides firm indicators through probative evidence that an employee might be subject to disciplinary action by his/her department for the subject matter of the investigation, the Director of Finance and Human Resources and Risk Manager will work with the City Manager, City Attorney, and/or department director to ensure a disciplinary process in accordance to the City's Personnel Rules and any other applicable law, rule, or regulation.

**ADMINISTRATION:**

For the purpose of this Administrative Policy, the City Manager has designated the Director of Finance and Human Resources and Risk Manager to be responsible for the administration, revision, interpretation, and application of this policy. The policy will be reviewed periodically and revised as needed. The Director of Finance and Human Resources and Risk Manager may develop any other policies or procedures as necessary to implement this Administrative Policy.

**CITY OF BALDWIN PARK**  
**Fraud, Waste, and Abuse Policy**

PRINT NAME: \_\_\_\_\_

POSITION TITLE: \_\_\_\_\_

DEPARTMENT: \_\_\_\_\_

By my signature, I acknowledge that I have received a copy of the City of Baldwin Park's Fraud, Waste, and Abuse Policy.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date