

**SUBMITTAL TO THE BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**

519



SUBMITTAL DATE:
July 7, 2009

FROM: County Auditor-Controller

SUBJECT: Establishment of a Countywide Fraud, Waste and Abuse Prevention Program

RECOMMENDED MOTION:

1. Approve the implementation of the County's Fraud, Waste and Abuse Prevention Program.
2. Approve the establishment of the County's Fraud, Waste and Abuse Prevention Committee.
3. Approve Board of Supervisors' Policy C-35, Standards of Ethical Conduct to Address Fraud, Waste and Abuse – Attachment 1.

BACKGROUND:

Fraud, waste and abuse consist of illegal, wasteful, or improper activity involving county assets or resources. It includes theft by means of deception, deceit, or trickery; willful misrepresentation to obtain something of value; and, the extravagant, careless or needless expenditure or consumption of county resources, whether intentional or not.

Robert E. Byrd

 ROBERT E. BYRD
 County Auditor-Controller

FINANCIAL DATA	Current F.Y. Total Cost:	\$ 0	In Current Year Budget:	No
	Current F.Y. Net County Cost:	-0-	Budget Adjustment:	No
	Annual Net County Cost:	-0-	For Fiscal Year:	

SOURCE OF FUNDS: N/A	Positions To Be Deleted Per A-30	<input type="checkbox"/>
	Requires 4/5 Vote	<input type="checkbox"/>

C.E.O. RECOMMENDATION: APPROVE

BY: *Rob Rockwell*
 Rob Rockwell

County Executive Office Signature

Dept. Recomm. Consent Policy
 Per Exec. Ofc. Consent Policy

Prev. Agn. Ref.: _____ | District: _____ | Agenda Number: _____

3.14

BACKGROUND continued:

Fraud, waste and abuse frequently continue for years before being detected. According to the Association of Certified Fraud Examiners (ACFE), the national trade organization for fraud experts, between 2006 and 2008, the median cost of fraud in government was \$93,000. While the median loss is low in relation to many other industries, it is second in frequency only to the banking and financial services industry. Most commonly reported fraud schemes in government were corruption, occurring in 26 percent of reported cases in government, and fraudulent billing schemes, occurring in 25 percent of cases.

In recent years, there has been an increased focus on anti-fraud controls such as Sarbanes-Oxley Act, Office of Management and Budget, Circular A-123 (*Management Accountability and Control*), and American Institute of Certified Public Accountants (AICPA), Statement on Auditing Standards 99 (*Consideration of Fraud in Financial Statement Audits*). This focus, along with internal auditing has helped to reduce the median loss from fraud; however, detection is more likely the result of a tip than by external or internal audits, controls or other means.

In the past two years there were at least two significant anti-fraud requirements with specific relevance to the county: California Assembly Bill 2001 (*Local Government Whistleblower Hotlines*), and the AICPA, Statement on Auditing Standards 112 (*Communication of Internal Control Related Matters Identified in an Audit*). Prior to Assembly Bill 2001, California Government Code required the State Auditor to maintain a whistleblower hotline. The bill amended the code to recommend city and county Auditors maintain a whistleblower hotline to receive calls from people who have information regarding possible violations.

Statement on Auditing Standards 112 establishes standards and provides guidance on communicating matters related to an entity's internal control over financial reporting identified by external auditors in an audit of financial statements. For fiscal years ending after December 15, 2006, the absence of an effective fraud prevention program and controls could be reported at least as a significant audit deficiency. A significant deficiency is a control deficiency, or combination of control deficiencies, that adversely affects the entity's ability to initiate, authorize, record, process, or report financial data reliably, in accordance with generally accepted accounting principles.

Significant deficiencies that are not corrected may be elevated to material weaknesses, a much more serious condition that could have a detrimental effect on the county to the users of its financial statements. Financial statement users, including bond rating agencies, and other creditors carrying county lines of credit, rely on the opinion of the external auditors in making decisions affecting the county. In their management letters for audits of fiscal years ending June 30, 2006, and June 30, 2007, the county's external auditors reported that the county does not have a formalized fraud prevention program. Although the external auditors could have reported the absence of a fraud prevention program for fiscal year ending June 30, 2008 as a material weakness, it was reported as a significant deficiency because of the county's intent to implement the program described in this Board of Supervisors' action.

BACKGROUND continued:

The objective of the county's Fraud, Waste and Abuse Prevention Program is to eliminate the occurrence or minimize the impact of fraud, waste and abuse within the county. The program is a welcome addition to other programs the county has in place such as the Human Resources Department's workers' compensation fraud unit and the Department of Public Social Services' welfare fraud investigations branch. The program will also capture, track and monitor other actions that detract from the efficiency and effectiveness of county operations, such as harassment, safety violations and discrimination.

The county's Fraud, Waste and Abuse Prevention Program's objectives will be achieved by:

- Establishing a standard of ethical conduct to guide employees and officers in their day-to-day activities and to reaffirm the Board of Supervisors' commitment to maintaining a tone of integrity throughout the county.
- Establishing a Fraud, Waste and Abuse Prevention Committee (chaired by the County Auditor-Controller) to be responsible to the Board of Supervisors for ensuring timely review, investigation, and resolution of fraud, waste, abuse and other allegations while safeguarding individual rights and ensuring confidentiality. The committee chair shall establish the committee's roles, responsibilities and operating procedures. The committee will be comprised of the department head, assistant, or deputy as follows: Auditor-Controller, Assistant County Executive Officer/Human Resource Director and County Counsel. The committee is authorized to assign investigations to county departments and may also refer reviews and investigations to the County Auditor-Controller for internal audit review, or to the District Attorney, as warranted. The committee will report to the Board of Supervisors on a quarterly basis with a summary of all open incident reports and their status, and statistics of closed reports. An overview of the reporting process is presented as Attachment 2.
- Implementing a service for anonymous and confidential reporting using a third party provider. The service will be available at any time 365 days a year using the internet www.CountyOfRiversideSpeakOut.com or telephone (800) 461-9330.
- Communicating to all levels of the county about the establishment of the countywide Fraud, Waste and Abuse Prevention Program. This will be a campaign to educate employees and officers about the program and to instill a greater level of awareness about their responsibility to help prevent fraud, waste, and abuse. All employees and officers will receive a copy of the Standards of Ethical Conduct to Prevent Fraud, Waste and Abuse.

BACKGROUND continued:

Consistent with Board of Supervisors' Policy C-25, *Harassment Policy and Complaint Procedure*, the policy presented for approval establishes standards of conduct for all county employees and officers and protection from retaliation for those reporting violations of established ethical standards. Policy C-35 is not intended to replace Policy C-25, but instead expand the standards of conduct, provide for stronger protection of reporting parties and offer a mechanism for reporting and investigating complaints countywide.

COUNTY OF RIVERSIDE, CALIFORNIA
BOARD OF SUPERVISORS POLICY

Subject:
**STANDARDS OF ETHICAL CONDUCT TO ADDRESS
FRAUD, WASTE AND ABUSE**

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Policy:

In the spirit of sound and ethical governance and consistent with California Government Code §53087.6; and other applicable laws and regulations, the County of Riverside Board of Supervisors believe that the ethical conduct of those in public service is of utmost importance. This policy is set forth in order to address fraud, waste and abuse in county government and establishes reasonable standards of ethical conduct for all county employees and officers. It is the intent of this policy to establish minimum expectations relative to employee and officer behavior and conduct in the execution of their duties as representatives of the county.

1. Scope

This policy applies to all County of Riverside employees and officers, (hereinafter employees). This policy is not intended to be all-inclusive or address every possible eventuality or circumstance. Instead, it is intended to establish reasonable standards and provide guidance relative to the ethical conduct of county employees while fulfilling the expectations of county residents.

2. Interpretation

This policy does not replace the County of Riverside's Code of Ethics as approved by the Board of Supervisors, January 29, 1991. Furthermore, this policy does not supplant any of the County of Riverside's labor contracts or Memoranda of Understanding (MOUs). Should this policy conflict with any law, regulation, or labor contract of which the county or its employees may be subject, that law, regulation, or contract shall take precedence. In the event this policy conflicts with any precedent or past practice of the county, management will resolve that conflict by means consistent with established procedures or practices.

3. Definitions

Fraud, waste and abuse: Any illegal, wasteful, or improper activity involving county assets or resources. It includes theft by means of deception, deceit, or trickery; willful misrepresentation to obtain something of value; and, the extravagant, careless or needless expenditure or consumption of county resources, whether intentional or not.

Fraud: Theft by means of deception, deceit, or trickery. Examples include but are not limited to: forging or altering a county warrant or check; charging personal expenses to the county; or claiming overtime when not worked.

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Waste: The unnecessary or pointless consumption of resources, time, or labor. Examples include but are not limited to: using more of something when less will do; performing tasks which do not need to be performed; or maintaining excessive inventories.

Abuse: Misuse of power, authority, or control. Examples include but are not limited to: using one's authority to direct employees to perform non-county related work; causing employees to work overtime without compensation; or using county assets for non-county business without proper permission.

Additional definitions of terms relating to fraud, waste and abuse include:

Asset: Anything of value, whether tangible or intangible. Examples include but are not limited to: cash, tools, equipment, fuel, office supplies and time.

Chairman of the Fraud, Waste and Abuse Prevention Committee: A function of the County Auditor-Controller, who in this capacity in conjunction with management from other county departments, is responsible for the enforcement of this policy and the investigation of suspected violations of it, unless said duties are otherwise prescribed by the Board of Supervisors or appropriately delegated.

Code of Ethics: The County of Riverside's Code of Ethics as approved by the Board of Supervisors, January 29, 1991.

Conflict of Interest: Any circumstance in which the interests, duties, obligations, or activities of an employee or an employee's immediate family member are in conflict or incompatible with the interests of the county; the duties and obligations of the employee; or his or her capacity as an employee. Examples include but are not limited to: county employees bidding on county contracts; influencing county policy or activities for personal gain; or disclosing confidential county information to a friend or relative in order to assist them or oneself.

County or The County: The County of Riverside, California.

Employee: Any individual classified by the County's Human Resources Department as a full-time, part-time, temporary full-time, temporary part-time or per diem employee or officer of the county.

Gifts: Any payment or item that gives a personal benefit to the recipient to the extent that something of equal or greater value is not received and includes a discount or rebate, unless the discount or rebate is available to all members of the public.

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Immediate Family: A spouse or dependant child of the employee.

Reasonable Person: Any person of average competence and ability to reason.

Third party: Any person or entity other than an employee of the county, or the county itself.

4. Expectations

County employees shall adhere to and uphold the County's Code of Ethics both in practice and in spirit. It is expected that employees act in the public's interest first and not their own. It is further expected that their behavior, both on the job and off, reflects positively on the county, its reputation, and its employees. Pursuant to this policy, an employee's duties and responsibilities include, but are not limited to:

- a. **Duty to protect the reputation of the county:** It is the duty of every employee to uphold and protect the good reputation of the county and his or her fellow workers.
- b. **Duty to obey the law:** It is the responsibility of every employee to obey the law in the execution of his or her duties. Ignorance of the law or a particular regulation may not be considered an excuse for committing a violation or oversight.
- c. **Duty to comply with county policies:** It is the responsibility of every employee to comply with all county policies.
- d. **Conflicts of interest must be avoided:** In the broadest sense of the meaning, no employee shall engage in a behavior which may appear to be or give rise to a conflict of interest between him or herself and that employee's official capacity or duties. Should a conflict of interest arise, the employee involved shall report it in the manner described in section 5 below.
- e. **Disqualification from acting on county business:** An employee shall disqualify him or herself and shall not act on any matter in which he or she, a member of his or her immediate family, or another employer of the employee has a financial interest.
- f. **Prohibition of certain financial interest or activity:** No employee, regardless of any prior disclosure, who has a material interest, personally or through a member of his or her immediate family, in any business entity doing or seeking to do business within the county shall influence or attempt to influence the selection

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of the business entity or the making of a contract between such business entity and the county.

- g. **Solicitation of gifts or loans is prohibited:** No employee shall solicit anything of monetary value (even such things which might be returned or repaid) if it would appear to have been solicited with the intent of obtaining something in return. Nothing shall prohibit contributions or gifts, including political contributions, which are reported in accordance with applicable law or which are accepted on behalf of the county.
- h. **Gifts in excess of the annual gift limitation amount are prohibited:** No employee or family member of an employee shall accept gifts that exceed an aggregate value of the adjusted annual gift limitation amount in accordance with Government Code section 89503 in any twelve (12) consecutive months from an individual or entity that is doing business with the county.
- i. **Improper disclosure of privileged, personal, or confidential information:** No employee shall intentionally disclose privileged, personal, or confidential information for the purpose of damaging the reputation, credibility, or public image of the county, another employee, or any other person. Privileged, personal, or confidential information does not include information which is a matter of public knowledge or which is available to the public on request.
- j. **Improperly using one's county employment:** No employee shall use or permit the use of any county assets for a non-county purpose which is for the private benefit of the employee or any other person unless available on equal terms to the general public (such as the use of the library or parks).
- k. **Improper influence:** No employee, except in the course of his or her official duties, shall assist any person in any transaction with the county when such employee's assistance would appear to a reasonable person to be enhanced by that employee's position with the county for their own personal benefit. This subsection shall not apply to any employee appearing on his own behalf or representing himself as to any matter in which he has a proprietary interest, if not otherwise prohibited by law.
- l. **Duty to identify, report, and work to eliminate fraud, waste and abuse:** It is the responsibility and duty of every employee to identify, report, and work to eliminate fraud, waste and abuse at all levels of the county's administration and operations. Employees are encouraged to bring to the attention of management any opportunity to reduce or eliminate fraud, waste and abuse.

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- m. **Duty to cooperate:** It is the duty of every employee to cooperate in an investigation involving a violation or an alleged violation of this policy. Upon the request of the Fraud, Waste and Abuse Prevention Committee, an employee will participate and fully cooperate in any investigation. This policy does not preclude an employee from exercising his or her Constitutional rights or those afforded to him or her by a county recognized labor contract. However, the exercising of one's rights does not preclude the county from disciplining an employee for his or her failure to participate or cooperate in an investigation if the county may lawfully do so.

- n. **Handling of anonymous complaints or allegations of violations of this policy:** Employees are prohibited from attempting to identify or intentionally exposing the identity of any party which makes an anonymous report or complaint pursuant to this policy.

5. Reporting

Employees are expected to report all violations or suspected violations of this policy to the Fraud, Waste and Abuse Prevention Committee using the established anonymous incident reporting system in a timely and professional manner.

The county recognizes that the reporting party may desire or require anonymity. Thus, anonymous reports or concerns may be reported by any party, at anytime by way of the county's anonymous incident reporting system hosted by a third party provider. Reporting parties may use the anonymous incident reporting system via the Internet by going to www.CountyOfRiversideSpeakOut.com or via telephone by calling (800) 461-9330. It is the duty of every employee to report any known violation of this policy or what would appear to a reasonable person to be a violation of this policy. Employees are reminded that they may use the anonymous incident reporting system to report any action that detracts from the efficiency and effectiveness of county operations including but not limited to fraud, waste, abuse, ethics violations, retaliation, discrimination and safety violations. It is a violation of this policy to retaliate against an employee who makes a report using the county's anonymous incident reporting system under California Labor Code 1102.5 and 1106. The California State Attorney General's Whistleblower Hotline number is (800) 952-5225. Employees who believe they have been retaliated against for making a report or filing a complaint should contact the Chairman of the Fraud, Waste and Abuse Prevention Committee at once.

6. Investigation and Enforcement

The Chairman of the County's Fraud, Waste and Abuse Prevention Committee is responsible for ensuring investigation of all violations or suspected violations of the

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policy. As stated above, it is the duty of every employee to cooperate in an investigation involving a violation or an allegation of a violation of this policy. Upon the request of the Chairman of the Fraud, Waste and Abuse Prevention Committee, an employee will participate and fully cooperate in any investigation, whether conducted by the county or its agent(s).

If as a result of a good faith investigation and a resultant reasonable conclusion by the committee that a violation of this policy has occurred, the offending employee may be subject to disciplinary action up to and including termination.

7. Acknowledgement

All county employees will receive a copy of this policy and be required to acknowledge their receipt. The failure of an employee to acknowledge this policy (regardless of means) does not absolve that employee of his or her responsibilities pursuant to it, nor does it preclude that employee from being disciplined or terminated for violating it.