



BPC Policy No. 630

SUBJECT: FRAUD, WASTE, AND ABUSE PREVENTION POLICY

PURPOSE:

The San Diego Unified Port District (District) is committed to creating and supporting a workplace culture that promotes integrity, ethical decision-making, honesty, and accountability and prevents fraud, waste, and abuse (FWA). As such, this Policy intends to establish and maintain a fair, ethical, and honest business environment for all Board of Port Commissioners, employees, volunteers, consultants, contractors, and anyone with whom the District has a business relationship. The purpose of this Policy is to establish a common understanding of FWA, the methods and tools that the District has implemented to prevent these concerns, and the actions that should be taken if fraud, waste, or abuse is suspected of occurring.

SCOPE:

This Policy applies to all employees (permanent, limited, and temporary), (Board of Port Commissioners, Committee Members), volunteers, consultants, contractors, and any other persons or entities doing business with the District. This Policy applies to any suspected or actual FWA against the District or the public served by this organization.

ABOUT FRAUD, WASTE, AND ABUSE OF PUBLIC FUNDS OR ASSETS:

California Government Code Section 53087.6(f)(4) defines "fraud, waste or abuse" and "improper governmental activity" as "any activity by a local agency, employee, or contractor or subcontractor that may be in violation of any local, state, or federal law, ordinance, or regulation relating to corruption, malfeasance, bribery, theft of government property, fraudulent claims, fraud, coercion, conversion, malicious prosecution, misuse or misappropriation of government property, funds, or resources, or willful omission to perform a duty, is economically wasteful, or involves gross misconduct."

The Government Code Section 53087.6 also allows an auditor to maintain a hotline to receive calls from persons who have potential information regarding fraud, waste or abuse or improper government activity.

DEFINITIONS:

For the purpose of this Policy, the following terms have the following meanings.

Fraud: Fraud is defined as a dishonest and deliberate course of action that results in

obtaining money, property, or an advantage to which employees or officials committing the action would not normally be entitled. Fraud also encompasses intentional misleading or deceitful conduct that deprives the District of its resources or rights. There are three categories of fraud. They include 1) financial statement fraud, 2) misappropriation of assets, and 3) corruption.

Waste: Waste is defined as the needless, careless, or extravagant expenditure of District funds, incurring unnecessary expenses, or mismanagement of District resources or property. Waste does not necessarily involve private use or personal gain, but it almost always signifies poor management decisions, practices, or controls.

Abuse: Abuse is defined as intentional, wrongful, or improper use or destruction of District resources or improper practice that does not involve prosecutable fraud. Abuse can include the excessive or improper use of an employee or official's position in a manner other than its rightful or legal use.

Improper Government Activity: Improper Government Activity means any activity or act by an executive manager, director, department, officer (elected or appointed, or employee relating to the performance of official District business, duties, and responsibilities. These include (1) gross mismanagement, (2) significant waste of public funds, (3) abuse of authority, or (4) substantial and specific dangers to public health and safety.

Gross Mismanagement: This is defined as the failure to exercise even a substandard level of performance relating to the management of projects, programs, activities, functions, services, and responsibilities.

Significant Waste of Public Funds: This is defined as an unnecessary expenditure of a substantial amount or a series of unnecessary expenditures of smaller amounts.

Abuse of Authority: This is defined as the willful exercise of authority for improper or wrongful purposes.

Substantial and Specific Danger to Public Health and Safety: This is defined as a risk of serious injury, illness, peril, or loss, to which the exposure of the public is a gross deviation from the standard of care or competence that a reasonable person would observe in the same situation.

EXAMPLES OF FRAUD, WASTE, AND ABUSE:

- Misappropriation of funds: Includes theft of cash or funds, personal purchases using District resources, falsifying travel expense reports, misuse of expense cards, false invoicing, payroll falsification, creating unnecessary overtime, and forgery or unauthorized alteration of documents.
- Misappropriation of property: Theft or removal of District equipment, inventory, or supplies; using District equipment for personal use; using one's position to gain advantage with a vendor; and inappropriate use of District furniture, fixtures, and equipment.

- Misappropriation of insurance proceeds: Filing false claims for workers' compensation, accidents, or other insurance claims.
- Corruption and bribery: Overcharging for goods or services, receiving secret commissions (kickbacks), accepting gifts or services as an inducement for contracts, and collusive bidding, not in compliance with relevant District Policies.
- Knowingly making misleading statements: False accounting, deliberate misstatement of accounting information.
- Gross misconduct: Deliberate wrongdoing, disclosing confidential information, and destruction of records that undermines trust with the District as it pertains to Fraud, Waste, and Abuse.
- Willful omission or concealment: Intentional omission or misrepresentation of material facts critical to the District's operations.
- Conflict of interest: Engaging in transactions where personal relationships improperly influence decisions, like awarding contracts to relatives.
- Money laundering: Using legitimate operations to conceal the origins of illegally obtained money.
- Unauthorized use of information: Using confidential data for personal gain or unauthorized purposes, including identity theft and intellectual property theft.
- Falsification of records: Tampering with financial statements or official documents to manipulate data for personal or organizational benefit.
- Overstatement or understatement of inventory: Deliberately misreporting inventory levels to deceive stakeholders or alter financial outcomes.
- Ghost employees: Creating fictitious employees or keeping former employees on payroll to funnel wages into fraudulent accounts.
- Expense reimbursement fraud: Submitting false or exaggerated claims for reimbursement, such as for mileage or business-related expenses.
- Inefficient use of resources (Waste): Using District resources or funds inefficiently, such as through unnecessary purchases or excessive use of services.
- Time abuse (Abuse): Abusing work hours, excessive personal time on the clock, or misusing time-off policies for non-work activities.

FRAUD, WASTE, AND ABUSE HOTLINE:

The District's FWA Hotline is a confidential resource for reporting fraud, waste, or abuse, or improper governmental activities. The hotline aims to prevent the loss of District resources and deter fraudulent or abusive behavior. All submissions are handled confidentially and can be made via phone, email, or U.S. mail.

Reports related to personnel issues or personnel policy violations must be submitted to the People Services Department for investigation. Any matter received by this office related to personnel issues or personnel policy violations will be referred to the People Services Department.

REPORTING PROCEDURES:

Internal Reporting: Any District employee who has knowledge of an occurrence of FWA or has reason to suspect that a similar impropriety has occurred may immediately report the circumstances using the standard chain of command, beginning with the immediate

supervisor. However, if an employee does not feel comfortable reporting possible fraudulent conduct through the chain of command, then they may report suspected misconduct directly to any of the following:

- Fraud, Waste, and Abuse Hotline (888) 203-8330
- www.ethicspoint.com and click on "File a Report"
- Port Auditor, Office of the Port Auditor, via email
- Director, People Services, via email
- General Counsel/Ethics Officer, Office of the General Counsel, via email

External and Anonymous Reporting: Any citizen who has knowledge of an occurrence of fraudulent activity by District Commissioners, officers, employees, vendors, customers, and others may report suspected misconduct directly to Customer Service by calling (619) 686-6200. In addition, suspected misconduct may be reported to the District's Fraud, Waste, and Abuse Hotline at (888) 203-8330, on the District's website at www.portofsandiego.org, or to www.ethicspoint.com and click on "File a Report."

DATA PROTECTION AND PRIVACY:

The District recognizes that confidentiality is vital to all parties involved in an investigation. Confidentiality will be maintained to the fullest extent provided by law and consistent with the California Public Records Act.

The District has implemented strict data protection measures to ensure the secure handling and storage of all FWA reports and related investigation materials. All electronic or physical data will be managed with the highest level of confidentiality, consistent with the District's policies and best practices for data protection.

To protect the identity and privacy of whistleblowers, witnesses, and individuals accused of misconduct, the District will ensure that all FWA reports are handled with discretion. Confidentiality will be maintained throughout the investigation to prevent unnecessary disclosure of sensitive information.

The District will ensure that its data protection practices align with the California Public Records Act and other relevant state and federal privacy laws, ensuring that the personal information of all involved parties is treated with respect and kept confidential unless disclosure is required by law.

WHISTLEBLOWER PROTECTION:

The District strictly prohibits retaliation against any employee who reports FWA in good faith. Employees who believe they have been subject to retaliation for reporting or cooperating in an investigation of FWA must report the retaliation through the appropriate channels, including to their direct supervisor or the Director of People Services. Any retaliation will be investigated and addressed promptly, and disciplinary action will be taken against those responsible for retaliatory behavior, including up to termination. In addition, those who bring matters to the District's FWA Hotline are protected through the State of California Whistleblower Protection Statute, California Labor Code Sections 1102.5 and

1106, as well as potentially the District's personnel Rules and policies.

INVESTIGATION PROCESS:

The District is committed to investigating all complaints of FWA in a thorough and impartial manner. When necessary, an external investigator may be engaged to conduct the inquiry. The District or appointed investigator will promptly assess whether reported misconduct occurred and if it violates this or any other policy. Throughout the investigation, strict confidentiality will be maintained in accordance with policy. All parties involved—including the complainant, accused, and interviewees—will be reminded of the confidentiality clause and the organization's zero-tolerance stance on retaliation. A detailed record of the investigation will be kept in accordance with the District's document retention policy, and upon completion, the complainant and accused will receive notification as appropriate.

Responsibilities and Investigative Roles

Office of the Port Auditor - Port Auditor

- Responsibility: The Port Auditor is responsible for investigating all reports of FWA within the District. This includes investigating financial misappropriations, theft of assets, improper use of District resources, and any activities that lead to economic waste or abuse of authority. The Port Auditor also manages the Fraud, Waste, and Abuse Hotline and ensures that all investigations are conducted confidentially, and the findings are reported to the appropriate parties. Examples include investigating fraudulent invoicing, misusing expense cards, or stealing District property.
- If the Port Auditor receives a hotline report that does not involve FWA (e.g., ethical or personnel-related complaints), the Port Auditor will promptly refer the matter to the appropriate department for investigation. This may involve forwarding ethical complaints to the General Counsel or personnel-related issues to the People Services Department. The Port Auditor will continue to follow up with the department handling the investigation to ensure it is completed and any necessary actions are taken.
- Quarterly Reporting: The Port Auditor will report quarterly on all FWA reports and their investigation status to the Audit Oversight Committee and the Board of Port Commissioners. This report will include all cases received via the Office of the Port Auditor or the FWA Hotline, ensuring transparency and accountability in addressing all concerns raised.

Office of the General Counsel - Ethics Officer

- Responsibility: The Office of General Counsel handles all investigations related to ethical violations, including potential violations of federal and State laws, as well as the District's Ethics Ordinance. This includes breaches of ethical standards, conflicts of interest, and violations of District policies that do not necessarily fall under fraud or personnel issues. Examples include investigating a conflict of interest where an employee may have an undisclosed financial relationship with a

District vendor.

People Services Department – Director

- **Responsibility:** The People Services Department is responsible for investigating personnel violations, which include violations of employee conduct, harassment, discrimination, and other workplace behavioral concerns. They ensure that personnel-related issues are addressed in accordance with District rules and regulations, policies, state and federal laws, and employment regulations. Examples include investigating allegations of workplace harassment, inappropriate conduct, or violations of leave policies. The People Services Department is also responsible for coordinating with third-party investigators if external expertise is required to investigate.

PERIODIC AUDITS AND MONITORING:

To ensure ongoing compliance with the FWA Prevention Policy, the Office of the Port Auditor is committed to implementing a system of periodic audits and continuous monitoring. These measures aim to identify potential issues early and to maintain the integrity of the District's operations.

Internal Audits: The Office of the Port Auditor will conduct regular internal audits as part of its proactive approach to preventing FWA. These audits will include reviews of financial transactions, operational procedures, and adherence to rules and policies. The scope and frequency of audits will be determined based on risk assessments, ensuring that high-risk areas receive appropriate scrutiny. In addition to scheduled audits, targeted reviews may be conducted in response to specific concerns or whistleblower reports. These audits will address any identified vulnerabilities or inefficiencies in the system.

Monitoring Systems: The District utilizes an automated monitoring system to support further FWA prevention efforts to detect anomalies and irregularities. This system tracks financial transactions to flag potential misconduct.

- **Data Analytics:** The District employs data analytics to identify patterns indicative of fraud or waste, such as unusual spending behaviors, duplicate payments, or inconsistent reporting.
- **Continuous Improvement:** Results from periodic audits and monitoring activities will be used to improve internal controls and safeguard District resources. Recommendations for corrective actions will be made, and follow-up reviews will be conducted to ensure compliance.

Oversight and Accountability: The Executive Leadership Group and relevant departments will review findings from these audits and monitoring efforts and take appropriate action as needed. The Office of the Port Auditor will also report to the Board of Port Commissioners, ensuring transparency and accountability in the management of District assets.

OUTCOME AND CONSEQUENCES:

Any officer or employee found responsible for FWA or similar improprieties in violation of this policy shall be subject to appropriate disciplinary action, up to and including termination. In addition, employees or officers who knowingly make false allegations will be subject to disciplinary measures, up to and including termination. The severity of the disciplinary action will depend on the specific circumstances of the violation. The District will also implement any necessary remedial actions to address and correct the circumstances and prevent future occurrences. These measures may include but are not limited to disciplinary action, personnel reorganization, training and education, counseling, termination, or other employee support programs.

In cases of Commissioner misconduct, actions will be governed by the rules and regulations of their respective jurisdictions as well as applicable state and federal laws, including but not limited to the Political Reform Act, Government Code Section 1090, the Brown Act, and common law provisions.

TRAINING:

All employees will receive regular training in identifying and reporting FWA as part of the organization's commitment to ethical conduct. Awareness campaigns will be conducted to ensure that all stakeholders are informed of their responsibilities under this procedure.

CONCLUSION:

This procedure establishes the organization's commitment to maintaining an environment that prevents and addresses fraud, waste, and abuse. Through effective reporting mechanisms, investigation processes, and employee training, the organization strives to protect its resources and uphold ethical standards.

This procedure will be reviewed and updated regularly to ensure it aligns with current legal standards and organizational needs.

The policy and any related procedures shall be distributed to all Employees. Additional copies will also be available from the District's Intranet (<http://posd.sharepoint.com/sites/HomePort>).

RESOLUTION NUMBER AND DATE: 2021-117, dated October 12, 2021 (Supersedes BPC Policy No. 630, Resolution 2010-124, dated August 3, 2010; Resolution 2008-117, dated July 1, 2008; Resolution 2006-113, dated July 11, 2006)