



THE CITY OF SAN DIEGO

Office of the City Auditor

Fraud Hotline Procedures Manual

Fraud Hotline Number

(866) 809-3500

Updated July 20, 2009



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| OFFICE OF THE CITY AUDITOR <i>Fraud Hotline Policies and Procedures Manual</i> | Effective Date July 20, 2009 | Page 2 of 34 |
|--|---------------------------------|-----------------|

Table of Contents

| | |
|--|----|
| Preface | 3 |
| I. Overview of the Fraud Hotline and Complaint Program | 4 |
| a. Introduction | 4 |
| b. Terms & Definitions | 6 |
| II. Processing of Fraud Hotline Complaints | 9 |
| a. Fraud Related Complaints | 10 |
| b. Non-Fraud Related Complaints | 12 |
| III. Processing of All Other Employee Complaints | 15 |
| IV. Dissemination and Escalation Teams | 16 |
| a. Dissemination Team | 16 |
| b. Escalation Team | 16 |
| c. Standard Incident Report Dissemination | 16 |
| d. Escalation | 16 |
| e. Process | 17 |
| V. Processing of Citizen Complaints | 18 |
| VI. Security for Complaints and Associated Reports, Working Papers and Other Document | 19 |
| a. Policy | 19 |
| b. Confidentiality | 19 |
| c. Custodian of Complaint Documents | 21 |
| VII. Requests for Information Regarding All Complaints | 21 |
| VIII. Referral of Employee Complaints | 22 |
| a. Policy | 22 |
| b. Methodology for Referral of Complaints | 22 |
| c. Criteria | 22 |
| d. Filing of Malicious Complaints | 23 |
| IX. Sample Transmittal Memos and Reports | 24 |

| | | |
|---|--|--------------------------|
| <p style="text-align: center;">OFFICE OF THE CITY AUDITOR <i>Fraud Hotline Policies and Procedures Manual</i></p> | <p>Effective Date July 20, 2009</p> | <p>Page 3 of 34</p> |
|---|--|--------------------------|

Preface

The purpose of the manual is to outline the City Auditor's policies and procedures for handling hotline calls and complaints. The manual is also designed to assist in maintaining and improving the quality and accountability of the services provided by the City of San Diego. This manual will also assist Department Directors or their designee, Agencies, and anyone involved in the Fraud Hotline or citizen complaint investigations to ensure they understand their responsibilities. The manual is intended to help provide a consistent approach for all parties involved in the management and conduct of Fraud Hotline or citizen complaint investigations.

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| <p style="text-align: center;">OFFICE OF THE CITY AUDITOR <i>Fraud Hotline Policies and Procedures Manual</i></p> | <p>Effective Date July 20, 2009</p> | <p>Page 4 of 34</p> |
|---|--|--------------------------|

I. Overview of the Fraud Hotline and Complaint Program

INTRODUCTION

History

In an investigative report authored by Vinson & Elkins L.L.P. (V&E Report) dated September 16, 2004, and adopted by San Diego City Council as San Diego Municipal Code §26.1703(c) in October 2004, recommendations were made to “establish procedures to receive and respond to any complaints or concerns regarding accounting, internal controls or auditing matters, including procedures for the confidential and anonymous submission by employees of any such complaints or concerns.”

The Auditor and Comptroller’s Office implemented the Fraud Hotline (866-809-3500) on December 2, 2005, in response to San Diego Municipal Code §26.1703(c).

Upon the transition to the Strong Mayor form of Government on January 1, 2006, the Mayor’s Office of Ethics and Integrity was created and a third-party provider administered the Fraud Hotline. The Hotline was transferred to the Office of the City Auditor, effective July 1, 2008.

Objective

The primary objective of the Fraud Hotline is to provide a means for City of San Diego employees and citizens 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 (e.g., laws prohibiting discrimination or whistleblower laws).

Structure

With respect to the Fraud Hotline, an independent third-party provider that the City has contracted with receives calls from City employees and the public, providing complete confidentiality. The caller can choose to remain anonymous. The third-party provider issues reports for each call and submits the reports to City Auditor for review and referral as described below.

Employees and citizens may also contact the Office of the City Auditor directly via email (cityauditor@sandiego.gov) or by phone (619-533-3165). These communications are also treated confidentially.

Reporting

On a quarterly basis, the City Auditor shall provide a summary report to the Audit Committee of complaints received by the Hotline (“Quarterly Report”). Each Quarterly Report shall be promptly posted on the website of the City Auditor after it is released to the Audit Committee. The form and content of the Quarterly Report shall be at the

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|---|--|--------------------------|
| <p style="text-align: center;">OFFICE OF THE CITY AUDITOR <i>Fraud Hotline Policies and Procedures Manual</i></p> | <p>Effective Date July 20, 2009</p> | <p>Page 5 of 34</p> |
|---|--|--------------------------|

discretion of the City Auditor, but shall generally include the following: (i) the number of calls made to the Hotline, (ii) the general type of complaints received, (iii) the fraud, waste and abuse complaints investigated by the City Auditor; (iv) public disclosure of the summary reports of the City Auditor investigations that are substantiated and, if appropriate the corrective actions taken; (v) a brief summary of the general nature of all the investigations undertaken by the City Auditor; (vi) and a general categorization of complaints received as fraud or non-fraud related. The information provided in the Quarterly Reports shall be subject to the confidentiality requirements of this Manual including the provisions set forth at Section VI herein entitled "Confidentiality of Hotline Complaints."

The Audit Committee shall place each Quarterly Report on the next convenient meeting agenda for a review and discussion. In addition, the Audit Committee shall provide a copy of each Quarterly Report in the Audit Committee meeting materials which shall be available to the public. At the Audit Committee meeting designated for the review of each Quarterly Report, the City Auditor shall make a presentation to the Audit Committee of the information in the Quarterly Report. See Section II.7 for the reporting of substantiated cases of fraud, waste or abuse.

| | | |
|--|---------------------------------|-----------------|
| OFFICE OF THE CITY AUDITOR <i>Fraud Hotline Policies and Procedures Manual</i> | Effective Date July 20, 2009 | Page 6 of 34 |
|--|---------------------------------|-----------------|

TERMS & DEFINITIONS

| Term | Definition | Examples |
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| Fraud | Any intentional act or omission designed to deceive others that results in the victim (City of San Diego) suffering a loss of money, property or other disadvantage to the City's resources or rights and/or the perpetrator achieves a gain of money, property or an advantage to which the employee would not normally be entitled. | <ul style="list-style-type: none"> • Falsifying financial records to conceal the theft of money or City property. • Theft or misuse of City of San Diego money, equipment, supplies and/or other materials. • Intentionally misrepresenting the costs of good and services provided. • Soliciting or accepting a bribe or kickback. • Falsifying payroll information. |
| Waste | The intentional or unintentional, thoughtless, reckless or careless expenditure, consumption, mismanagement, use, or squandering of City resources. Waste also includes incurring unnecessary costs because of inefficient or ineffective practices, systems, or controls. | <ul style="list-style-type: none"> • Unnecessary spending of City funds to purchase supplies or equipment. • Failure to reuse or recycle major resources or reduce waste generation. |
| Abuse | Intentional destruction, diversion, manipulation, misapplication, maltreatment, or misuse of City resources. Extravagant or excessive use as to abuse one's position or authority. Abuse can occur when someone benefits in a financial manner and also when someone does not benefit financially. | <ul style="list-style-type: none"> • Failure to report damage to City equipment or property. • Receiving favor for awarding contacts to certain vendors. • Using one's position in one City department to gain an advantage over another City resident when conducting personal business in another City department. • Creating unneeded overtime. • Requesting staff to perform personal errands or work tasks by a supervisor or manager |

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|--|---------------------------------|-----------------|
| OFFICE OF THE CITY AUDITOR <i>Fraud Hotline Policies and Procedures Manual</i> | Effective Date July 20, 2009 | Page 7 of 34 |
|--|---------------------------------|-----------------|

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| Abuse (Continued) | Intentional destruction, diversion, manipulation, misapplication, maltreatment, or misuse of City resources. Extravagant or excessive use as to abuse one's position or authority. Abuse can occur in financial or non-financial settings. | <ul style="list-style-type: none"> • Misusing the official's position for personal gain.¹ • Travel choices that are contrary to existing travel policies or are unnecessarily extravagant or expensive. • Making procurement or vendor selections that are contrary to existing policies or are unnecessarily extravagant or expensive. |
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Hotline Intake and Review Committee

The Hotline Intake and Review Committee is composed of the following members or their designees (1) the City Auditor, (2) the Personnel Director, and (3) the Labor Relations Director. This committee generally meets bi-weekly to review all complaints pertaining to employee relations, discrimination, harassment, and personnel related complaints which have been made to the Office of the City Auditor either through the Fraud Hotline or by any other means. The Hotline Intake and Review Committee is not informed of complaints that are referred to the Ethics Commission or complaints related to fraud, waste, or abuse that are investigated by the Office of the City Auditor.

Third-Party Provider

The City contracts with an independent third party company (The Network, Inc.), to provide offsite hotline coverage 24/7/365 and live interviewers who ask probative questions to assist them in obtaining the information deemed necessary to verify and process the complaints. This information is then transcribed into an Incident Report. English and Spanish speaking Interview Specialists are available at The Network. Interview Specialists utilize translators to enable them to conduct live interviews in more than 150 languages.

Incident Report

The case management system converts the information received through the interview process into an organized report called an Incident Report. These reports are disseminated to the City Auditor's designated recipients. Complaints that are made

¹ Includes actions or omissions that could be perceived by an objective third party with knowledge of the relevant information as improperly benefiting an official's personal financial interests or those of an immediate or close family member; a general partner; an organization for which the official serves as an officer, director, trustee, or employee; or an organization with which the official is negotiating concerning future employment.

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|---|--|--------------------------|
| <p style="text-align: center;">OFFICE OF THE CITY AUDITOR <i>Fraud Hotline Policies and Procedures Manual</i></p> | <p>Effective Date July 20, 2009</p> | <p>Page 8 of 34</p> |
|---|--|--------------------------|

directly to the Office of the City Auditor by telephone or email are also recorded into the case management system as an Incident Report. The case management system maintains a record of all Incident Reports it is periodically updated with the status of the investigation (See Section IV – Dissemination and Escalation Teams for further details).

Case Management System

The Network’s online tool to facilitate a thorough interview that adapts to the issues identified in each call, and to the monitoring of investigations. It allows the City Auditor’s Office to document all activities in a single, centralized system that is maintained electronically.

Response

A reply or an answer from the designated division or department head is requested within ten business days that addresses the following:

- A description of an *immediate* plan to address the complaint/concern;
- Description of a plan to *prevent* the issue/concern from happening again, if warranted; and
- Description of the resolution of the issue/concern.

Audit Committee

The Audit Committee is comprised of two members of the City Council and three public members with expertise in accounting, auditing and financial reporting.

The purpose of the Audit Committee is:

- To ensure objective oversight of the City’s financial reporting process;
- To monitor the performance of the Office of the City Auditor; and
- To retain the independent auditor, who will report to and take direction from, the audit committee.

Citizens’ Review Board of Police Practices

The Citizens’ Review Board of Police Practices:

- Reviews and evaluates serious complaints brought by the public against officers of the Police Department of the City of San Diego;
- Reviews all officer involved shootings and in-custody deaths; and
- Reviews and evaluates the administration of discipline arising from sustained complaints.

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|---|--|--------------------------|
| <p style="text-align: center;">OFFICE OF THE CITY AUDITOR <i>Fraud Hotline Policies and Procedures Manual</i></p> | <p>Effective Date July 20, 2009</p> | <p>Page 9 of 34</p> |
|---|--|--------------------------|

II. Processing of Fraud Hotline Complaints

1. A third-party provider receives and record all hotline calls through a designated toll free number (866-809-3500) published to City employees. Information from such calls is recorded on an "Incident Report."
2. Upon completion of a complainant's call, the independent third-party provider immediately sends an Incident Report to the City's designated dissemination team, comprised of (1) the City Auditor, (2) the City Audit Manager, and (3) City Audit Analyst via e-mail.
 - The Audit Committee Chairperson will receive email notification of any significant complaints involving the City's Senior Management, allegations of improper financial activity, and fraud, waste, and/or abuse within ten business days from when the City Auditor receives the complaint. Senior Management is defined as the
 - Chief Operating Officer,
 - Chief Financial Officer,
 - Deputy Chief Operating Officer for City Planning and Development,
 - Deputy Chief Operating Officer for Community Services,
 - Deputy Chief Operating Officer for Public Works,
 - Deputy Chief Operating Officer for Community and Legislative Services, and
 - Deputy Chief Operating Officer for Public Safety.
 - The Audit Committee will receive all hotline complaints related to the City Auditor.
 - The City Auditor will refer **all** complaints involving elected officials and their staff persons to the Ethics Commission. Further, the City Auditor will also refer certain types of complaints involving unclassified employees to the Ethics Commission. The Ethics Commission is the responsible agency for investigating all allegations involving 1) improper loans to executives; 2) unauthorized discounts; 3) kickbacks; 4) insider trading; 5) conflicts of interest; 6) theft of time (if the person earns money from outside sources while on City time); and 7) theft of goods and services (personal gain).
 - The Ethics Commission Director will review the referred reports to determine if there exist factual allegations suggesting a violation of any governmental ethics laws. Nothing contained in these policies and procedures shall preclude the Ethics Commission from exercising its statutory investigatory and/or enforcement authority

| | | |
|---|--|---------------------------|
| <p style="text-align: center;">OFFICE OF THE CITY AUDITOR <i>Fraud Hotline Policies and Procedures Manual</i></p> | <p>Effective Date July 20, 2009</p> | <p>Page 10 of 34</p> |
|---|--|---------------------------|

as set forth in the Election Campaign Control Ordinance, the Ethics Ordinance, the Municipal Lobbying Ordinance and such other applicable policies and procedures if such allegations are contained in an Incident Report.

3. At the time of the call, in the instance where the complainant has identified him/herself, the third-party provider shall ask whether the City Auditor may share his/her identity with persons outside of the Office of the City Auditor. The City Auditor Analyst contacts the complainant to verify his/her identity may be shared. Identities of complainants will not be shared outside of City Auditor without such permission.
4. In order to process a complaint/concern, the following information is required to begin and continue processing a complaint/concern:
 - The alleged misconduct involves a City of San Diego employee, a contractor or a vendor doing business with the City of San Diego.
 - Name of the individuals involved.
 - Specific information regarding the alleged misconduct.
 - Circumstances surrounding how the alleged misconduct occurred.
 - Where the alleged misconduct occurred.
 - When the alleged misconduct occurred.

Fraud Related Complaints:

5. The Office of the City Auditor will perform an investigation generally following the procedures recommended by the Association of Certified Fraud Examiners for any allegations of improper financial activity and fraud, waste and/or abuse that appear to be material in nature. The scope of the investigation will be to determine if the accusations made are valid and to determine if there is any potential internal control weaknesses that need to be corrected that allowed fraud, waste and/or abuse to occur.
6. For each fraud related allegation that is determined in its discretion to be significant, preliminary evidence will be gathered such as reviewing the information provided via the hotline, reviewing other pertinent records and interviewing appropriate witnesses to assess if the allegation appears to be valid. The City Auditor will notify and consult with the Police Department and City Attorney for any circumstances that appear to involve criminal activity. Investigative procedures will continue for each significant allegation until in its sole discretion based on the facts and circumstances at the time a reasonable case can be made for a referral to an appropriate agency for prosecution or it is determined in its sole discretion that there is insufficient evidence of fraud. Investigative procedures will generally include but are not limited to:
 - Documenting the allegation in writing;

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|---|--|---------------------------|
| <p style="text-align: center;">OFFICE OF THE CITY AUDITOR <i>Fraud Hotline Policies and Procedures Manual</i></p> | <p>Effective Date July 20, 2009</p> | <p>Page 11 of 34</p> |
|---|--|---------------------------|

- Interviewing potential witnesses and documenting the information gathered;
 - Identifying all possible facts or circumstances or indicators of fraud related to the allegation;
 - Notifying and consulting with the Police Department and City Attorney's Office as appropriate;
 - Developing an investigative plan and determining the type of evidence to pursue; and
 - Gathering evidence and performing analysis as is appropriate, such as:
 - Reviewing accounting records, payroll records, bank records, canceled checks, credit card records, etc.
 - Downloading and analyzing electronic data
 - Reviewing emails and written correspondences
 - Imaging computer hard drives and reviewing the files and activities
7. When an investigation by the City Auditor substantiates that fraud, waste or abuse has occurred in its opinion, a hotline report will be issued to the appropriate City management staff member(s), to the Mayor, City Councilmembers, and Audit Committee members. A hotline report will also be posted on the City Auditor's public website subject to the redaction of any confidential information, if any. The City Auditor will maintain the appropriate level of confidentiality regarding all complaints and in the information provided. Any hotline investigative report issued to the public will not include any details of confidential information that cannot be disclosed under applicable laws such as personnel issues. In accordance with Govt Code Section 53087.6, the identities of the caller and the individuals involved will not be disclosed publically.
8. For any material internal control weaknesses that are identified and substantiated or appear to be substantiated during the investigation of hotline complaints, an audit will be performed. The audit will be performed in compliance with Generally Accepted Government Auditing Standards to determine the extent of the internal control weaknesses identified and to issue an audit report with appropriate recommendations to correct the deficiencies found. The Fieldwork Standards, Audit Planning, and Reporting of Audit Results described in Sections 4 through 7 of the City Auditor's Audit Manual will be followed for all audits of internal controls resulting from Hotline referrals. All internal control weaknesses that are substantiated during the

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|---|--|---------------------------|
| <p style="text-align: center;">OFFICE OF THE CITY AUDITOR <i>Fraud Hotline Policies and Procedures Manual</i></p> | <p>Effective Date July 20, 2009</p> | <p>Page 12 of 34</p> |
|---|--|---------------------------|

investigation of hotline complaints that are not material in nature, and do not warrant an audit, will be addressed in a hotline report to management. The hotline report will include recommendations to management to correct these internal control weaknesses identified.

Non-Fraud Related Complaints:

9. Any non-fraud, waste, or abuse related complaints made to the Fraud Hotline will be reviewed by the City Auditor's Hotline Intake and Review Committee. This committee is composed of the following members or their designees (1) the City Auditor (2) the Personnel Director, and (3) Labor Relations Director. This committee generally meets biweekly, and will review all complaints pertaining to employee relations, discrimination, harassment, and personnel related complaints. The committee will review the complaint and determine whether it meets the criteria for further investigation. If the complaint meets the criteria (See Section VIII), the Committee shall determine the appropriate City department for referral for investigation and resolution. The Hotline Intake and Review Committee **will not** review complaints that are referred to the Ethics Commission or material complaints related to fraud, waste, or abuse.
 - In most cases, it is anticipated that non-fraud related complaints will be referred to Departments for further review and investigation. The City Auditor will send the affected Department Director a memorandum notifying him or her of the filing of the complaint and requesting a response and advising of the process for resolving the complaint, if necessary.
10. At the discretion of the City Auditor or his/her designee, and based on the facts and circumstances of the complaint, the complaint may be referred to the appropriate department for action prior to the Intake and Review Committee meeting.
11. If a complaint is received by City Auditor which contains allegations of misconduct or wrongdoing involving a member of the Intake and Review Committee, the member shall be informed a complaint has been filed. That member shall immediately recuse him/herself from the review of such complaint.
12. As follow-up, the City Auditor or his/her designee may determine that the City Audit Analyst may need to obtain clarification or additional information from the complainant regarding the complaint/allegation.
13. The City Audit Analyst prepares and forwards a memorandum to the appropriate Department head, along with the attached Incident Report within two business days of the Committee's review. The memorandum advises of the filing of the complaint, requests an initial response within 10 business days of how the Department head intends to proceed, and

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|---|--|---------------------------|
| <p style="text-align: center;">OFFICE OF THE CITY AUDITOR <i>Fraud Hotline Policies and Procedures Manual</i></p> | <p>Effective Date July 20, 2009</p> | <p>Page 13 of 34</p> |
|---|--|---------------------------|

advises of the process to secure additional information concerning the complaint, if necessary. However, the City Auditor will grant extensions on a case-by case basis. A copy of the memorandum shall also be sent to the Chief Operating Officer, Personnel Director or Deputy Chief as determined appropriate by the City Auditor. The memorandum also advises the Department head that the complaint is required to be fully investigated and that completed written reports reflecting the results or conclusions of the investigation by the Department shall be timely.

14. If the subject of the complaint is a supervisor/manager at any level, the complaint will be forwarded to and should be resolved by the next level of supervisor/manager. The subject of the complaint is precluded from having any involvement in the response.
15. Complaints alleging criminal activity (e.g. theft) will be forwarded to the San Diego Police Department for investigation as soon as possible after receipt of the complaint. Complaints against sworn officers will be forwarded to the **Citizens Review Board of Police Practices**.
16. If a non-fraud related complaint involves a Department head, it is forwarded to the appropriate Deputy Chief for investigation and review.
17. Department Directors and any other personnel involved in the investigation of a non-fraud related complaint shall not share the substance of a complaint with anyone except those individuals who are directly involved in and are essential to conducting the investigation. Any personnel provided with this information are required to hold and maintain all information obtained as confidential.
18. If it is deemed necessary by the Department/Division head for investigative purposes, to disclose the nature of the allegation(s) to the target, such a disclosure may be made by providing only a summary of the allegation(s). However, care should be taken to provide no information that would compromise the complainant's or any witness' identity or otherwise violate applicable confidentiality restrictions. Sharing an allegation(s) of non-compliance outside of the City Auditor Intake process may be a violation of the policies and procedures of the City and may constitute cause for an ethics complaint and/or for a legal claim of defamation, slander, invasion of privacy or other possible legal claims.
19. Any breaches of confidentiality may result in disciplinary action.
20. The City Audit Analyst ensures, through monitoring and reminders to the affected Department head, that timely investigative and resolution activities are undertaken in response to complaints received through the hotline. The City Auditor generally requires a response within 10 days of receiving the memo. However, the City Auditor will grant extensions on a case-by case basis.
21. The City Auditor or his/her designee in conjunction with the Intake and

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|---|--|---------------------------|
| <p style="text-align: center;">OFFICE OF THE CITY AUDITOR <i>Fraud Hotline Policies and Procedures Manual</i></p> | <p>Effective Date July 20, 2009</p> | <p>Page 14 of 34</p> |
|---|--|---------------------------|

Review Committee will review the response submitted by the Division or Department head at biweekly meetings to determine if the allegation(s) raised in the complaint have been adequately addressed in the response. Upon such a determination, a memo from the City Auditor to the Division or Department head will thereafter be provided, indicating closure of the matter.

22. However, if the response is reasonably determined to inadequately address the allegation(s) raised in the complaint, the Division or Department head, appropriate Deputy Chief and the Chief Operating Officer will be notified. The Division or Department head will be provided an opportunity to provide further clarification of the response and/or to further acquire additional information or to perform other actions as deemed necessary.
23. In the instance where a complainant has identified himself or herself, the complainant will be notified of the City Auditor action on or referral of the complaint. The complainant may be advised that, in the instance of a referral, the City Auditor may not be able to provide the complainant further information regarding the outcome of his/her complaint.

| | | |
|---|--|---------------------------|
| <p style="text-align: center;">OFFICE OF THE CITY AUDITOR <i>Fraud Hotline Policies and Procedures Manual</i></p> | <p>Effective Date July 20, 2009</p> | <p>Page 15 of 34</p> |
|---|--|---------------------------|

III. Processing of All Other Employee Complaints

1. The City Auditor receives complaints by means other than through the Fraud Hotline (e.g. e-mail, telephone, letter, etc.). Complainants may remain anonymous.
2. If the complaint is provided orally either in person or by telephone, the City Audit Analyst logs, in writing, the factual allegation(s) of the complaint and attempts to obtain adequate information to facilitate an effective review.
3. The City Audit Analyst logs the complaint and places a time/date stamp on all such complaints received.
4. The City Audit Analyst enters the employee complaint into the third-party provider case management system as soon as possible.
5. Once entered into the case management system, the complaint is processed according to procedures as set forth in Section II.

| | | |
|---|--|---------------------------|
| <p style="text-align: center;">OFFICE OF THE CITY AUDITOR <i>Fraud Hotline Policies and Procedures Manual</i></p> | <p>Effective Date July 20, 2009</p> | <p>Page 16 of 34</p> |
|---|--|---------------------------|

IV. Dissemination and Escalation Teams

Dissemination Team

Upon completion of the complaint call, the third-party provider sends Incident Reports to the City's designated dissemination team. The team consists of the following: (1) the City Auditor, (2) the City Audit Manager, and (3) the City Audit Analyst via e-mail.

The Audit Committee Chairperson will receive email notification of all significant complaints involving the City's Senior Management, allegations of improper financial activity, and fraud, waste, and/or abuse within ten business days from when the City Auditor receives the complaint.

Escalation Team

When a report is received that is designated for escalation as summarized below under "Escalation" (such as reports of high risk/threat situations requiring immediate notice), the third-party provider shall call the appropriate designated agency representatives immediately. The City has designated the City Auditor for financial emergencies, the Personnel Director for personnel related matters, and the Labor Relations Manager for workplace violence. The notified representative will contact the City Auditor of the call and respond as detailed in Section II.

Standard Incident Report Dissemination

Incident Reports are required to be disseminated by the third-party provider within two hours via email to the dissemination team members.

Escalation

If one of the following Incident Types is assigned to an Incident Report, and if it is determined the incident is likely to happen again within 24 hours, then escalation is automatically triggered.

| | | |
|--|---------------------------------|------------------|
| OFFICE OF THE CITY AUDITOR <i>Fraud Hotline Policies and Procedures Manual</i> | Effective Date July 20, 2009 | Page 17 of 34 |
|--|---------------------------------|------------------|

| Escalation Team Member | Department | Type of Complaint |
|---|-----------------------------------|--|
| Eduardo Luna (If unavailable, contact Kyle Elser) | City Auditor Audit Manager | Kickbacks Falsification of Organization Records Fraud Fraudulent Insurance Claims Release of Proprietary Information Theft of Goods/Services Theft of Cash |
| Scott Chadwick | Labor Relations | Workplace Violence/Threats Substance Abuse |
| Hadi Dehghani | Personnel | Retaliation of Whistleblowers |

Process

The third-party provider shall immediately call [and leave a message if other party not reached] the appropriate designated escalation team representative if an Incident Report meets both of the following criteria:

- 1. Threat of or actual harm to employees, customers, or operations**
- 2. Any significant incident projected to reoccur within 24 hours**

All such reports are checked by the third-party provider's Quality Assurance Team prior to contacting the designated persons on the City's Escalation Team.

If the City Auditor believes that any communication, received by his office, constitutes a threat to any individual, organization, or to the public, he/she shall immediately notify by telephone and email the appropriate escalation team member and any other individual(s) as is deemed appropriate.

| | | |
|---|--|---------------------------|
| <p style="text-align: center;">OFFICE OF THE CITY AUDITOR <i>Fraud Hotline Policies and Procedures Manual</i></p> | <p>Effective Date July 20, 2009</p> | <p>Page 18 of 34</p> |
|---|--|---------------------------|

V. Processing of Citizen Complaints

1. The City Auditor receives complaints of waste, fraud and abuse from citizens through a variety of means, including e-mail, telephone, letter, etc.
2. If the complaint is provided orally either in person or by telephone, the City Audit Analyst shall record, the factual allegation(s) about the complaint and attempts to obtain adequate information to facilitate an effective review.
3. The City Audit Analyst logs the complaint and places a time/date stamp on all such complaints received.
4. The City Audit Analyst enters the complaint as soon as possible into the case management system, at which time a case number is assigned to facilitate a follow-up process. As follow-up, the City Audit Analyst may need to clarify or obtain additional information regarding the complaint/allegation(s).
5. Once assigned a case number, the complaint is processed according to procedures as set forth in Section II.
6. Employees, who are the subject of a complaint, shall be notified as set forth in the applicable Memorandum of Understanding to which they are a party. For example, Local 127 MOU states:

Employees will be notified of any citizen complaint or route slip in which they are identified by name or in which they can be identified by management from the information received. The City shall be obligated to provide the necessary information related to any citizen complaint and/or route slip to authenticate the complaint and forward such authentication to Local 127 within 10 days from when the City received such complaint and/or route slip. The City may redact the citizen's name from the complaint. If the complaint is resolved in the employee's favor, the complaint, together with all related documents, shall be removed immediately from the employee's personnel file(s), unless the employee requests in writing that the document be retained.

| | | |
|---|--|---------------------------|
| <p style="text-align: center;">OFFICE OF THE CITY AUDITOR <i>Fraud Hotline Policies and Procedures Manual</i></p> | <p>Effective Date July 20, 2009</p> | <p>Page 19 of 34</p> |
|---|--|---------------------------|

VI. Security for Complaints and Associated Reports, Working Papers, and Other Documents

Policy

- All complaints, associated reports, working papers, and other documents detailing employee and citizen complaints, which are received either through the Fraud Hotline, by mail, e-mail and those documents or notes of any oral conversations with City employees or citizens, shall remain confidential at all times.
- Such complaints, associated reports, working papers, and other documents shall **ONLY** be discussed with the City Auditor, City Audit Analyst, and other individuals as determined by the Intake and Review Committee for all complaints pertaining to employee relations, discrimination, harassment, and personnel related complaints.
- No copies are to be made of any complaints, associated reports or emails, working papers, and other documents, except for discussion in Intake and Review Committee meetings or when non-fraud related issues are forwarded to a Department head for investigation and resolution. At the conclusion of each Intake and Review Committee meeting all copies made for that purpose shall be destroyed and the original complaints, associated reports, working papers, and other documents shall be maintained in a secured manner by the City Audit Analyst.
- Incident Reports and associated case numbers shall **ONLY** be provided to individuals who are responsible and essential for conducting the investigation or reviewing of the complaint. These individuals are required to hold such information in strict confidence.
- The confidentiality of all complaints, associated reports, working papers, and other documents shall be maintained at all times by the City Auditor and investigating/reviewing departments, who shall take such measures as they determine are reasonable and necessary to maintain the confidentiality of such information and documents.
- Only the City Auditor or his/her designee, in conjunction with the Office of City Attorney is authorized to determine the distribution or release of any complaints, associated reports, working papers, other documents and correspondence associated thereto, in accordance with the California Records Request Act and applicable law.

Confidentiality

1. AB 2001. The confidentiality of Hotline complaints is protected by and subject to the requirements of a new California law which was effective on January 1, 2009 and is codified in California Government Code section 53087.6. ("AB 2001"). The pertinent provisions of AB 2001 are summarized in this section.

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|---|--|---------------------------|
| <p style="text-align: center;">OFFICE OF THE CITY AUDITOR <i>Fraud Hotline Policies and Procedures Manual</i></p> | <p>Effective Date July 20, 2009</p> | <p>Page 20 of 34</p> |
|---|--|---------------------------|

2. Initial Review and Investigative Audits. During the initial review of a hotline complaint, the City Auditor shall treat as confidential all information and documents disclosed or provided in connection with the complaint. All such Hotline complaint information and documents shall remain confidential except as specifically provided herein. The identity of the person providing information that initiated the investigation shall not be disclosed without the written consent of that person, unless the disclosure is to a law enforcement agency that is conducting a criminal investigation.

The City Auditor will implement procedures to protect the confidentiality of documents and other information provided in connection with a Hotline complaint. Such procedures include prominently marking the word "CONFIDENTIAL" across the top of all documents, reports, notes, emails, electronic and other media or other related documents or evidence provided in connection with the complaint.

3. Public Disclosures of Investigations. Any investigative audit conducted under AB 2001 shall be kept confidential, except in two instances when a public disclosure may be made: (1) to issue a report of an investigation that has been substantiated; or (2) to release any findings resulting from a conducted investigation that is deemed necessary to serve the interests of the public.

In the second instance, after consultation with the City Attorney, the City Auditor may disclose very brief findings or summaries of the general nature of investigations which were not substantiated. The public disclosure of such summaries may be categorized (i.e., fraud-related or non-fraud related) and should only include a brief description of the complaint (i.e., unfair hiring decision, customer relations).

In both instances, the files of the investigation may not be publicly disclosed. This prohibition includes interview notes, working papers, emails, faxes, interim reports, recordings and other electronic media. In addition, the identity of the complainant, the person against whom the complaint is brought and the parties involved shall be kept confidential.

4. Referrals of Hotline Complaints to Other City Departments. In the event Hotline complaints are referred to other City departments for review or investigation as set forth in this Manual, these other City departments will treat as confidential all information and documents provided in connection with the complaint. The City department will conduct an investigation to the extent warranted by the specific facts and circumstances. Upon any referral of any fraud related complaints to other City departments the departments shall provide copies of any reports issued in connection with completed and substantiated investigations to the City Auditor. The City Auditor will report such matters to the Audit Committee as appropriate and in accordance with AB 2001.

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|---|--|---------------------------|
| <p style="text-align: center;">OFFICE OF THE CITY AUDITOR <i>Fraud Hotline Policies and Procedures Manual</i></p> | <p>Effective Date July 20, 2009</p> | <p>Page 21 of 34</p> |
|---|--|---------------------------|

Custodian of Complaint Documents

Consistent with the City's applicable document retention policies, confidential information shall be maintained in a secure and centralized location. If a complaint is referred outside of the Office of the City Auditor, the receiving party is charged with and shall maintain this confidential information in a secure location. Only persons with a work-related "need to know" shall be allowed access to information concerning a Hotline complaint. Once the Hotline investigation is concluded and an outcome is reached, the complaint and related documentation shall be retained and disposed of in accordance with applicable federal, state, and local statutes, rules, and regulations.

VII. Requests for Information Regarding All Complaints

1. All requests for information concerning any employee or citizen complaint shall be directed to the City Auditor for a response. The City Auditor shall respond to such requests as permissible and in accordance with applicable state law and City policy, rules and regulations.
2. Departments shall refer to the City Auditor any Public Records Act or other requests for information or documents regarding complaints received through the City Auditor or the Fraud Hotline.

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|---|--|---------------------------|
| <p style="text-align: center;">OFFICE OF THE CITY AUDITOR <i>Fraud Hotline Policies and Procedures Manual</i></p> | <p>Effective Date July 20, 2009</p> | <p>Page 22 of 34</p> |
|---|--|---------------------------|

VIII. Referral of Employee Complaints

Policy

City employees, who have complaints or concerns regarding waste, fraud and abuse, individual or organizational processes, are encouraged to report such complaints or concerns to the Office of the City Auditor. All such complaints and concerns shall be processed as described in Section II. Any complaints pertaining to employee relations, discrimination, harassment, and personnel related complaints shall be reviewed by the Intake and Review Committee for a determination of whether the allegation(s) are credible and appropriate for department referral through Office of the City Auditor.

Methodology for Referral of Complaints

As complaints are received, the City Audit Analyst reviews and evaluates the seriousness of the allegation(s) to determine if immediate action is required, which could include an investigation by the City Auditor or convening the Intake and Review Committee. Otherwise, the Intake and Review Committee shall convene every two weeks to review the non-fraud related Incident Reports received by the City Auditor and decide upon the referral of each report or any other appropriate action. A non-fraud related complaint may be referred to:

- Deputy Chief
- Department Director
- Ethics Commission
- Citizens Review Board of Police Practices
- Equal Employment Investigation Office
- Other referral as deemed appropriate by the Committee

The City Audit Analyst shall prepare a transmittal memo (in the general form of the examples in Section IX which may be changed at any time and from time to time) and attach a copy of the complaint. The City Audit Analyst shall maintain an electronic database that includes summary information from each complaint, assignment date, assigned to, meeting notes, memo sent date, forms sent date, received department response, and complaint matter is closed. This information is confidential and shall be securely maintained.

Criteria

An incident report shall contain all of the elements listed below, which will monitor the complaint until its disposition. The allegations contained in the report must be:

Credible In the opinion of the City Auditor (for fraud related issues) or the Intake Review Committee (for non-fraud related issues), the complaint is worthy of belief. The complaint appears to have been filed in good faith, with no malicious intent;

Fraud Related Alleges waste, fraud, abuse

Non-Fraud Complaints pertaining to employee relations, discrimination,

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|--|---------------------------------|------------------|
| OFFICE OF THE CITY AUDITOR <i>Fraud Hotline Policies and Procedures Manual</i> | Effective Date July 20, 2009 | Page 23 of 34 |
|--|---------------------------------|------------------|

Related harassment, and personnel related complaints

Sufficient Information Provides information as set forth in Sec. II (4) of these procedures; and

Timely Complaint should generally be filed within 60 days of the incident happening. However, evidence provided for significant fraud, waste or abuse will be investigated regardless of the timeframe that the incidence occurred. Non-Fraud Related complaints will generally not be referred to the intake committee for review unless the incident was reported within the following timeframes:

| | |
|--------------------------------|---|
| Sexual Harassment | Reported within 2 years of the incident occurring |
| Discrimination | Reported within 2 years of the incident occurring |
| Other Personnel Related Issues | Reported within 1 years of the incident occurring |

If the report does not address fraud related issues, it will not be investigated by the City Auditor. The report may, nonetheless, be forwarded to the appropriate department director for their information only and the Office of the City Auditor will take no further action based on the opinion of the Intake Review Committee.

Filing of Malicious Complaints

City Auditor will not tolerate malicious complaints. The processing of a complaint/concern requires staff time and attention regardless of its appropriateness. Mistaken complaints/concerns are not considered malicious. Complaints/concerns made frivolously, in bad faith or without factual basis may constitute defamation and may be legally actionable in the courts by a respondent. Malicious complaints made in bad faith may result in disciplinary action in accordance with applicable City policies and procedures, up to and including dismissal. Lodging a malicious complaint/concern is, in itself, a category of unethical behavior.

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|---|--|---------------------------|
| <p style="text-align: center;">OFFICE OF THE CITY AUDITOR <i>Fraud Hotline Policies and Procedures Manual</i></p> | <p>Effective Date July 20, 2009</p> | <p>Page 24 of 34</p> |
|---|--|---------------------------|

IX. Sample Transmittal Memos

Introduction

The following is intended only as a sample of the forms which may be used as transmittal memos with respect to cases processed through the Hotline, which forms are subject to change at any time and from time to time a copy of the Incident Report is attached to the initial transmittal letter to the Department Heads, along with resolution forms. Memos or comments are also provided to the identified or unidentified complainant indicating the initial course of action the Intake and Review Committee.

1. Sample Memo when an Incident Report is *Assigned to Department Director*:

Stamp **CONFIDENTIAL** across top.

Date: October 7, 2009
To: Department Director
From: Eduardo Luna, City Auditor
Subject: Fraud Hotline Report <#>

Attached is a copy of a confidential incident report that was filed with the City's Fraud Hotline. This office received the report on <date> regarding an issue or concern in your department. Since the report is specifically related to matters under your direction, you are best able to address the issue(s) or concern(s) reported. Please ensure all existing policies and procedures are properly followed while reviewing or investigating this claim. Please take all appropriate measures to maintain the confidentiality of this report and your investigation.

Callers are provided a report number and a date to call back to check the status of their complaint; additionally, it allows you to obtain any additional information that is needed as their allegations are investigated. For this reason, it is important that you respond to this report to provide feedback to the caller and to ensure that all issues or concerns are adequately addressed.

After you review the attached report, determine if you need any additional information from the caller and provide the caller with a status report (even if no action is to be taken). To do so, send an email with all questions and/or comments to The Network, our independent third-party hotline provider, at NetworkCallbacks@tnwinc.com and copy the cityauditor@sandiego.gov. When submitting your questions and/or comments, include the **report number**, as indicated on the attached report, in the subject line by the **response date** provided in the *Client Instructions* section of the report. Your questions and/or comments will be forwarded to the caller should they call back on or after their assigned date.

In order to help sustain the integrity and success of the hotline, send the attached forms completed and signed to _____, MS 614B, within 10 business days of receiving this memo. If you have any additional questions regarding the incident report, or this process, contact _____ at (619) _____. We want to ensure all issues or concerns are addressed in a timely manner.

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|---|--|---------------------------|
| <p style="text-align: center;">OFFICE OF THE CITY AUDITOR <i>Fraud Hotline Policies and Procedures Manual</i></p> | <p>Effective Date July 20, 2009</p> | <p>Page 25 of 34</p> |
|---|--|---------------------------|

2. Sample Memo when Incident Report is provided to Department Director for informational purposes only:

Stamp CONFIDENTIAL across top

Date: October 7, 2009
To: Department Director
From: Eduardo Luna, City Auditor
Subject: Fraud Hotline Report <#>

Attached is a copy of a confidential incident report that was filed with the City's Fraud Hotline. This office received the report on <date> regarding a complaint/issue or concern in your department. The Intake and Review Committee has established a process for screening the complaints/concerns and it has been determined that this complaint/concern does not require further action be taken by the City Auditor; however, we are providing this report to you for informational purposes. You do not need to provide a response regarding this report.

However, if you feel that an investigation is necessary, ensure all existing policies and procedures are properly followed while reviewing or investigating this claim and contact us to discuss any action you plan to take, so we can update our records as needed. If you have any questions regarding this report or this process, you can contact _____ at (619) _____.

. Please take all appropriate measures to maintain the confidentiality of this report and your investigation.

Thank you.

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|---|--|---------------------------|
| <p style="text-align: center;">OFFICE OF THE CITY AUDITOR <i>Fraud Hotline Policies and Procedures Manual</i></p> | <p>Effective Date July 20, 2009</p> | <p>Page 26 of 34</p> |
|---|--|---------------------------|

3. Sample Memo to an identified complainant and complaint/concern meets the criteria set forth in Section VIII Criteria :

Stamp CONFIDENTIAL across top

Date: October 7, 2009
To: Identified Caller
From: Eduardo Luna, City Auditor
Subject: Fraud Hotline Report <#> dated (...)

This office received your complaint/concern filed with the Fraud Hotline and, upon an initial review, the Intake and Review Committee has determined that your concern should be referred to **XXX** for further review. Any further communications related to your concern should be directed to **XXX**. **XXX** has been instructed to provide a resolution to this office upon completion of his/her review or investigation.

The City of San Diego will not retaliate, nor will it tolerate retaliation against those who, *in good faith*, report suspected ethics violations or who participate in an investigation of suspected ethics violations. An act of retaliation should be reported immediately to the Office of the City Auditor, which will investigate any such report as a potential ethics violation. In addition, those who bring matters to City Auditor are protected through the state Whistleblower Protection Act. Details of the Act can be found at <http://www.dir.ca.gov/dlse/whistleblowersnotice.doc>.

If you feel your concern is not addressed, please contact this office directly via email at cityauditor@sandiego.gov and reference the report number above.

Due to the nature of the complaint filed, this office may not be able to provide you with the outcome.

We appreciate your efforts and thank you for “Doing the Right Thing!”

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|---|--|---------------------------|
| <p style="text-align: center;">OFFICE OF THE CITY AUDITOR <i>Fraud Hotline Policies and Procedures Manual</i></p> | <p>Effective Date July 20, 2009</p> | <p>Page 27 of 34</p> |
|---|--|---------------------------|

4. Sample Message sent to the unidentified caller indicating course of action taken by the Intake and Review Committee:

Stamp CONFIDENTIAL across top

Date: October 7, 2009
To: Identified Caller
From: Eduardo Luna, City Auditor
Subject: Fraud Hotline Report <#> dated (...)

Your complaint/concern filed with this Hotline has been reviewed by the Intake and Review Committee and they have determined that your complaint/concern should be referred to **XXX** for further review. If you have additional information that would be useful in **XXX's** review into your complaint/concern please call 866-809-3500.

If you feel your concern is not addressed, please contact this office directly via email at cityauditor@sandiego.gov and reference the report number above.

Due to the nature of the complaint filed, this office may not be able to provide you with the outcome.

We appreciate your efforts and thank you for "Doing the Right Thing!"

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|---|--|---------------------------|
| <p style="text-align: center;">OFFICE OF THE CITY AUDITOR <i>Fraud Hotline Policies and Procedures Manual</i></p> | <p>Effective Date July 20, 2009</p> | <p>Page 28 of 34</p> |
|---|--|---------------------------|

5. Sample memo requesting additional information from the identified complainant before the City Auditor or Intake and Review Committee proceeds when there is not enough information to make an informed decision:

Stamp CONFIDENTIAL across top

Date: October 7, 2009
To: Caller
From: Eduardo Luna, City Auditor
Subject: Complaint Filed

All documents provided to this Office have been reviewed, but before we can move forward, please provide specific information with appropriate details (i.e. etc). Your claim cannot be substantiated without the requested information. Once this information is provided, we will be able to determine the appropriate course of action.

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|---|--|---------------------------|
| <p style="text-align: center;">OFFICE OF THE CITY AUDITOR <i>Fraud Hotline Policies and Procedures Manual</i></p> | <p>Effective Date July 20, 2009</p> | <p>Page 29 of 34</p> |
|---|--|---------------------------|

6. Sample memo informing the identified complainant that his/her complaint does not meet the Hotline criteria, and therefore not in the purview of the City Auditor:

Stamp CONFIDENTIAL across top

Date: October 7, 2009
To: Identified Caller
From: Eduardo Luna, City Auditor
Subject: Fraud Hotline Report <#> dated (...)

This office received your complaint/concern filed with the Fraud Hotline and, upon an initial review, the Intake and Review Committee has determined that this matter should be referred to **XXX**, (Title) **Director** for further review. We have determined that allegations contained in your complaint do not constitute a violation of fraud, waste or abuse and therefore, is not within the purview of the Office of the City Auditor. Accordingly, this office will not take any further action regarding this matter. Any further communications related to your concern should be directed to **XXX**. If you feel your concern is not addressed, you should then contact your union.

The City of San Diego will not retaliate, nor will it tolerate retaliation against those who, *in good faith*, report suspected ethics violations or who participate in an investigation of suspected ethics violations. An act of retaliation should be reported immediately to the Office of the City Auditor, which will investigate any such report as a potential ethics violation. In addition, those who bring matters to City Auditor are protected through the state Whistleblower Protection Act. Details of the Act can be found at <http://www.dir.ca.gov/dlse/whistleblowersnotice.doc>.

We appreciate your efforts and thank you for "Doing the Right Thing!"

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|---|--|---------------------------|
| <p style="text-align: center;">OFFICE OF THE CITY AUDITOR <i>Fraud Hotline Policies and Procedures Manual</i></p> | <p>Effective Date July 20, 2009</p> | <p>Page 30 of 34</p> |
|---|--|---------------------------|

7. Sample reminder memo to referred party that a response is due to CITY AUDITOR and the deadline is approaching:

Date: October 7, 2009

To: Department Director

From: Eduardo Luna, City Auditor

Subject: Hotline Report Response Deadline Reminder

You are receiving this memo as a reminder that your response(s) to the confidential hotline report(s) is(are) due by <date>. You have been asked to respond with 10 business days of receiving the memo dated <date>, and to date this office has not yet received your response. If you need details regarding the report(s) previously provided, please contact _____ (619) xxx-xxxx or _____@sandiego.gov.

If you need more time to resolve the complaint, send an email to cityauditor@sandiego.gov explaining your course of action and why additional time is necessary to resolve the complaint properly. Otherwise, the resolution form(s) should be completed, signed and sent to _____ at MS 614B, within five days of receiving this memo, unless other arrangements have been made. If you feel you have received this memo in error, contact _____ to confirm your response has been received by the Office of the City Auditor.

Your attention to this matter is greatly appreciated.

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|---|--|---------------------------|
| <p style="text-align: center;">OFFICE OF THE CITY AUDITOR <i>Fraud Hotline Policies and Procedures Manual</i></p> | <p>Effective Date July 20, 2009</p> | <p>Page 31 of 34</p> |
|---|--|---------------------------|

8. Sample memo to referred parties when a response is past due:

Date: October 7, 2009

To: Department Directors

From: Eduardo Luna, City Auditor

Subject: Hotline Report Responses Outstanding

Within the last month, this office has forwarded one or more Hotline report(s) asking you to reply, and to date this office has not received your response. If you need details regarding the reports previously provided, contact ____ at (619) ____ or ____@sandiego.gov.

If you need more time to resolve the complaint, please contact _____ or send an email to cityauditor@sandiego.gov explaining your course of action and why additional time is necessary to resolve the complaint properly. Otherwise, the outstanding resolution form(s) should be completed, signed and sent to ____, MS 614B within five days of receiving this memo, unless other arrangements have been made. If you feel you have received this memo in error, contact _____ to confirm your response was previously submitted.

Your attention to this matter is greatly appreciated.

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|---|--|---------------------------|
| <p style="text-align: center;">OFFICE OF THE CITY AUDITOR <i>Fraud Hotline Policies and Procedures Manual</i></p> | <p>Effective Date July 20, 2009</p> | <p>Page 32 of 34</p> |
|---|--|---------------------------|

**9. Sample memo to department directors or appropriate referred party when
CITY AUDITOR closes the complaint:**

Stamp CONFIDENTIAL

Date: October 7, 2009
To: Department Director
From: Eduardo Luna, City Auditor
Subject: Fraud Hotline Report <#>

On <date>, City Auditor received your response to the City's Fraud Hotline report <#>. The Intake and Review Committee has reviewed the response and deems the response is satisfactory, therefore, the City Auditor will close this case and no further action will be taken regarding this matter. If you have any questions regarding this report or the process, contact _____ at (619) _____.

We appreciate your contributions to improving the City's ethical climate and to making the hotline a success.

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|--|--|---------------------------|
| <p align="center">OFFICE OF THE CITY AUDITOR <i>Fraud Hotline Policies and Procedures Manual</i></p> | <p>Effective Date July 20, 2009</p> | <p>Page 33 of 34</p> |
|--|--|---------------------------|

10. Sample plan provided to City Auditor from department directors or appropriate party reporting resolution of complaint (report not to scale):

City of San Diego
Office of the City Auditor
Fraud Hotline Resolution

Stamp CONFIDENTIAL

| | |
|---|-------------------|
| Report # | Plan date: |
| | |
| Describe your <i>immediate</i> plan to address the issue/concern: | |
| | |
| Describe your plan to <i>prevent</i> the issue/concern from happening again: | |
| | |
| Signature and Title: | |
| Date: | |

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|--|--|---------------------------|
| <p align="center">OFFICE OF THE CITY AUDITOR <i>Fraud Hotline Policies and Procedures Manual</i></p> | <p>Effective Date July 20, 2009</p> | <p>Page 34 of 34</p> |
|--|--|---------------------------|

11. Sample report to City Auditor from department directors or appropriate party reporting resolution of complaint (report not to scale):

City of San Diego
Office of the City Auditor
Fraud Hotline Resolution

Stamp CONFIDENTIAL

| | |
|---|-------------------------|
| Report # | Resolution date: |
| | |
| Describe how you resolved the issue/concern below: | |
| | |
| Signature and Title: | |
| Date: | |