

Anti-Fraud Policy

Introduction

The Commissioners of Westmoreland County have established an anti-fraud policy to enforce existing controls and to aid in the prevention and detection of fraud, theft, waste, or abuse against the County. This policy applies to any fraud, theft, waste, or abuse or suspected fraud, theft, waste, or abuse involving an employee (including management), a consultant, vendor, contractor, outside agency, or person doing business with the County or in any other relationship with the County.

The Commissioners of Westmoreland County do not tolerate any type of fraud, theft, waste or abuse. The agency's policy is to promote consistent, legal, and ethical organizational behavior by:

- assigning responsibility for reporting fraud, theft, waste or abuse;
- providing guidelines to conduct investigations of suspected fraudulent behavior;
- requiring each employee to attend annual fraud awareness training.

Failure to comply with this policy subjects an employee (including management) to potential disciplinary action, including immediate termination. Failure to comply by a consultant, vendor, contractor, outside agency, or person doing business with the County or in any other relationship with the County could result in cancellation of the business or other relationship between the entity and the agency.

The Board of Commissioners will pursue prosecution if the results of an investigation indicate the possibility of criminal activity.

The Board of Commissioners reserves the right to conduct such additional investigations as deemed necessary for purposes of enforcing personnel policies and procedures and the prudent financial management of County business operations.

For purposes of this policy only the term *fraud* or *fraudulent* includes theft, waste, and abuse as defined below. The term *employee* includes all employees in both union and non-union positions. The term *management* includes elected officials, senior executives, directors, managers, assistant managers, supervisors and any other employee who has supervisory authority over other employees.

Definitions and Examples of Fraud, Waste, and Abuse

Fraud is defined as an intentional deception designed to obtain a benefit or advantage or to cause some benefit that is due to be denied. Examples of fraud include:

- Forgery or alteration of a check, bank draft, or any other financial document;
- Theft of a check or other diversion of a taxpayer payment;
- Misappropriation of funds, securities, supplies, or other assets;
- Impropriety in the handling or reporting of money or financial transactions;

- Profiteering as a result of insider knowledge of county operations;
- An employee with access to confidential taxpayer information who sells this information or uses it in the conduct of an outside business activity;

Waste is the loss or misuse of state resources that results from deficient practices, system controls, or decisions. An example of waste is not taking advantage of available early bird conference registration discounts.

Abuse is the intentional, wrongful, or improper use of resources or misuse of rank, position, or authority that causes the loss or misuse of resources, such as tools, vehicles, computers, copy machines, etc. Examples of abuse include:

- Using county equipment or supplies to conduct personal business;
- An employee using non-confidential taxpayer information to get new customers for his/her outside business.

Theft is defined as the act of taking something from someone unlawfully. An example of theft is taking home a printer belonging to the agency and keeping it for personal use.

Responsibility to Report Suspected Fraud

Each employee is required to report any suspected fraud, theft, waste or abuse or other dishonest conduct to the employee's management or to the County Controller.

Management is required to report suspected fraud, theft, waste or abuse or other dishonest conduct, including reports from employees or other individuals, to the County Controller.

Management does not have the authority to determine the merits of a report of suspected fraud - the County Controller makes this determination with the assistance of Internal Audit, the County Solicitor and the District Attorney, as provided by this policy.

The identity of an employee or complainant who reports suspected fraud will be protected to the full extent allowed by law. (See: *Responsibilities of County Controller*.)

Suspected improprieties and/or misconduct concerning an employee's ethical conduct should be reported to department management or the County Controller. Note that there are many instances of prohibited actions that do not rise to the level of fraud, such as an improper relationship with a vendor.

Guidelines for Handling a Report of Suspected Fraud, Theft, Waste, or Abuse

Whether the initial report is made to management or the County Controller, the reporting individual should receive the following instructions and information:

- Do not contact the suspected individual in an effort to determine facts or demand restitution.
- Allow the County Controller to conduct the investigation. Do not further investigate the allegations.

- Observe strict confidentiality. Do not discuss the case, facts, suspicions, or allegations with anyone unless specifically asked to do so by the County Controller, the District Attorney or the County Solicitor.
- Retaliation will not be tolerated. The County will not tolerate any form of retaliation against individuals providing information concerning fraud or suspected fraud.
- Every effort will be made to protect the rights and the reputations of everyone involved, including the individual who in good faith alleges perceived misconduct as well as the alleged violator(s). (See: *Disciplinary Action* for the consequences of making a report of fraud in bad faith.)
- The identity of an employee or other individual who reports a suspected act of fraud will be protected as provided by this policy. (See: *Responsibility to Report Suspected Fraud*.)

Responsibility of County Controller

On receiving a report of suspected fraud, the County Controller shall document the contact and conduct a preliminary investigation to determine the credibility of the report. If the report is credible, the County Controller shall follow the investigation guidelines provided in this policy. (See: *Guidelines for the Investigation of Suspected Fraud*.)

The County Controller shall make every effort to protect the rights and the reputations of everyone involved in a report of suspected fraud, including the individual who in good faith alleges perceived misconduct, as well as the alleged violator(s). The County Controller also shall make every effort to protect the identity of a person who in good faith reported the suspected fraud. However, disciplinary action may be taken as provided by this policy if a report is made in bad faith (see: *Disciplinary Action*).

On determining that a report is not credible or is not a report of fraud, the County Controller shall document this determination. The County Controller's documentation shall include support for the determination. The County Controller may refer questions as to whether an action constitutes fraud to the Internal Audit Division and/or the District Attorney.

In addition to reporting each suspected fraud to District Attorney, the County Controller is responsible for reporting confirmed fraud to the County Commissioners.

The County Controller and/or his Deputy shall also meet at least quarterly with the County Solicitor to review all reports that have been determined not to be credible or not a report of fraud, including the documentation in support of the determination. Upon recommendation of the County Solicitor, the County Controller shall follow the investigation guidelines provided in this policy to conduct an investigation of any such report that the County Solicitor deems sufficiently credible to merit further investigation.

The County Controller is responsible for the administration, revision, interpretation, and application of this policy.

In the event that a report of suspected fraud identifies the County Controller as the person accused of the wrongdoing, the report shall be forwarded to the County Solicitor, who shall document the contact and conduct a preliminary investigation to determine the credibility of

the report. If the County Solicitor determines that the report is credible, the County Solicitor shall present copies of the report to the District Attorney, the Pennsylvania Ethics Commission, and/or any other agency or official having jurisdiction over acts of misconduct by an elected County official. The County Solicitor may also conduct an investigation of the suspected fraud in accordance with the investigation guidelines provided in this policy.

Guidelines for the Investigation of Suspected Fraud

The County Controller has primary responsibility for the full investigation and documentation of suspected fraud.

The County Controller has primary responsibility for the investigation of reported wrongdoing and all suspected fraud and for coordinating investigative activities with the District Attorney and the County Solicitor. Each employee involved in an investigation of suspected fraud shall keep the content of the investigation strictly confidential to the full extent provided by law. Investigation results shall not be disclosed or discussed with anyone other than those who have a legitimate need to know.

Any required investigative activity shall be conducted without regard to the suspected wrongdoer's length of service, position/title, relationship to the agency, or any other perceived mitigating circumstance.

The County Controller shall maintain appropriate documentation regarding incidents of fraud. The County Controller shall develop and maintain guidelines for access to and security of this documentation.

If an investigation substantiates fraudulent activities, the County Controller will prepare an incident report that documents the initial report of suspected fraud, the conduct of the investigation and the findings, including the facts that substantiated the finding of fraudulent activities and facts that refuted any allegations of fraudulent activities found to be unsubstantiated. Any such incident report shall be kept confidential, along with all notes, papers, communications and documentation relating to the investigation, and shall not be open for inspection or copying under the Pennsylvania Right-to-Know Law unless authorized by a majority of the Board of County Commissioners. The incident report shall be prepared as soon as possible after fraudulent activity has been confirmed, and sealed copies of the incident report shall be marked "Confidential" and distributed to each County Commissioner, any relevant elected County official or Judge, the District Attorney, the County Solicitor and the Director of the County Department of Human Resources. Further disclosure of an incident report confirming fraudulent activities shall only be made to such County or judicial officials and management executives as shall be necessary for administering disciplinary proceedings, and to such law enforcement personnel, prosecutors and staff as necessary for pursuing any appropriate criminal proceedings.

Any inquiries from the suspected individual, his or her attorney/representative, or any other inquirer shall be directed to the County Controller. If necessary, the County Controller will refer these inquiries to the appropriate party.

Disciplinary Action

Failure to comply with any part of this policy is grounds for disciplinary action, including immediate termination.

An employee who:

- has engaged in any form of fraud, waste, or abuse;
- suspects or discovers fraudulent activity and fails to report his or her suspicions as required by this policy (See: *Responsibility to Report Suspected Fraud*); or
- intentionally reports false or misleading information

is subject to disciplinary action, including termination.

Any member of management who does not pass to the County Controller each and every report of suspected fraud made by an employee or other person is subject to disciplinary action, including immediate termination.

Fraud Awareness Training

Each employee is required to attend at least one session of Fraud Awareness Training during each fiscal year. After attending the training, the employee must sign a form indicating that they have attended the training and understood its content.

Annual Report

A summary of incidents of suspected fraud determined by the County Controller to have merit shall be reported to the Board of Commissioners on an annual basis. The annual report shall include: whether the report was from an employee; the determination of merit; whether a full investigation was conducted and if so, the results of the investigation; the disciplinary action, if any resulting from the investigation; whether the report was referred to an outside entity and if so, the current status or final results of the referral.

The annual report shall also be provided to the County Solicitor and the District Attorney.

The annual report shall be kept confidential and shall not be open for inspection or copying under the Pennsylvania Right-to-Know Law unless authorized by a majority of the Board of County Commissioners.