

City of Lakeland Anti-Fraud Policy



For further information contact: The City of Lakeland 901-867-2717 or visit our website at www.lakelandtn.gov

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City of Lakeland Anti-Fraud Policy

Applicability:

City of Lakeland staff, officials, and external parties

Purpose:

The aim of the City of Lakeland Anti-Fraud Policy is to safeguard the reputation and financial viability of the City of Lakeland by improved management of fraud risk. It sets out explicit steps to be taken in response to reported or suspected fraud, as well as measures that will be taken to prevent or minimize the risk of fraud.

Conforms to:

Tennessee Code Annotated/Lakeland Municipal Charter; Tennessee Comptroller of the Treasury Regulations

Related Documents:

City of Lakeland Personnel Policy, Purchasing Policy, and established internal control procedures and guidelines.

I. Introduction

The City of Lakeland has become increasingly aware of the levels and types of risks that the City must manage if it is to retain and enhance its reputation, financial viability and stewardship of City resources. Management's analysis of External and Internal Audits have highlighted the challenges, risks and opportunities that the City of Lakeland faces in effectively managing City resources while providing the maximum value to City residents in terms of efficiency and effectiveness.

Recognizing that addressing fraud risk is a normal requirement for the conduct of business by all organizations, the Lakeland City Manager conducted a risk assessment by a private consulting firm, and the City's annual External Audit to strengthen the City of Lakeland's risk management practices, internal controls and standards.

Measures include the implementation of updated internal controls, an Anti-Fraud Policy (this Policy), and wide ranging revision of City policies and procedures for personnel, inventory, purchasing, cash verification, and other critical areas of risk that provide guidance for City staff and transparency of City operations. Through these measures, the City of Lakeland seeks to be an organization that is accountable, transparent and ethical in its management and governance, and that retains the confidence and trust of its residents, staff, businesses and other outside parties.

The aim of this Anti-Fraud Policy is to safeguard the reputation and financial viability of the City of Lakeland through improved management of fraud risk. It sets out explicit steps to be taken in response to reported or suspected fraud, as well as measures that will be taken to prevent or minimize the risk of fraud. The Policy has been developed based on good practice examples of fraud risk control strategies.

This Policy applies to all City of Lakeland officials and staff¹ as well as external parties. It is an integral part of the City of Lakeland's internal control policy framework and should be read and applied in conjunction with the City of Lakeland *Purchasing Policy*, and the City of Lakeland *Personnel Policy*. In addition, the definitions that appear in the Glossary are to be interpreted within the context of this Policy.

¹ This policy applies to all City staff, exempt and non-exempt, full- and part-time and temporary, regardless of terms of employment. Additionally, this policy applies to all of the City's vendors, customers, and partners or any other interested parties to the extent that any the City's resources are involved or impacted.

II. Definitions

The definitions in this Policy are to be interpreted within the context of this policy and other internal controls within the City's internal control policy framework.

- Allegation:** A statement or accusation by a person that an act of fraud has or may have been committed. This does not require evidence of the offence or identification of suspects, but there is usually some stated basis for the accusation.
- Conflict of interest:** A situation in which the impartiality of an employee in discharging his/her duties could be called into question because of the potential, perceived or actual improper and impermissible influence of personal considerations, financial or other.
- External fraud:** Fraud committed against the City of Lakeland by an external party, for example the employees of a partner or supplier.
- External party:** Any legal entity or individual other than the staff members of the City of Lakeland.
- Fraud:** The use of deception by an individual with the intention of obtaining an advantage for himself or herself or for a third party or parties, avoiding an obligation, or causing loss to another party. Fraud includes offences such as, but not limited to, deception, bribery, forgery, extortion, corruption, theft, conspiracy, embezzlement, misappropriation, false representation, concealment of material facts, and collusion.
- Fraud Prevention:** Strategies designed to proactively reduce or eliminate internal and external fraud.
- Internal control:** A process, affected by the governing body, management and other employees, designed to provide reasonable assurance that risks are managed so as to ensure the achievement of the organization's objectives.
- Internal fraud:** Fraud committed directly against the City of Lakeland by a staff member of the City of Lakeland.
- Investigation:** A search for or collation of evidence connecting or tending to connect a person or body with conduct that infringes the law or the City of Lakeland policies, procedures and guidelines.
- Partner:** Any organization or corporations that are involved in funding or delivering services to the City of Lakeland are included in this policy.
- Risk assessment:** A process that analyses the risks, including fraud risks, that may prejudice or prevent achievement of organizational objectives, and that determines whether those risks are to be prevented, mitigated, transferred or accepted.
- City Staff:** For purposes of this policy, any individual who is employed by the City of Lakeland, including exempt and non-exempt staff regardless of full-time/part-time/temporary or other status, e.g., interns and volunteers working for the City.

III. What is Fraud?

For purposes of this Policy, fraud is defined as the use of deception by an individual with the intention of obtaining an advantage for himself or herself or for a third party or parties, avoiding an obligation, or causing loss to another party.

The term fraud is used to describe offenses such as, but not limited to, deception, bribery, forgery, extortion, corruption, theft, conspiracy, embezzlement, misappropriation, false representation, concealment of material facts, and collusion.

This Policy is intended to apply to both internal and external fraud as defined in the Glossary.

Examples of Fraudulent Behavior

- Obtaining property, financial advantage or any other benefit by deception or abuse of authority granted by virtue of official position or duty.
- Charging the City of Lakeland for goods and services that have not been delivered.
- Development or application of local policies or practices that are knowingly inconsistent with the objectives of City of Lakeland practices or objectives.
- Seeking to obtain confidential information about a colleague or others, with intent to use it for unauthorized purposes.
- Knowingly providing false, misleading or incomplete information to the City of Lakeland, its donors, partners, or other business relations, or deliberately failing to provide information where there is an obligation to do so.
- Non-permitted use of the City of Lakeland computers, vehicles, telephones or any other property or services outside of professional duties or without specific authorization.
- Hacking into, or interfering with the City of Lakeland server or computer system.

IV. How Fraud Occurs

Some frauds arise because of lack of proper internal control policies and procedures. Other frauds may be the result of failures to follow proper control procedures, carelessness in carrying out checks, inadequate separation of duties of staff or management override of internal controls.

Four basic elements are usually present when fraud occurs:

- Individual(s) to carry out the fraud – inside or outside of the organization
- Assets to be acquired, used or disposed of fraudulently
- Intent to commit the fraud
- Opportunity to do so

Managers must ensure that the opportunities for fraud are minimized. A high probability of being caught will deter those who might otherwise engage in fraud.

Opportunities to commit fraud may be reduced by ensuring that a sound system of internal control, proportional to risk, has been designed and implemented and is functioning as intended.

V. Fraud Prevention

City of Lakeland officials and personnel have a responsibility as well as obligation to contribute to the management of fraud risk.

The City Manager and City Department Heads all set the tone and lead in the promotion of risk management, internal controls and an anti-fraud culture throughout the City.

Management and operational staff design, implement and operate the control actions, recruit the right people, and ensure that physical and IT services promote computer and data security.

City staff shall conduct themselves with integrity and demonstrate awareness of the importance of ethical practices in their day to day work.

The City of Lakeland expresses a *zero tolerance policy* regarding fraud and will not tolerate any level of fraud or corruption under any circumstances. The City of Lakeland expects all people and organizations associated with it to be honest and fair in their dealings with the City, its members and its partners.

Any detected case will be thoroughly investigated, with disciplinary or criminal sanctions pursued where appropriate and possible, and losses recovered by any lawful means. The City of Lakeland is also committed to ensuring that opportunities for fraud are reduced to the lowest possible level of risk; that effective controls are maintained to prevent fraud, and systems and procedures are reviewed and improved following detected cases of fraud.

There are four major facets to the City of Lakeland's strategy for effective fraud prevention:

CULTURE OF HONESTY AND ETHICS

The most persuasive and effective method of preventing fraud is the promotion of an ethical and transparent environment that encourages City staff at all levels to actively participate in protecting the City's reputation and resources.

This involves:

- Having a clear statement of ethical values in the City of Lakeland *Personnel Policy* which all staff has an obligation to comply with and to promote with third parties, and which the organization applies and enforces consistently.
- Establishing, disseminating and enforcing a clear anti-fraud policy, including sanctions for wrongdoing.
- Clarifying and addressing conflict of interest cases.
- Promoting staff awareness of fraud and training staff in anti-fraud and corruption strategies.
- Ongoing application of personnel policies that focus on the honesty and integrity of employment candidates and require background checks sufficient to the level and sensitivity of the position.
- Maintaining staff morale, reasonable working hours, and common basic standards in working conditions.

RISK MANAGEMENT AND INTERNAL CONTROL

Risk management is at the heart of effective fraud control, especially through the development of risk criteria and implementation of effective controls. The City of Lakeland will periodically undertake a comprehensive evaluation of its overall vulnerability to fraud as well as the scope and magnitude of fraud risk in specific areas, and more frequently as part of an ongoing rolling risk assessment process.

The City of Lakeland City Manager will:

- Exercise proactively his/her responsibility for the overall management of fraud risk and for the management of specific fraud risks, consistent with the Lakeland Municipal Charter (T.C.A. §6-19-104 and §6-19-108) which holds the City Manager responsible for finance and purchasing for the City of Lakeland.
- Will monitor the implementation of actions designed to reduce fraud risk.

- Establish internal controls to detect report and deter fraud that are cost effective and ensure that City staff is comfortable to report fraud without fear of reprisal.
- Initiate and facilitate fraud detection and reporting.
- Determine whether each risk, judged according to its probability and severity, should be prevented, mitigated, transferred², or accepted.
- Report on the implementation of actions designed to reduce fraud risk.

Further roles and responsibilities are set out in Section VII.

AWARENESS RAISING AND TRAINING

Fraud awareness raising and training underpins fraud prevention and detection. The City of Lakeland will ensure that all employees are aware of their responsibilities for fraud control and ethical behavior. Targeted training will be provided for new staff and refresher training for current staff.

Training will include the following subject areas:

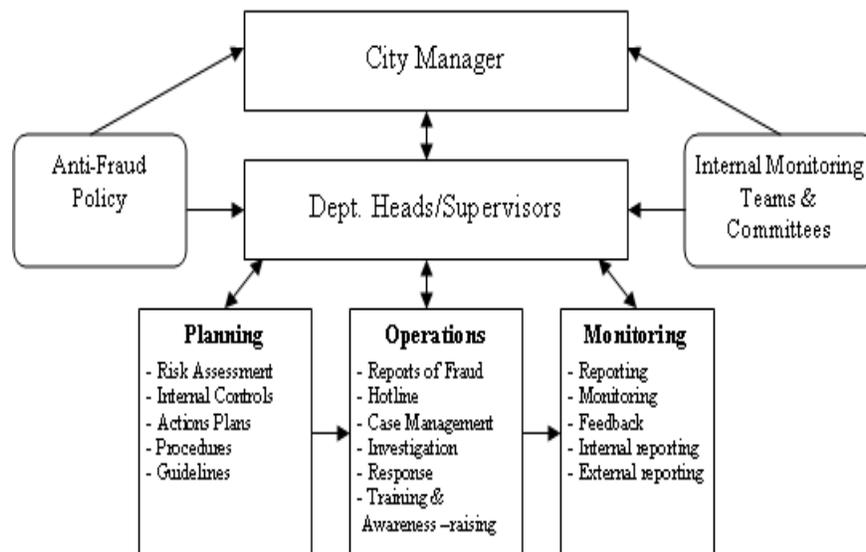
- Definition of fraud – with the City of Lakeland examples to illustrate the breadth of fraud and the fact that it can involve the pursuit of tangible and intangible benefits.
- The need for ethical behavior and the fact that fraud avoidance is everyone’s responsibility.
- The details of the City of Lakeland’s *Anti-Fraud Policy*.
- Things to look for that could indicate that fraud may have been committed.
- Steps to take if fraud is reasonably suspected.
- Responsibilities for handling allegations and inquiries into cases of fraud in the City of Lakeland.
- Relationship of the *Anti-Fraud Policy* with the *Personnel Policy*, *Purchasing Policy* and internal control procedures and guidelines.
- Available remedies and measures to be applied when fraud is established.
- Measures to ensure that third parties are aware of the City of Lakeland’s *Anti-Fraud Policy*.

² “Transferred” means that the exposure is covered by a third party, usually through insurance.

OVERSIGHT PROCESS

Independent reviews by internal monitoring teams or committees established by the City Manager and External Auditors will examine the effectiveness of internal controls and review operations for evidence of fraud. The results of such reviews will be reported directly to the City Manager, and will be followed-up the City Manager.

Figure 1: Internal Fraud Prevention Responsibilities



VI. Fraud Response

DELEGATION STRUCTURE

The City Manager has overall responsibility for the organizational response in the case of a reported or suspected fraud. Authority for the response can be delegated to City staff, as appropriate, though overall management of the response to suspected fraud will be maintained by the City Manager.

REPORTING ALLEGATIONS OF FRAUD

The City of Lakeland City Staffs' Responsibility:

City of Lakeland City staff should be aware of the potential for fraud, and should report any reasonably suspected fraud.

Concerns which should be reported include, but are not limited to, staff committing or attempting to commit:

- Any dishonest or fraudulent act
- Forgery or alteration of documents or accounts
- Misappropriation of funds, supplies or other assets
- Impropriety in the handling or reporting of money or financial transactions
- Profiting personally from an official position or enabling family members or others to do so
- Disclosure of official activities or information for advantage
- Accepting or seeking value from third parties by virtue of official position or authority
- Theft or misuse of property, facilities or services

External party actions which should be reported include:

- Being offered a bribe or inducement by a partner or supplier
- Receiving fraudulent (i.e., intentionally inaccurate, rather than erroneous) invoices from a supplier
- Known instances of corruption, deception or misuse by a supplier or partner

- Any of the concerns listed in reference to the City of Lakeland staff

If staff become aware of a suspected fraud they should take note in writing of any pertinent details, including what was said or done by whom, the date, the time, the location and the names of the individual(s) involved.

Staff *should not*:

- Contact the suspected perpetrator to get facts or demand restitution
- Discuss the case facts or allegations with anyone other than the persons investigating the incident.
- Attempt to personally conduct investigations or interviews

REPORTING PROCESS

Depending on the circumstances of who is thought to be involved in the suspected fraud, the City of Lakeland staff members should report the suspected fraud to one of the following, in order of preference:

- The City Manager
- The City Attorney
- The Department head(s) or Supervisor(s) of the individual(s) suspected of committing fraud.
- The line manager(s) is required to report the concern to the City Manager.

If the Department head(s) or Supervisor(s) are potential suspect(s), then City staff should report the concern directly to the City Manager.

If staff prefer to report anonymously they can do so through the confidential Fraud Hotlines.

The Hotline is a shared hotline for concerns related to both the Code of Conduct and Professional Ethics and the Anti-Fraud Policy.

Reports of fraud should include all known details, including all individuals alleged to be involved, the location, the time, and any relevant actions or statements.

All information provided to the City Manager or Fraud Hotline will be treated confidentially when possible. All reasonable allegations will be treated seriously and systematically, and will be properly investigated. Confidentiality, in so far as possible, will be maintained for all reports

made in good faith, and where reports are made anonymously, such anonymity will be respected. However, if criminal activity is to be reported to the police, the identity of the person reporting may eventually have to be disclosed to enable external investigators or the police to pursue criminal investigation effectively.

If an allegation is determined to have been made frivolously, in bad faith, maliciously, for personal gain or for revenge, disciplinary action may be taken against the person making such an allegation.

DEPARTMENT HEADS' AND SUPERVISORS' RESPONSIBILITY:

If informed of a fraud, Department Heads and Supervisors (hereafter referred to as “managers”) should listen carefully and with respect to staff, ensure that every report is treated seriously and sensitively, and give every allegation a fair hearing.

Managers should obtain as much documentation and information as possible regarding the alleged fraud, including any notes or evidence, and they should reassure staff members that they will be protected and will not suffer any reprisal for having reported allegations made in good faith.

Managers are required to prepare a written report of the details of any suspected fraud that has been reported to them, and provide it to the City Manager. If a manager suspect alleged fraud on the part of the City Manager, then a written report should be submitted to the City Attorney.

Managers *should not* confront the alleged perpetrator or carry out an investigation themselves. Instead, the matter should be reported immediately to the City Manager. If the City Manager is not available, then the manager should report to the City Manager’s designee or the City Attorney in the absence of the City Manager.

DETERMINING THE APPROPRIATE COURSE OF ACTION BY THE CITY MANAGER

As a matter of principle, once an alleged fraud is reported to the City Manager, reports will be made to the City Attorney or Tennessee Comptroller as required.

If the City Manager is thought to be involved, then the report should bypass the person at issue, and be sent directly to the City Attorney, who will take appropriate action in the spirit of this Policy and under State law.

The City Manager will determine, in consultation with the City Attorney whether the case can be dealt with internally or whether and to what involvement by external parties is necessary.

The City Attorney will advise the City Manager on the involvement of Law Enforcement in the given case.

INITIAL REACTION TO ALLEGATIONS OF FRAUD

The City Manager will determine a course of action appropriate to the seriousness of the alleged offense. Appropriate actions will include any action necessary to expedite the investigation.

The City Manager will inform the individual(s) concerned of the allegations against him or her, and the course of action to be taken. Simultaneously, the City Manager will ensure that all information in the possession of the individual suspected is secured for investigation.

The City Manager, in consultation with the City Attorney, will mitigate the risk of future losses by immediately adjusting procedures and taking personnel actions in order to protect assets and to preserve evidence using any legal means deemed appropriate given the circumstances.

Relevant insurers will be notified immediately of any loss or damage to the City of Lakeland insured property.

Depending on the applicable Tennessee Comptroller regulations, the City Manager will report the case to the State Comptroller's Office in compliance with Comptroller regulations regarding fraud.

The City of Lakeland may have a legal obligation to provide early notification to parties such as donors and partners who may potentially suffer losses that a concern is under investigation.

INVESTIGATION PROCEDURE

Depending on the magnitude and the complexity of the fraud, investigations will be carried out either in-house by the City Manager or by external parties such as External Audit firms with specialized forensic accounting expertise and access to criminal law expertise, or where deemed appropriate, by the police. The decision whether to use internal or external investigation services, or a combination of both, will be made by the City Manager.

Investigations will be conducted without regard to any person's relationship to the organization, position or length of service. The City Manager and City Recorder will keep records of all actions in the investigation, to ensure success in any future criminal, civil or disciplinary action. The City Manager will determine who should not be involved in the investigation to avoid a conflict of interest situation for staff members and managers with close working relationships with the individual(s) in question, and may consult with the City Attorney as appropriate.

The City Manager will ensure cooperation to an external body requested to assist in the investigation. All searches are to be conducted in a lawful manner, to ensure that evidence is admissible in court, if required.

The City Manager will issue a report detailing the findings and conclusions of every concluded investigation, including recommendations for future action. Results of investigations will not be disclosed to or discussed with any person except as deemed necessary and appropriate.

MANAGING EXTERNAL RELATIONS

In the case of substantiated fraud, the City of Lakeland will take immediate steps to mitigate potential loss of the City of Lakeland's reputation and credibility with residents, donors and partners especially when involved in funding or delivering work in the particular context in question.

In cases of fraud, the City Manager or designee shall manage and monitor any media response. City staff may only release information when it is approved by the City Manager, in consultation with the City Attorney.

RECOVERING ASSETS

Where the City of Lakeland has suffered pecuniary loss or loss of other material assets, efforts will be made to seek restitution from the individual(s) responsible for the fraud by any possible method after consulting with the City Attorney, insurance company and law enforcement as applicable.

DISCIPLINARY ACTION

Where the City Manager's investigation reveals that a City staff member has committed a fraud, the City Manager will pursue disciplinary or legal action as is determined appropriate by the City Manager after consulting with the City Attorney and law enforcement as applicable.

FOLLOW-UP ACTION

Following a case of fraud, the City Manager will ensure that all managers and City staff in the affected area are debriefed on the process and outcome of the investigation once pending legal action allows for disclosure of the fraudulent act.

There should also be a follow-up with the individual(s) who reported the initial suspicion of fraud, to provide assurance that their claims have been taken seriously.

Depending on the circumstances, the City Manager will consider the need for communication with City staff, the media, donors and partners on a larger scale.

The City Manager will ensure that the organization conducts a thorough review of operating procedures in the areas affected by the fraud and that improvements are made where necessary. Lessons learned will be disseminated throughout the organization, where applicable, to strengthen the system of internal control and to foster an anti-fraud culture.

VII. Roles and Responsibilities in Fraud Response and Control

In summary, the specific roles and responsibilities for preventing and responding to fraud in the City of Lakeland are the following:

THE CITY MANAGER

- Set the overall tone to reinforce the message that fraud will not be tolerated in the City of Lakeland.
- Establish and maintain an internal control system designed to eliminate or mitigate the risks faced by the City of Lakeland, including:
 - Development of an organizational risk profile, including consideration of fraud risks, and regular review of the risks associated with organizational objectives.
 - Contracting with risk management consultants to provide independent and professional expertise, if necessary.
 - Establishment and review of internal controls, including an appropriate control environment and a fraud response plan.
- Provide strong support for the External Auditors, either annually or under special circumstances.
- Establish mechanisms for reporting suspected fraud and issues with fraud risk management.
- Ensure that staff knowledge of anti-fraud policies is sufficient and that appropriate training is provided.
- Ensure that swift action is taken to respond to allegations and substantiated cases of fraud.
- Make arrangements for investigating allegations of fraud, and ensure that vigorous and prompt investigations are carried out without delay.
- Upon receiving an investigation report, determine the appropriate disciplinary and/or legal action to be taken against perpetrators of fraud and supervisors whose failures have contributed to the commission of fraud, and ensure that appropriate action is taken to recover assets.
- If necessary, communicate with external parties affected by the fraud to reassure them that all necessary steps are being taken.

- Ensure timely follow-up and strengthening of preventive measures.
- Take appropriate measures in case of frivolous or bad faith allegations.
- Take appropriate measures if a City staff member is cleared of allegations made in good faith.

DEPARTMENT HEADS AND SUPERVISORS

- Assess the risks, including but not limited to fraud risks, involved in their area of responsibility and ensure that an adequate system of internal control exists and functions to address these risks.
- Ensure that controls are properly operated and complied with. Managers should regularly review the control system in their area of work to satisfy themselves that it continues to operate effectively.
- Encourage staff to report reasonable suspicions of fraud, treating all allegations seriously, and promptly reporting allegations to the City Manager.
- Keep records of any allegations as well as any subsequent actions taken.

CITY ATTORNEY

- Provide guidance to the City Manager on the course of action to be taken, the involvement of external experts or legal authorities, and the conduct of investigations.
- Provide guidance to the City Manager regarding the potential legal avenues or consequences once a fraud has been established through investigation, and the means available to recover assets and to restore the City of Lakeland's reputation and goodwill.
- Communicate with and manage relations with external criminal lawyer in circumstances where criminal cases of fraud arise.

ALL CITY STAFF

- Conduct themselves lawfully and properly in the use of the City's resources.
- Remain alert to the possibility of fraud and report suspicious behavior to their direct manager or supervisor or the City Manager.
- If staff prefer to report anonymously they can do so through the confidential fraud Hotlines.

- Attend in-house training courses on Risk Management and Fraud Prevention.
- Sign and accept the Anti-Fraud Policy as an integral condition of employment with the City of Lakeland.

VII. Contact Details

Contact details for the City of Lakeland are found on the City of Lakeland website www.lakelandtn.org.

In addition, the following contact details are provided.

The City of Lakeland City Manager:

City Manager
Lakeland City Hall
10001 Hwy. 70
Lakeland, TN 38002
Office: (901) 867-5401

Ethics and Fraud Reporting

For online reporting: lakeland.ethicaladvocate.com

Reporting hotline: (855)-487-4839