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July 17, 2009

REPORT TO THE AUDIT COMMITTEE

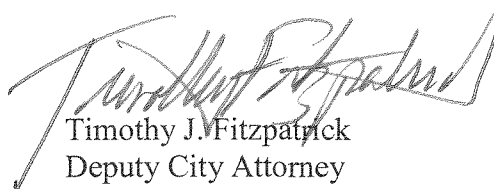
REVISIONS TO HOTLINE MANUAL TO ADDRESS CONFIDENTIALITY  
REQUIREMENTS

On April 13, 2009 and April 27, 2009, the Audit Committee requested that our office propose revisions to the Hotline Manual which address concerns of the Audit Committee in a manner that complies with the confidentiality and disclosure requirements of whistleblower hotlines under a new California law ("AB 2001"). The proposed revisions are included as Attachments A and B hereto.

Attachment A addresses the Quarterly Reports prepared by the City Auditor that summarize the Hotline complaints received in the prior quarter. The policy provides that the Quarterly Report will be posted on the website of the City Auditor after it is released to the Audit Committee. The policy also summarizes the general form and content of the Quarterly Report. Attachment B addresses the confidentiality of Hotline complaints and investigations. The policy provides guidance on the confidentiality of information during the investigative stage and disclosures that may be made upon completion of a substantiated investigation. The information provided in the Quarterly Reports is subject to the confidentiality requirements of AB 2001.

These proposed revisions will help ensure that the City complies with the confidentiality and disclosure requirements of AB 2001.

Respectfully submitted,



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TJF:jdf  
RC-2009-17

## **Attachment A**

### **I Overview of the Fraud Hotline and Complaint Program**

#### **INTRODUCTION**

**History** – (No Change)

**Objective** – (No Change)

**Structure** – (No Change)

#### **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 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.

## **Attachment B**

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

**Policy – (No Change)**

#### **Confidentiality of Hotline Complaints (New Language)**

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.
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.

**Custodian of Complaint Documents (New Language)**

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.