

THE CORPORATION OF THE CITY OF WINDSOR

POLICY

Service Area:	Office of the CAO	Policy No.:	
Department:	Chief Administrative Office	Approval Date:	April 20, 2015
Division:		Approved By:	M140-2015
		Effective Date:	April 20, 2015
Subject:	Fraud & Misuse of Assets Policy	Procedure Ref.:	N/A
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1. **POLICY**

- 1.1 The City of Windsor (“City”) is committed to protecting its revenue, property, information and other assets from any wrongful attempt by person(s) to gain, by deceit, a financial or other valuable benefit.
- 1.2 The City is committed to implementing measures to prevent, detect and report the incidence of fraud or misuse of assets, and also for investigating any suspected acts of fraud or misuse.
- 1.3 The City will promote consistent organizational behaviour relative to incidents of fraud and/or misuse of City assets by providing guidelines and assigning responsibility for the development of controls and the conducting of investigations.
- 1.4 The City will make every reasonable effort, including court ordered restitution, to recover or receive compensation from any appropriate source for City assets obtained by fraud.

2. **PURPOSE**

- 2.1 The purpose of this policy is to provide guidance and reporting methods when fraud or misuse of assets is suspected within the City.
- 2.2 It is the City’s intent to fully investigate any suspected acts of fraud or misuse of assets. An objective and impartial investigation will be conducted, regardless of the position, title, length of service, or relationship with the City or its officials, of any party who is suspected of a violation of this policy.

3. **SCOPE**

- 3.1 This policy applies to all non-union, professional and unionized City of Windsor employees (“Employees”) inclusive of all regular full-time, part-time, contract and temporary employees, including seasonal and recreation staff and students.
- 3.2 Elected officials are governed by the Council Code of Conduct, the Office of the Integrity Commissioner and the relevant sections of the Municipal Act.

4. RESPONSIBILITY

4.1 The Chief Administrative Officer (CAO) is responsible to:

- 4.1.1** The overall application of this policy within the Corporation;
- 4.1.2** Ensure that this policy is communicated to persons identified as within the scope of this policy;
- 4.1.3** Oversee investigations which, due to potential conflict, cannot be overseen by the Chief Financial Officer (CFO) and/or the City Solicitor;
- 4.1.4** Communicate, in consultation with the CFO and City Solicitor, instances of significant **suspected** fraud to the Internal Audit Service Provider;
- 4.1.5** In cases of significant **suspected** fraud as described in 4.1.4, consult with the Internal Audit Service Provider and Windsor Police Service to determine whether City management, the Internal Audit Service Provider or Windsor Police Service will conduct the investigation;
- 4.1.6** Communicate all **confirmed** cases of fraud and/or misuse of City assets, regardless of materiality, to the Internal Audit Service Provider and the External Audit Service Provider;
- 4.1.7** Report all **confirmed** instances of significant fraud and/or misuse of City assets to City Council and the Windsor Police Service;
- 4.1.8** Ensure that this policy is updated to reflect the requirements of any other Corporate policy.

4.2 The Chief Financial Officer (CFO)/City Treasurer is responsible to:

- 4.2.1** Undertake, in conjunction with the City Solicitor and/or any other members of management and staff that the CFO/City Treasurer may require, investigations of suspected fraud and/or misuse of City assets not taken by the Internal Audit Service Provider or Windsor Police Service;
- 4.2.2** Ensure that all investigations of suspected fraud and/or misuse of City assets takes proper account of collective agreement provisions pertaining to disciplinary timelines.

4.3 The Corporate Leadership Team (CLT) and all Executive Directors (ED's) are responsible to:

- 4.3.1** Ensure that all employees under their direction are familiar with the provisions of the policy;
- 4.3.2** Promptly report any suspected fraud and/or misuse of City assets to their supervisor (or to one level above their supervisor if the supervisor is suspected) in accordance with this policy's approved procedure;
- 4.3.3** Ensure that appropriate internal controls are in place within their respective areas to appropriately prevent and detect any instances of fraud or misuse of City assets;
- 4.3.4** The Executive Director of Human Resources shall ensure all new employees review and sign an acknowledgement of this policy at time of hire and prior to actively commencing work and will provide advice and guidance on the development of procedures and/or practices pertaining to this policy.

- 4.4** The Executive Director of Human Resources is responsible to:
- 4.4.1** Ensure all new employees review and sign an acknowledgement of this policy at time of hire and prior to actively commencing work and provide advice and guidance on the development of procedures and/or practices pertaining to this policy.
- 4.5** The City Solicitor is responsible to:
- 4.5.1** Provide functional advice and guidance to the CFO/City Treasurer as required during the conduct of investigations under this policy;
 - 4.5.2** Seek restitution for fraud and/or misuse of City assets from such sources as deemed appropriate.
- 4.6** The Internal Audit Service Provider is responsible to:
- 4.6.1** Ensure that all matters referred to Internal Audit for investigation, either by management, through the Hotline, or as a consequence of an Internal Audit report, are investigated in a manner consistent with the Internal Audit Charter and the Hotline & Notification Protocol;
 - 4.6.2** Ensure that, for all matters referred to Internal Audit for investigation, responses are sent to City management within four (4) business days as per the Hotline & Notification Protocol.
- 4.7** Managers and supervisors are responsible to ensure that they and the employees under their supervision work in a manner that is in compliance with this policy and refrain from actions that may create any suspicion of fraud or misuse of assets.
- 4.7.1** Managers and supervisors should be reasonably familiar with the types of fraud or misuse of assets that might occur in their area and be alert for any indication of non-compliance.
- 4.8** All Employees are responsible to:
- 4.8.1** Conduct themselves in a manner that avoids actual or perceived fraud;
 - 4.8.2** Report all incidents of suspected fraud or misuse of assets to their supervisor (or one level above their supervisor if the supervisor is suspected) in accordance with this policy's approved procedure;
 - 4.8.3** Refrain from further independent investigation after making a report as described in 4.8.2 to ensure that financial records and other evidence are not compromised;
 - 4.8.4** Employees are expected to fully co-operate with management, the Internal Audit service provider and any law enforcement agencies, as required, during the course of any investigation and are expected to make all reasonable efforts to be available to assist with the investigation.

5. GOVERNING RULES AND REGULATIONS

- 5.1** This policy is governed by the following statutes of the Province of Ontario or Government of Canada:
- 5.1.1** *Criminal Code RSC 1985, c. C-46;*
 - 5.1.2** *Municipal Freedom of Information and Protection of Privacy Act, RSO, 1990 c M-56;*
 - 5.1.3** *Occupational Health and Safety Act RSO 1990, C.0.1;*
 - 5.1.4** *Ontario Human Rights Code RSO1990, c H.19*

5.2 Definitions

5.2.1 City Assets – Includes all tangible and intangible property of the of the City including but not limited to equipment, financial assets, land, vehicles, material, computers, electronic mail, internet services, information and work time;

5.2.2 Fraud – For the purposes of this policy fraud and / or misuse of assets, includes, but is not limited to, the following acts characterized by deceit, or concealment or wilful blindness to policy, procedure or appropriate practice:

- a) Forgery, alteration or fraudulent creation of documents including, but not limited to cheques, drafts, promissory notes, securities, timesheets, purchase orders, other blank documents of value such as invoices, billing slips, permits, licenses, etc;
- b) Any misappropriation, embezzlement, unauthorized use or misuse of cash, funds, securities, supplies, furniture, equipment, materials, records or any other asset;
- c) Any irregularity in the handling and/or reporting of money transactions;
- d) Any intentional, false representation or concealment of a material fact for the purpose of improperly obtaining or impairing a City of Windsor asset;
- e) Demanding or requesting or accepting anything having value from vendors, consultants, contractors, or anyone doing business with the City as a condition of their doing business with the City or in order for them to receive preferential treatment from the City
- f) Offering or providing anything having value to clients, vendors, consultants, contractors, or anyone doing business with the City as a means of obtaining preferential treatment or benefit for the employee, any other person or the City;
- g) Any intentional violations of the Corporate Conflict of Interest Policy;
- h) Any computer related activity involving the alteration, destruction, forgery or fraudulent manipulation of data and any misappropriation of City owned software;
- i) Any claim for reimbursement of expenses that were not incurred as a recognizable business expense for the City's benefit or that are in violation of the Corporate Business and Travel Expense policy;
- j) Authorization or receipt of payments for goods not received or services not performed, other than normal prepaid expenditures;

- k) Authorization or receipt of payment for hours not worked;
- l) Any apparent violation of Federal, Provincial or local laws related to dishonest activities or fraud;

5.2.3 Misappropriation – the intentional or illegal use of the property or funds of another person for one's own use or other unauthorized purpose;

5.2.4 Misuse – includes unethical behaviour, wilful omission to perform one's duties, abuse of authority, theft, embezzlement, receipt of bribes, kickbacks or gifts of significant value, breach of federal, provincial or municipal legislation and significant waste of City assets;

5.2.5 Person(s) – includes employees, agents, intermediaries and members of the public;

5.2.6 Significant fraud – for the purposes of Section 4.1 and Section 5.2.2 of this policy, shall be determined according to the best professional judgment of the CFO & City Treasurer, in consultation with the City Solicitor, or in instances where the CFO & City Treasurer is implicated, the best professional judgement of the Chief Administrative Officer, in consultation with the City Solicitor.

5.2.7 Suspicion – reasonable belief that a violation of this policy is occurring.

5.2.8 Unauthorized – not having official permission to do or omit to do an act whether specifically granted (whether or not in writing) or designated by policy.

5.3 It is the City's intent to fully investigate any suspected acts of fraud or misuse of assets. An objective and impartial investigation will be conducted, regardless of the position, title, length of service, or relationship with the City or its officials, of any party who is suspected of a violation of this policy.

5.4 Any person(s) found responsible for fraud or other violations of this policy of fraud will be subject to disciplinary action up to and including dismissal, and may also be subject to criminal charges.

5.5 Any person(s) found responsible for deliberately making a false accusation will be subject to disciplinary action up to and including dismissal.

5.6 This policy is designed to augment other corporate policies as noted below containing related information and is not intended to replace or preclude them. Should a conflict arise between policies in the areas of interpretation, application, or responsibility, the policy with the more stringent or restrictive interpretation shall apply. However, in resolving a conflict between policies, nothing shall be interpreted so as to reduce or interfere with the rights of management to direct or discipline employees.

5.6.1 Human Rights Policy

5.6.2 Workplace Harassment Policy

5.6.3 Workplace Violence Policy

5.6.4 Standards of Employee Department Policy

- 5.6.5 Acceptable Use Policy
- 5.6.6 Purchasing By-Law
- 5.6.7 Travel and Business Expense Policy
- 5.6.8 Code of Ethics & Conflict of Interest Policy
- 5.6.9 Internal Audit Charter
- 5.6.10 Concerned Citizen/Employee Hotline & Notification Process
- 5.6.11 Concerned Employee Policy
- 5.6.12 Any and all policies, procedures or directives issued by Council or the CAO relating to financial matters, use of assets or fraud.

5.7 Application of this policy will be in accordance with applicable provisions within the collective agreements and memoranda between the City and its unions and associations.

5.8 Notwithstanding the reporting obligations of any other policy, if there is reason to believe that fraud or misuse of assets has occurred, the reporting procedures in this policy shall be followed concurrently with any other reporting obligations.

6. RECORDS, FORMS AND ATTACHMENTS

- 6.1 All records shall be kept confidential and maintained in accordance with the City's Record Retention By-law.
- 6.2 The CAO, in consultation with the CFO and City Solicitor, shall have the authority to create and revise operational procedures in support of this policy.
- 6.3 This policy will be monitored on an ongoing basis and formally brought back to City Council for approval/revision within five years, or sooner if required.