Meeting Date: **6/4/2013**

Report Type: Consent

Report ID: 2013-00481

City of SACRAMENTO

City Council Report
915 I Street, 1st Floor
www.CityofSacramento.org

Title: City Auditor's Whistleblower Hotline Activity Report

Location: Citywide

Issue: According to City Code Chapter 2.18, the City Council should be kept apprised of the City Auditor's work. This report documents the City Auditor's Whistleblower Hotline related activity for the November 2012 to March 2013 period.

Recommendation: Pass a Motion accepting the City Auditor's Whistleblower Hotline Activity Report for the period ending March 2013.

Contact: Jorge Oseguera, City Auditor, (916) 808-7270, Office of the City Auditor

Presenter: None

Department: Mayor/Council
Division: Office of the City Auditor
Dept ID: 01001201
Attachments:
1-Description/Analysis
2-Whistleblower Hotline Activity Report Ending March 2013

City Attorney Review

Approved as to Form
Matthew Ruyak
5/24/2013 2:02:16 PM

Approvals/Acknowledgements

Department Director or Designee: Jorge Oseguera - 5/23/2013 5:08:22 PM

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Description/Analysis

Issue Detail: According to City Code Chapter 2.18, the City Council should be kept apprised of the City Auditor's work. This report documents the City Auditor's Whistleblower Hotline related activity for the November 2012 to March 2013 period.

Policy Considerations: The City Auditor's presentation of the City Auditor's Whistleblower Hotline Activity Report is consistent with the Mayor and City Council's intent to have an independent audit function for the City of Sacramento.

Economic Impacts: None

Environmental Considerations: None

Sustainability: None

Commission/Committee Action: The Audit Committee unanimously accepted this report on April 30, 2013 and forwarded it to the full City Council for approval (Council Member Angelique Ashby was absent).

Rationale for Recommendation: This staff report provides the Audit Committee with information that may be used to meet its responsibility to provide oversight and supervision of the City Auditor.

Financial Considerations: The costs of the City Auditor's Whistleblower Hotline Activity Report were funded out of the 2012/13 Office of the City Auditor Budget.

Emerging Small Business Development (ESBD): No goods or services are being purchased as a result of this report.

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City Auditor's Whistleblower Hotline Activity Report (November – March 2013)

Jorge Oseguera
City Auditor

Nicholas Cline
Senior Auditor

Office of the City Auditor
December, 2012

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Whistleblower Program Background

City Council directed the City Auditor to establish a Whistleblower Program

In February 2012, the City Auditor published the *Assessment for Establishing a Whistleblower Hotline*. That report presented whistleblower hotline best practices, other cities' whistleblower program information, estimated costs to establish a program for the City of Sacramento, and City employee survey results about potential fraud, waste, and abuse in Sacramento.

In March 2012, City Council directed the City Auditor to establish a Whistleblower Hotline Program to allow City employees and members of the public to report potential fraud, waste, and abuse without the fear of retaliation. In October 2012, the City Manager posted the City Policy related to the program "Policy: Whistleblower Protection AP-1002" and the City Auditor posted the "Whistleblower Hotline Procedures."

Auditor's role and responsibilities

The City Auditor is the City's independent auditor who reports directly to the Mayor and City Council. Council approves the Auditor's annual audit plan and has historically added audits to the plan when needed.

State law sets requirements for establishing and running a whistleblower hotline, but local auditors have discretion in how to operate their programs. California Government Code Section 53087.6 allows local governments to create whistleblower hotlines.

The following includes key points of this Government Code section and how it pertains to the City of Sacramento:

- The City Auditor shall obtain approval from City Council before establishing a whistleblower hotline. This approval was obtained by Council in March 2012.
- The hotline is used to receive calls from people who have information regarding fraud, waste, or abuse.
- The City Auditor may refer calls received on the hotline to the appropriate government authority for review and investigation.
- During the initial review of calls received, the City Auditor (or the appropriate government authority to whom the call is referred) shall hold in confidence information disclosed through the hotline. This includes the identities of the callers disclosing information and the people identified by the callers.
- Upon receiving specific information that an employee has engaged in an improper government activity, the City Auditor may conduct an investigative audit.
- The identity of the people providing information that initiated the investigative audit shall not be disclosed without their written permission, unless the disclosures are to law enforcement agencies that are conducting criminal investigations.

- The investigative audit shall be kept confidential except to issue a report of an investigation that had been substantiated or to release findings from completed investigations that are deemed necessary to serve the interests of the public.
- The identities of individuals reporting the improper government activities and the subject employees investigated shall be kept confidential.
- However, the City Auditor may provide a substantiated audit report and other information (including subject employee identities) to appointing authorities for disciplinary purposes.

Whistleblower procedures target high-risk tips

Due to the limited number of staff members in the Office of the City Auditor and the Office's chief responsibility to conduct performance audits in accordance with the Council-approved Audit Plan, conducting full investigations of all tips is not feasible. Instead, the City Auditor has adopted a risk-based approach to investigate whistleblower tips.

As part of the program's intake process, we rank tips by risk and focus investigative efforts on those that represent the greatest risk to the City. The following shows how we generally classify types of tips based on risk:

High Priority
Some reasons why allegations may be considered high priority are that they could include a safety concern, loss[1] to the City of more than $75,000, criminal activity resulting in a loss of at least $400, high-level involvement, collusion of multiple wrongdoers, major department-wide issue, or need for immediate action to stop a potential major issue. Addressing these items could take priority over other investigations and audits – at the City Auditor's discretion.

Medium Priority
Allegations in this category could include a loss to the City of more than $25,000, abuse of authority, medium-to low-level employee involvement, minor department-wide issues, or patterns of small problems that could become serious when summed. Some medium-priority items could be referred to departments for their reviews.

Low Priority
Allegations in this category could include a loss to the City of less than $25,000, isolated instances of time abuse, wasteful practices that would lead to limited gains in efficiencies if corrected, or allegations that lack credibility and evidence. The office would aim to investigate items in this list, but may not do so because of limited resources. However, if the same or similar issues were reported multiple times – low-priority items may become more of a priority. Additionally, some low-priority tips could be referred to departments for their reviews.

[1] Loss could entail actual or potential loss of money, waste, or inefficiencies.

Status of investigations

More than half of tips received have been investigated and closed

As noted above, City Council directed the City Auditor in March 2012 to establish a Whistleblower Hotline Program. However, the Office of the City Auditor began to receive whistleblower tips earlier in the year. Many tips were received towards the beginning of 2012 - around the time that we worked on and issued the *Assessment for Establishing a Whistleblower Hotline*.

A total of 41 tips, covering 18 types of allegations, have been received. The following shows all Whistleblower Program tips that the City Auditor's Office received as of March 31, 2013.

Exhibit 1: Forty-one Tips Have Been Reported As Of March 2013

Types of Allegations	Number	Percent
Abuse of Position or Authority	3	7%
Bribes / Kickbacks	1	2%
Contract Issue	2	5%
Corruption	1	2%
Employee Relations	5	12%
Falsify Records	1	2%
Hiring Irregularities	1	2%
Improper Controls	1	2%
Information Request	4	10%
Miscategorized Expenses	1	2%
Misuse City Property	2	5%
Payroll	3	7%
Reimbursement Abuse	2	5%
Theft	3	7%
Time Abuse	2	5%
Violate Policy	3	7%
Violate State/Fed Rules	3	7%
Wasteful Practice	3	7%

As explained in the background section, we classify tips as high, medium, or low priority. More than 80 percent of tips were classified as low or medium, as shown below:

Exhibit 2: Most Tips Represented Low Or Medium Priorities

Priority Level	Tips Reported
High	**7**
Medium	**11**
Low	**23**

The following exhibit provides information about cases that we closed since our last semiannual whistleblower hotline activity report. The reason for the closure is noted. For tips that were substantiated, a summary of the disposition is included.

Exhibit 3: One Tip Was Substantiated And Three Were Referred To Departments

Log #	Primary Type of Allegation	Priority	Status	Result
1	Bribes / Kickbacks	High	Closed	**Unsubstantiated**: Per Investigation
5	Time Abuse	Medium	Closed	**Unsubstantiated**: Per Investigation
14	Time Abuse	Medium	Closed	**Unsubstantiated**: Per Investigation
15	Abuse of Position or Authority	Low	Closed	**Unsubstantiated**: Per Investigation
20	Misuse City Property	Low	Closed	**Investigated & Referred**: We received a complaint that a City employee was using their City vehicle for personal use. Based on the information provided, we confirmed; 1) that vehicle in question belonged to the City, and 2) Which department the vehicle was assigned to. The nature of the complaint and our analysis was shared with the department for their further consideration and to determine if any disciplinary action was necessary.
21	Information Request	Low	Closed	**Responded to information request**
24	Information Request	Low	Closed	**Responded to information request**
25	Violate Policy	Low	Closed	**Investigated & Referred**: We received a complaint that the Fire Department had released confidential information to City Employees. Based on the information obtained, we confirmed; 1) the release of confidential information, 2) that recipients of the information were instructed to destroy the information provided. The nature of the complaint and our analysis was shared with the department for their further consideration and to determine if any disciplinary action was necessary. The Fire Department confirmed that controls would be put in place to better protect confidential information.

26	Misuse City Property	Low	Closed	**Investigated & Referred:** We received a complaint that a City employee was using their City vehicle for personal use. Based on the information provided, we confirmed; 1) that vehicle in question belonged to the City, and 2) Which department the vehicle was assigned to. The nature of the complaint and our analysis was shared with the department for their further consideration and to determine if any disciplinary action was necessary.
30	Violate Policy	Medium	Closed	**Substantiated**: We received a complaint that Utilities Department staff had given away scrap metal in violation of City policy. Our investigation confirmed that a fire hydrant riser had been given away inappropriately. We determined the recycle value of the riser was insignificant. However, the recipient of the riser was able to avoid the installation of a new fire hydrant which would have cost approximately $2,000. We did not find that staff benefited from the exchange and it appears to be an isolated incident. The results of our investigation were provided to the department for further consideration and to determine if any disciplinary action was necessary.
31	Wasteful Practice	Low	Closed	**Unsubstantiated** : No investigation needed
32	Theft	Low	Closed	**Unsubstantiated** : Per Investigation
33	Employee Relations	Low	Closed	**Unsubstantiated** : Per Investigation
35	Corruption	Low	Closed	**Unsubstantiated** : No investigation needed
36	Employee Relations	Low	Closed	**Unsubstantiated** : No investigation needed

Since the initiation of the Whistleblower Hotline, we have closed 25 of the 41 tips (60 percent). Of the 16 cases that are not closed, nine were incorporated into planned audits and seven remain open as shown below.

Exhibit 4: Nine Tips Have Been Incorporated Into Planned Audits

Log #	Primary Type of Allegation	Priority
3	Miscategorized Expenses	Medium
4	Theft	High
16	Improper Controls	Medium
17	Abuse of Position or Authority	Medium
22	Payroll	High
23	Payroll	Low
27	Payroll	High
28	Reimbursement Abuse	Low
37	Falsify Records	Low

Exhibit 5: Seven Tips are currently open

Log #	Primary Type of Allegation	Priority
9	Contract Issue	Medium
29	Information Request	Low
34	Violate State/Fed Rules	Low
38	Violate Policy	Low
39	Employee Relations	Low
40	Employee Relations	Low
41	Employee Relations	Low

To Contact the City's Whistleblower Hotline

City staff or members of the public may submit allegations by either calling the Whistleblower Hotline's toll-free number 1-888-245-8859 or by completing the online form located at https://www.reportlineweb.com/cityofsacramento. In addition, individuals may also submit allegations directly to the City Auditor or any Auditor Office staff member. Any individual who files a complaint may elect to have their identity kept confidential. The individual's identity will be kept confidential to the extent permitted by law unless the individual waives confidentiality in writing. Information can be submitted in person, over the phone, by voicemail, by e-mail, or by mail.

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