Meeting Date: **6/9/2016**

Report Type: Consent

Report ID: 2016-00608

City of SACRAMENTO 06

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

Title: City Auditor's Whistleblower Hotline Activity Report

Location: Citywide

Recommendation: Pass a Motion approving the City Auditor's Whistleblower Hotline Activity Report.

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-City Auditor's Whistleblower Hotline Activity Report 3.3.16

City Attorney Review

Approved as to Form
Sandra Talbott
6/1/2016 5:15:16 PM

Approvals/Acknowledgements

Department Director or Designee: Jorge Oseguera - 5/31/2016 11:21:33 AM

Description/Analysis

Issue Detail: According to City Code Chapter 2.18, the City Council should be kept apprised of the City Auditor's work. The Budget and Audit Committee shall receive, review, and forward to the Council as appropriate, reports, recommendations, and updates from the City Auditor. This report documents the City's Auditor's Whistleblower Hotline related activity for the November 2015 to March 2016 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 Budget and Audit Committee unanimously accepted this report on May 3, 2016 and forwarded it to the full City Council for approval.

Rationale for Recommendation: This staff report provides the City Council 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 Office of the City Auditor Budget.

Local Business Enterprise (LBE): No goods or services are being purchases as a result of this report.

Report # 2016-02

City Auditor's Whistleblower Hotline Activity Report (November 2015–March 2016)

Jorge Oseguera
City Auditor

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Assistant City Auditor

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Auditor

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Office of the City Auditor
May, 2016

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Whistleblower Program Background

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.

Sacramento Office of the City Auditor
915 "I" Street
Historic City Hall, 2nd floor
Sacramento, CA 95814

Office of the City Auditor Website: http://www.cityofsacramento.org/auditor/

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.

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

The following includes key points of the 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 from the Sacramento City 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 a department for their review.

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 a department for their review.

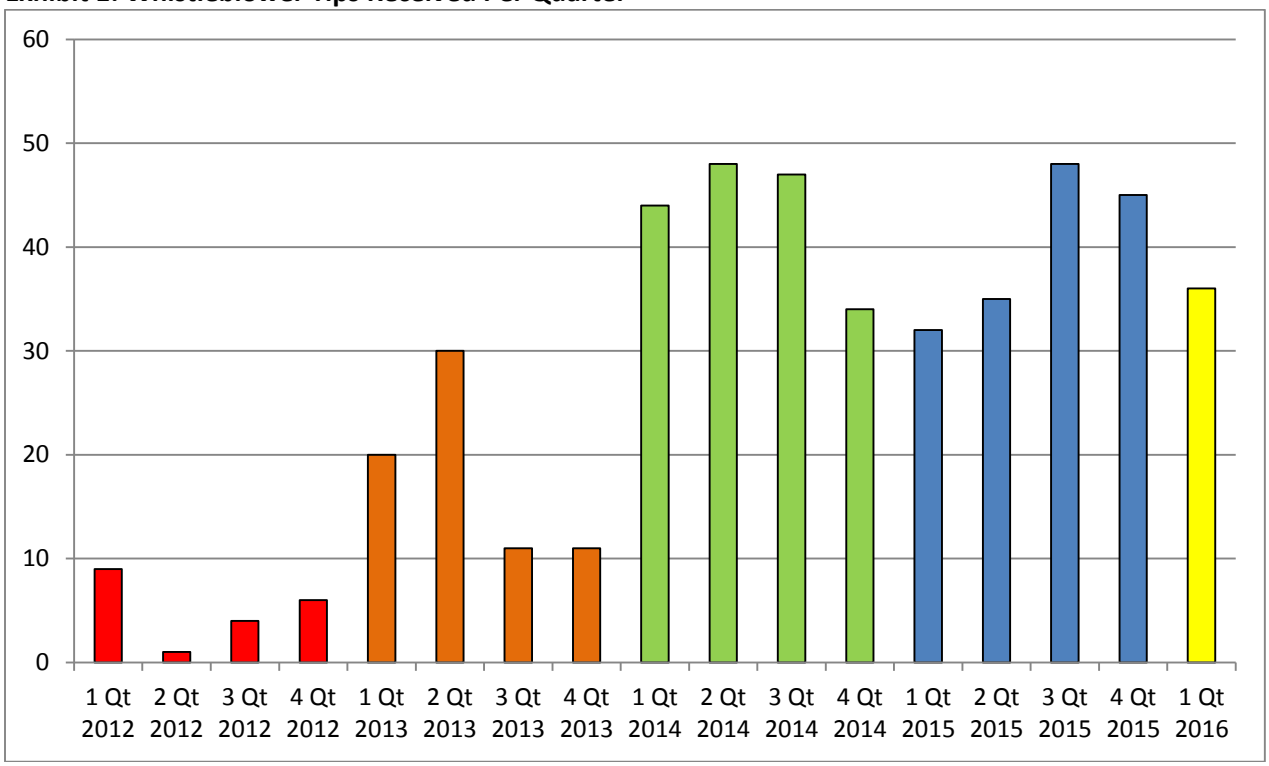
[1] Loss could entail actual or potential loss of money, waste, or inefficiencies.

Status of Investigations

The number of tips received by the City Auditor have been growing steadily

Use of the City Auditor's Whistleblower Hotline has shown significant growth. In 2012, we received 20 tips, in 2013, we received 79 tips, 2014 we received 173 tips, and in 2015 we received 160 tips. The table below shows the number of tips received per quarter since the program's inception.

Exhibit 1: Whistleblower Tips Received Per Quarter



We will continue to monitor call volume and report on the call activity.

Over 80 percent of tips received have been processed and closed

As previously noted, the City Council directed the City Auditor in March 2012 to establish a Whistleblower Hotline Program. Since the inception, the City Auditor's Office has received over 500 tips. During the current reporting period of November 2015 to March 2016, the Auditor's Office received 62 cases, of which 52 were processed and closed.

The following exhibit provides information regarding all cases that we closed since our last semiannual whistleblower hotline activity report. A summary of the investigation results are included for tips that were substantiated.

Exhibit 2: Sixty-seven Tips Were Closed of Which Three Tips Were Substantiated

Case #	Primary Type of Allegation	Priority	Result
336	Employee Relations	Low	**Substantiated & Referred:** We received a complaint alleging that a City employee received discipline for using City equipment on City time for personal use, and that a City Superintendent did not follow proper disciplinary procedures regarding this incident. It was substantiated that the City employee did use City equipment on City time for personal use. The disciplinary actions taken by the Superintendent are in question; therefore, we made a recommendation to the department to review their disciplinary processes to ensure that appropriate disciplinary actions are taken in the future.
337	Employee Relations	Low	**Substantiated & Referred:** We received a complaint alleging that two Department of Utilities' employees were engaging in inappropriate activities during work hours. It was substantiated that these employees: violated the City's IT Policy, violated the City's Drug & Alcohol Policy, and lied during a Labor Relations investigation. It appears that they may have also committed time card fraud. These employees have since resigned from City employment. We referred this to the department to assess control weaknesses.
345	Employee Relations	Low	**Investigated & Referred:** Labor Relations Division
391	Conflict of Interest	Low	**Substantiated & Referred:** We investigated a complaint alleging that a City Fire Department employee was conducting business with the City as a vendor. Based on our analysis, we confirmed that the employee was paid to provide services as a City vendor. As City code prohibits City employees from providing services as vendors, this allegation is substantiated. In addition, the employee's supplementary employment and business activities may have conflicted with their responsibilities to the City of Sacramento. We referred this case to the Fire Department, Labor Relations, and the Police Department for further review and to determine if discipline or criminal charges are warranted.
395	Case Canceled	Canceled	Canceled
396	Case Canceled	Canceled	Canceled
410	Case Canceled	Canceled	Canceled
412	Case Canceled	Canceled	Canceled
425	Wasteful Practice	Low	**Unsubstantiated:** Per Investigation
428	Case Canceled	Canceled	Canceled
439	Case Canceled	Canceled	Canceled
440	Case Canceled	Canceled	Canceled

444	Case Canceled	Canceled	Canceled
447	Conflict of Interest	Medium	**Unsubstantiated:** Per Investigation
448	Wasteful Practice	Low	**Unsubstantiated:** Per Investigation
458	Case Canceled	Canceled	Canceled
464	Violate Policy	Low	**Unsubstantiated:** Per Investigation
465	Case Canceled	Low	Canceled
466	Case Canceled	Low	Canceled
467	Violate Local/State/Fed Law	Low	**Investigated & Referred:** Outside Entity
468	Unrelated to the City	Low	**Dismissed:** Does not appear to have merit
469	Violate Local/State/Fed Law	Low	Resolved prior to investigation
472	Violate Local/State/Fed Law	Low	**Unsubstantiated:** Per Investigation
473	Employee Relations	Low	Resolved prior to investigation
474	Case Canceled	Canceled	Canceled
475	Violate Policy	Low	Resolved prior to investigation
476	Violate Local/State/Fed Law	Medium	**Unsubstantiated:** Per Investigation
478	Case Canceled	Canceled	Canceled
479	Fraud	Low	**Unsubstantiated:** Per Investigation
480	Unprofessionalism by City Employee	Low	**Investigated & Referred:** General Services Department
481	City Property Issues/311	Low	**Investigated & Referred:** 311
482	Wasteful Practices	Low	**Unsubstantiated:** Per Investigation
483	Unrelated to the City	Low	Non-City complaint
484	Unrelated to the City	Low	Non-City complaint
485	Case Canceled	Canceled	Canceled
486	Housing/311	Low	Not enough Information provided
487	Unrelated to the City	Low	Non-City complaint
488	Unprofessionalism by City Employee	Low	**Unsubstantiated:** Not enough information provided
489	Hiring Irregularities	Low	**Investigated & Referred:** Labor Relations Division
490	Unrelated to the City	Low	Non-City complaint
491	Unprofessionalism by City Employee	Low	**Investigated & Referred:** Labor Relations Division
492	Misuse of funds	Low	**Unsubstantiated:** Per Investigation
493	Insufficient action by City	Low	**Dismissed:** Does not appear to have merit
494	Unprofessionalism by City Employee	Low	**Dismissed:** Does not appear to have merit
495	Unrelated to the City	Low	Non-City complaint
496	Unrelated to the City	Low	**Dismissed:** Does not appear to have merit
497	Unrelated to the City	Low	Non-City complaint
498	Unrelated to the City	Low	Non-City complaint
499	Case Canceled	Canceled	Canceled
500	Case Canceled	Canceled	Canceled
501	City Resources For Other Job	Low	**Unsubstantiated:** Per Investigation
502	Contested City Charges	Low	Not enough Information provided
504	Violate Local/State/Fed Law	Low	Not enough Information provided

505	Theft of goods/services	Low	Non-City complaint
506	Contract Issue	Low	**Investigated & Referred:** Public Works Department
507	Time Abuse	Low	**Investigated & Referred:** Fire Department
509	Violate Local/State/Fed Law	Low	Non-City complaint
511	Case Canceled	Canceled	Canceled
515	Reimbursement Abuse	Low	Resolved prior to investigation
517	Case Canceled	Canceled	Canceled
519	Unrelated to the City	Low	**Dismissed:** Does not appear to have merit
520	Parking	Low	**Investigated & Referred:** 311
521	Violate Local/State/Fed Law	Low	Non-City complaint
522	Case Canceled	Canceled	Canceled
523	Unrelated to the City	Low	Non-City complaint
525	Case Canceled	Canceled	Canceled
526	Case Canceled	Canceled	Canceled

Further Consideration

The City Auditor has been stretching audit resources in order to manage the City's whistleblower hotline without adding any staff. However, given recent increases in workload associated with complex investigations, my office has had to divert even greater resources away from performance audits to whistleblower investigations. During the last Activity Report presented to the Budget and Audit Committee, the audit committee members expressed interest in revisiting the potential expansion of the Auditor's Office to accommodate call volume and workload during 2015/16 midyear budget discussions. Unfortunately, the midyear budget process did not include any additional resources for the Office of the City Auditor.

The 2016/17 Mayor and Council budget priorities reiterated the need to fund an additional audit position. Specifically it stated,

> "the Auditor's Office Whistleblower Hotline has been a positive addition to the services provided by the city. The success of the hotline has resulted in a significantly increased call volume requiring greater workload. Given the growth of the program, we should add a position to handle the hotline and investigate whistleblower tips. The City Manager is directed to fund one FTE for the City Auditor's Office. (This is an estimated $100,000 ongoing expense.)"

The current proposed 2016/17 budget does not accommodate the additional audit resources requested in the Mayor and Council budget priorities document.

The reception of the Whistleblower Hotline has been positive and has resulted in the deterrence and detection of fraud, waste, and abuse. To date, we estimate that the hotline has helped identify over $750,000 of undesirable City activity. As previously mentioned, call volume has increased significantly

and therefore has resulted in greater workload. Given the growth and success of the program, we request the City Council consider adding to the City Auditor's Office 1 FTE that would be dedicated to primarily handle and investigate whistleblower tips. Doing so would help us better manage and respond to whistleblower tips as well as complete our normally scheduled performance audit reports in a more timely manner. Estimated costs for this position would likely be in line with the current Senior Auditor classification which has a salary range of $58,567 to $87,851.