



Smith County

Fraud, Waste and Abuse Policy

Adopted Date:

PURPOSE

The purpose is to communicate the County's policy regarding deterrence and investigation of suspected misconduct, dishonesty by employees and/or others concerning fraud, waste and abuse, and to provide specific instructions regarding appropriate action in the event of suspected violations.

Smith County is committed to the safeguarding of public assets and preventing fraud, waste and abuse. All County employees, as public stewards, must share in this commitment. County employees, especially supervisors and department heads/elected officials, must be aware of the circumstances, or "red flags", which may potentially lead to fraud. For the purpose of this administrative procedure, fraud, waste and abuse are referred to as "fraud."

SCOPE

This policy applies to any fraud, or suspected fraud, involving employees, department heads, officials, consultants, vendors, contractors, and any other parties with a business relationship with Smith County. Investigations will be performed without regard to length of service, title/position, or relationship.

GOAL

It is the intent of this policy to establish and maintain a fair, ethical, and honest business environment for all County employees, customers, suppliers and anyone else with whom the County has a relationship.

DEFINITIONS

Fraud – Fraud encompasses an array of irregularities and illegal acts characterized by internal or external deception. It can be perpetrated for the benefit of, or to the detriment of, the County, and by people outside as well as inside the County. Examples of fraud include, but are not limited to the following:

- Stealing, misappropriation of funds, supplies, etc.
- Management override of internal controls
- Forgery or unauthorized alteration of any document
- Intentional misrepresentation by County personnel regarding payroll

- records or the payroll records of others
- Knowingly making a false entry in, or false alteration of a governmental record
- Making, presenting, or using any record, document, or thing with the knowledge that it is false
- Processing, selling, or offering to sell a governmental record or a blank governmental record form with the intent that it be used unlawfully, or with the knowledge that it was obtained unlawfully
- Using or claiming to hold an educational degree that is fraudulent, fictitious, or has been revoked, with the intent to obtain employment, promotion, or other benefit
- Credit card abuse or falsification of a transaction
- Making a false statement to obtain money, property, credit, or services
- Fraudulent transfer of a motor vehicle
- Securing execution of a document by deception
- Fraudulent destruction, removal, or concealment of a document
- Simulating legal process
- Fraudulent use or possession of identifying information without that person's consent
- Stealing an unsigned check or receiving an unsigned check with the intent to use it or sell it

County employees and officials are prohibited from performing any fraudulent activity. If there is any question as to whether an action constitutes fraud, contact the County Auditor for guidance.

Waste – Waste is defined as intentional or negligent harmful or destructive use of property under one's control. Waste may result from mismanagement, inappropriate actions, and/or inadequate oversight. Examples of waste include, but are not limited to the following:

- Damaging, destroying, or ruining materials or equipment
- Improper maintenance or intentional mistreatment of equipment
- Purchase of unneeded supplies or equipment
- Purchase of goods at inflated prices
- Failure to reuse or recycle major resources or reduce waste generation

Abuse – Abuse refers to violations and circumventions of departmental or County regulations which impair the effective and efficient execution of operations. Some examples of abuse are as follows:

- Unauthorized use of County equipment or supplies for non-County purposes, including but not limited to, computers, vehicles, software, databases, etc.
- An employee using non-confidential personal information on citizens to obtain new customers for his/her outside business
- Improper handling or reporting of money or a financial transaction

- Profiting by self or others because of inside knowledge
- Destruction or intentional disappearance of records, furniture, fixtures or equipment
- Accepting or seeking anything of material value from vendors or people providing services or material to the County for personal benefit
- Abuse of purchase order authority, such as false travel or expense reports
- Use of information gained as a Smith County employee for personal gain, such as an employee using non-confidential taxpayer information to get new customers for his/her outside business

DETERRENCE

Deterrence consists of those actions taken to discourage the perpetration of fraud and limit the exposure if fraud does occur. Elected Officials/Department Heads are responsible for the implementation and maintenance of effective internal controls. All County employees and officials are responsible for ensuring established internal controls are followed and exceptions are reported. The internal audit division is responsible for assisting in the deterrence of fraud by examining and evaluating the adequacy and effectiveness of internal controls.

Fraud occurs for the following reasons:

1. Poor internal controls, especially disregard for set policies and procedures
2. Management override of internal controls
3. Collusion between employees and/or third parties
4. Poor or non-existing ethical standards
5. Lack of control over staff by their supervisors

“RED FLAGS” OF FRAUD

The most frequently cited “red flags” of fraud are:

1. Changes in an employee’s lifestyle, spending habits or behavior
2. Poorly written or poorly enforced internal controls, procedures, policies or security
3. Irregular/ unexplained variances in financial information
4. Inventory shortages
5. Failure to act on results of internal/external audits or reviews
6. Unusually high expenses or purchases
7. Frequent complaints from customers
8. Missing files
9. Ignored employee comments concerning possible fraud
10. Refusal to leave custody of records by the employee
11. Working excessive overtime and refusing to take vacation time off

FRAUD PREVENTION

The following internal controls should minimize the risks and help prevent fraud:

1. Detailed written policies and procedures and adherence to all policies and procedures, especially those concerning documentation and authorization of transactions.
2. Physical security and controlled access over assets such as locking doors and restricting access to certain areas.
3. Proper training of employees
4. Independent review and monitoring of tasks by the department supervisor, such as approval processing of select items.
5. Separation of duties so that no one employee is responsible for a transaction from start to finish.
6. Clear lines of authority
7. Conflict of interest statements which are enforced
8. Rotation of duties in positions more susceptible to fraud
9. Ensuring that employees take regular vacations
10. Regular independent audits of areas susceptible to fraud

DUTY TO REPORT

Local public officials, County officials, County employees, and all others who are subject to this policy have a duty to report violations of this policy and to cooperate in investigations, inquiries, and hearings conducted by the County. However, a person making false reports shall be subject to disciplinary action if he or she reports information which he or she knows to be false or which he or she discloses with reckless disregard for its truth.

REPORTING FRAUD

If an employee suspects fraud is being committed within the County, the employee should report it to any of the following:

- Their immediate supervisor
- Department Head/Elected Official
- County Auditor by phone at 9 0 3 - 5 9 0 - 4 7 0 5 , via online by way of the Smith County website; or by mail to the County Auditor at the following address:

Smith County Auditor's Office
Attn: Fraud Hotline
200 E Ferguson, Suite 407
Tyler, TX 75702

The supervisor, department head/elected official, human resource staff and County Administration shall immediately submit reports of fraud to the County Auditor's Office.

CONFIDENTIALITY

The Internal Audit Division treats all information received with the utmost discretion. At any time, an employee may communicate directly with the County Auditor's Office to report fraud. If an employee requests to remain anonymous, every attempt will be made to protect the identity of the reporting individual. The County Auditor's Office is committed to protecting the employee's identity and confidentiality.

Due to the important yet sensitive nature of the suspected violations, effective professional follow-up is critical. Managers, while appropriately concerned about "getting to the bottom" of such issues, should not in any circumstance perform any investigative or other follow-up steps on their own. All relevant matters, including suspected but unproven, should be referred immediately to those with follow-up responsibility.

Any employee who suspects waste and abuse or fraudulent activity will notify any of the proper parties as identified in this policy. Employees should not attempt to personally conduct investigations or interviews/interrogations related to any suspected fraudulent act. Investigation results will not be disclosed or discussed with anyone other than those who have a legitimate or legal need to know. This is important in order to avoid damaging the reputations of persons suspected but subsequently found innocent of wrongful conduct and to protect the County from potential civil liability. To the extent possible, the confidentiality of the person making the complaint and that of the respondent will be maintained. However, the following may apply:

- Information contained in the report of inquiry may be used in disciplinary actions resulting from the investigation
- Investigative reports are deemed confidential unless otherwise directed by a competent court of jurisdiction or as directed by the County Auditor which may require consultation from the County Attorney
- If a fraud investigation is the basis of disciplinary action, the employee will be provided with a summary of the investigation

INVESTIGATION RESPONSIBILITIES

Great care must be taken in the investigation of suspected improprieties or irregularities so as to avoid mistaken accusations or alerting suspected individuals that an investigation is under way.

All inquiries concerning the activity under investigation by the suspected individual or any other inquirer should be directed to the County Auditor. No information concerning the status of an investigation will be given out.

The Internal Audit Division or County Auditor has the primary responsibility for the initial investigation of all suspected fraudulent acts as defined in this policy.

Should the Internal Audit staff not have the expertise to investigate the fraudulent activity, the investigation will be turned over to an outside fraud investigator. If the investigation substantiates that fraudulent activities have occurred, the Internal Audit division will issue reports to the County Auditor and/or the State auditor or other law enforcement authorities as deemed appropriate.

Decisions to prosecute or refer the examination results to the appropriate law enforcement and/or regulatory agencies for independent investigation will be made in conjunction with consultation between the County Auditor and the County Attorney.

Additionally, if the County Auditor has reasonable cause to believe any state grant funds received by the County may have been lost, misappropriated, or misused, or that other fraudulent or unlawful conduct has occurred in relation to the use of the state grant funds, the County Auditor shall report this finding to the State Auditor in compliance with Section 321.022 of the Government Code. The State Auditor may investigate the report or may monitor any ongoing investigation.

AUTHORIZATION FOR INVESTIGATING SUSPECTED FRAUD

The County Auditor and his/her designee will have:

- Except as protected by law, free and unrestricted access to all County records and premises, whether owned or rented; and
- Authority as deemed appropriate to examine, copy, and/or remove all or any portion of the contents of files, desks, cabinets, and other storage facilities on the premises without prior knowledge or consent of any individual who might use or have custody of any such items or facilities when it is within the scope of their investigation.

County employees shall cooperate with an investigation and be truthful with the investigator. Failure to cooperate and to be truthful may result in disciplinary action.

RETALIATION

The Texas Whistleblower Act protects employees who make good faith reports of violations from retaliation. An employee who believes that he or she has experienced retaliation for making a report or assisting in an investigation shall report this as soon as possible to Human Resources.

NO COERCION

No County official or employee shall directly or indirectly use or threaten to use any

official authority or any influence in any manner whatsoever, which tends to discourage, restrain, deter, prevent, interfere with, coerce, or discriminate against any person who in good faith reports, discloses, divulges, or provides any facts or information relative to an actual or suspected violation of this policy or other state, federal, or local laws.

CONSEQUENCES

County Department Heads found to have violated this policy will be subject to discipline by whomever they report to (Elected Official, Governing or appointing Board), up to and including termination in accordance with procedures under which the Department Head may be disciplined.

County employees found to have violated this policy will be subject to discipline by their department head, elected official or Board regarding violations of this policy, up to and including termination in accordance with the procedures under which the employee may be disciplined.

Parties doing business with the County, including vendors, consultants, contractors or their principals and employees, found to have violated this policy will be subject to the termination of any business relationship with the County and exclusion from further business opportunities with the County.

Nothing in this policy prevents the County from referring its findings to the appropriate law enforcement authority.