

21.04.01 Control of Fraud, Waste, and Abuse

Approved September 11, 2008
Next Scheduled Review: September 11, 2010



Regulation Statement

The Texas A&M University System (system) shall implement a comprehensive fraud prevention program to prevent, detect and eliminate fraud, waste and abuse and will conduct comprehensive and coordinated investigations of allegations of potential fraud, waste and abuse.

Reason for Regulation

This regulation provides specific guidance on the responsibilities of system members, system employees and the chief auditor related to the prevention, detection and elimination of fraud, waste and abuse and on the investigative processes to be employed by the system.

Procedures and Responsibilities

1. RESPONSIBILITIES OF SYSTEM MEMBERS

- 1.1 The chief executive officer (CEO) of each system member has the primary responsibility for identifying potential areas of risk for fraud, waste and abuse through a formal risk assessment process and for taking the appropriate actions to minimize the risks to an acceptable level.
- 1.2 The CEO shall designate a contact person responsible for overseeing its fraud prevention program.
- 1.3 Irrespective of how incidences of suspected fraud, waste and abuse are initially reported, the CEO is responsible for ensuring the issue is reported in a timely manner to the chief auditor of the system. The system will not tolerate retaliation against individuals who report fraud, waste and abuse. Management at all levels within the system is responsible for ensuring that employees can report these activities without fear of retaliation.

2. RESPONSIBILITIES OF ALL EMPLOYEES

- 2.1 When suspected fraud, waste or abuse is observed by or made known to an employee, the employee is responsible for reporting that information. Although these reports can

be made anonymously, employees are encouraged to provide identifying information to ensure a more thorough investigation. The identity of the reporting employee will remain confidential to the extent allowed by law.

2.2 Reports of suspected fraud, waste and abuse may be made to any of the following:

- The employee's immediate supervisor
- Anyone in the employee's chain of command
- A law enforcement official of the system
- The CEO of the applicable system member
- The chief auditor of the system
- The System Risk and Misconduct Hotline

2.3 The reporting employee shall not confront the individual(s) under suspicion or initiate investigations on their own, as such actions could compromise any ensuing investigation.

2.4 All employees are to cooperate fully with those performing an investigation pursuant to this regulation.

2.5 Reports of suspected fraud, waste and abuse shall be based on reasonable, factual information rather than speculative information or rumor, and contain as much specific information as possible to allow for proper assessment of the nature, extent and urgency of preliminary investigative procedures. Employees found to be making intentional misleading allegations of suspected fraud, waste or abuse under this policy will be disciplined, up to and including termination of employment.

3. RESPONSIBILITIES OF THE CHIEF AUDITOR

3.1 At least annually, the chief auditor shall prepare a summary of the investigations conducted during the fiscal year for the Committee on Audit of the Board of Regents and the Office of the Chancellor.

3.2 If the investigation provides evidence that criminal acts may have occurred, the chief auditor will report the findings to the appropriate law enforcement agency and will cooperate with the agency during any further investigation.

3.3 The chief auditor shall notify the State Auditor's Office of fraudulent or unlawful conduct that has occurred within the system as required by Texas Government Code Section 321.022.

3.4 If the chief auditor receives an allegation of suspected fraud, waste or abuse involving the chancellor, general counsel, vice chancellors or the CEO of any system member, the chief auditor will notify the Committee on Audit through the committee chairman.

4. INVESTIGATION PROCESS

The system shall conduct comprehensive and coordinated investigations of suspected fraud, waste, and abuse. The chief auditor has the primary responsibility for determining how allegations of suspected fraud, waste and abuse are to be investigated. The chief auditor has the option to conduct the investigation using the resources of the System Internal Audit Department or to request that the CEO conduct an administrative investigation and report their findings to the chief auditor.

4.1. Internal Audit Department Investigations

- 4.1.1 The investigation shall be conducted in accordance with guidance from the Institute of Internal Auditors, the Association of Certified Fraud Examiners, and other applicable industry standards.
- 4.1.2 The chief auditor shall be allowed to engage experts in any field or area as needed to complete the investigation.
- 4.1.3 The chief auditor shall notify the appropriate CEO and chancellor of investigations to be conducted.
- 4.1.4 Once the investigation is complete, the chief auditor shall prepare a report of the findings for the applicable system member CEO and the chancellor.

4.2 Administrative Investigations

- 4.2.1 The CEO shall appoint a qualified individual(s) to perform the investigation. The individual(s) appointed should be independent of the area under investigation to ensure independence and objectivity.
- 4.2.2 The results of the investigation will be reported to the chief auditor in writing. In only exceptional circumstances should the written report be made more than ninety (90) days from the date the incident was forwarded to the CEO.
- 4.2.3 If evidence of fraud is discovered, the chief auditor should be notified immediately of such discovery. At that time, the responsibility for further investigation will be assumed by the chief auditor or other law enforcement officials.

5. ACTIONS

- 5.1 Disciplinary Actions – Employees found to have participated in fraudulent, wasteful or abusive acts as defined by System Policy 21.04, *Control of Fraud, Waste and Abuse*, will be subject to disciplinary actions, up to and including termination. Additionally, employees suspected of perpetrating these type activities may be placed on suspension during the course of the investigation. If the investigation provides evidence that employees may have participated in criminal acts, the chief auditor will report the findings to the appropriate law enforcement agency and will cooperate with the agency during any further investigation.

- 5.2 Recovery Actions – The system and its members will take appropriate steps, including legal action if necessary, to recover losses arising from fraud, theft, and other misconduct.
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Related Statutes, Policies, or Requirements

Reporting Fraud, Waste and Abuse

System Risk and Misconduct Hotline – 1-888-501-3850 or
<http://ww.ethicspoint.com/en/default.asp>

The System Internal Audit Department – 979-458-7100
<http://www.tamus.edu/offices/iaudit/>

Tex. Gov't Code § 321.022
<http://tlo2.tlc.state.tx.us/statutes/docs/GV/content/htm/gv.003.00.000321.00.htm#321.022.00>

System Policy 07.01, *Ethics Policy, TAMUS Employees*
<http://tamus.edu/offices/policy/policies/pdf/07-01.pdf>

System Policy 10.01, *Internal Auditing*
<http://tamus.edu/offices/policy/policies/pdf/10-01.pdf>

System Policy 21.04, *Control of Fraud, Waste, and Abuse*
<http://tamus.edu/offices/policy/policies/pdf/21-04.pdf>

System Policy 32.01, *Employee Complaint and Appeal Procedures*
<http://tamus.edu/offices/policy/policies/pdf/32-01.pdf>

System Policy 32.02, *Discipline and Dismissal of Employees*
<http://tamus.edu/offices/policy/policies/pdf/32-02.pdf>

Definitions

Fraud – any intentional act or omission designed to deceive others and resulting in the victim suffering a loss and /or the perpetrator achieving a gain. (A willful or deliberate act or failure to act with the intention of obtaining an unauthorized benefit, such as money or property, by deception or other unethical means.) For purposes of this policy, fraud and fraudulent activities include, but are not limited to, such things as:

- Theft of any system asset including money, tangible property, time, trade secrets and intellectual property
- Embezzlement

- Bribery/rebate/kick-back
- Misappropriation, misapplication, destruction, removal or concealment of system property
- Forgery, alteration or falsification of documents
- Conflicts of interests

Waste – intentional or unintentional, thoughtless or careless expenditure, consumption, mismanagement, use or squandering of resources to the detriment of the organization. Waste also includes incurring unnecessary costs as a result of inefficient or ineffective practices, systems or controls.

Abuse – Excessive or improper use of a resource. Intentional destruction, diversion, manipulation, misapplication, or misuse of resources. Extravagant or excessive use as to abuse one’s position or authority.

Employee – All personnel employed by the A&M System including faculty, staff, and students who receive compensation, in either a full or part-time capacity.

Management – Any administrator, manager, account holder, director, or supervisor who manages or supervises funds or other resources, including human resources.

Factual Information – Information supported by observations and/or documentation.

Contact Office

The System Internal Audit Department
(979) 458-7100