



HHS Circular C-027
Health and Human Services Enterprise
Fraud, Waste, and Abuse
Reporting, Responsibilities, and Coordination

Purpose

The purpose of this circular is to establish health and human services enterprise policy concerning program integrity responsibilities and coordination, as well as the required reporting of suspected fraud, waste, and abuse. These terms, as they apply to the Inspector General (IG), are defined in 1 Texas Administrative Code (TAC) §371.1607.

These terms are, for purposes of this circular, defined as follows:

Fraud: Any intentional deception or misrepresentation made by a person with the knowledge that the deception could result in some unauthorized benefit to that person or some other person. The term does not include unintentional technical, clerical, or administrative errors.

Examples of fraud include:

- falsifying financial records to conceal theft of money or property;
- intentionally misrepresenting the costs of goods or services provided; and
- accepting a bribe or kickback.

Waste: Practices that a reasonably prudent person would deem careless or that would allow inefficient use of resources, items, or services.

Waste includes incurring unnecessary costs because of inefficient or ineffective practices, systems, or controls. Examples of waste include:

- purchase of unneeded supplies or equipment; and
- purchase of goods at inflated prices.

Abuse: Practices that are inconsistent with sound fiscal or business practices and that result in unnecessary costs.



Abuse may include misapplication or misuse of public resources. Abuse can occur in financial or non-financial settings.

Examples of abuse include:

- requesting staff to perform personal errands or work tasks for supervisors;
- misusing an employee's position for personal gain; and
- making travel choices that are unnecessarily extravagant, or expensive.

Background

Government has a responsibility to safeguard taxpayer dollars and maintain the highest standard of integrity, impartiality, and conduct. To help meet this responsibility, each employee of a health and human services (HHS) agency has an obligation to participate in a combined effort to protect the resources and interests of HHS and the State of Texas.

This circular outlines specific program integrity expectations and the responsibilities of executives, managers, and employees. It includes requirements for reporting suspected fraud, waste, and abuse to the IG and the State Auditor's Office (SAO), and confirms the requirement for full agency cooperation in any investigation, audit, or review.

Directive

Fraud, waste, and abuse discovered by HHS employees and contractors must be reported. HHS agencies must establish program specific processes including control systems that assist in the prevention, deterrence, and detection of fraud, waste, and abuse. Using these tools and other observations, employees must report fraud, waste, and abuse are reported to IG and SAO.

Each HHS agency commissioner is responsible for:

- designating an executive of that agency as the internal coordinator of the agency's fraud, waste, and abuse prevention programs; and
- designating one or more executives of the agency who will, in turn, act as liaison to and coordinate that agency's fraud, waste, and abuse prevention programs with the IG.



Each HHS agency manager is responsible for:

- Establishing and maintaining management controls designed to ensure program integrity. Management controls must provide for the security and accountability of resources, and safeguard state assets against loss from unauthorized use or disposition.
- Establishing and maintaining procedures that provide for:
 - appropriate separation of duties;
 - proper authorization of transactions and activities;
 - independent checks on performance;
 - security of confidential information;
 - adequate documentation and maintenance of records;
 - control over physical assets;
 - required reporting of suspected fraud, waste, and abuse;
 - anonymity, if desired, for individuals reporting fraud, waste, and abuse; and
 - freedom from reprisal during or after any investigation for individuals reporting or suspected of involvement in fraud, waste, or abuse.
- Incorporating fraud, waste, and abuse prevention and detection procedures into business processes, practices, and systems.
- Periodically evaluating the effectiveness of management controls, including those designed to prevent and detect fraud, waste, and abuse.
- Ensuring compliance with laws, regulations, rules, policies, and procedures.

Each HHS agency employee is responsible for:

- fraud, waste, and abuse prevention and deterrence;
- acting with propriety in the use of state resources;
- following the Health and Human Services Ethics Policy (Circular C-025);
- abiding by laws, regulations, rules, policies, and procedures that apply to the HHS Enterprise and to the employee's HHS agency; and
- appropriately reporting fraud, waste, and abuse.



The Internal Audit Director for each HHS agency is responsible for:

- Evaluating the potential for the occurrence of fraud and how the organization manages fraud risk as part of the agency risk assessment performed by Internal Audit.
- Considering fraud risks in the development of a proposed annual audit plan, as required by the Texas Internal Auditing Act (Government Code, Chapter 2102) and applicable auditing standards.
- Assessing the risk of fraud during the planning phase of each audit engagement. When factors or risks indicate the likelihood that fraud may have occurred and may materially impact the area under audit, the Internal Audit Director will design procedures to provide reasonable assurance of detecting such fraud (as required by the Texas Internal Auditing Act and applicable auditing standards).
- Communicating fraud findings identified during internal and external audits, special projects, and other activities to executive management and appropriate managers.

HHSC, in consultation with the Inspector General, will set clear objectives, priorities, and performance standards for the IG that emphasize:

- coordination of investigative efforts to aggressively recover money;
- allocation of resources to cases that have the strongest supportive evidence and the greatest potential for recovery of money; and
- maximization of opportunities for referral of cases to the Office of the Attorney General (OAG).

In performing the above, the OIG is required to:

- conduct independent, fact based, and objective investigations, audits, and reviews (including aiding internal and external authorities that have concurrent jurisdiction, as appropriate).
- report incidents determined to have merit to executive management, the OAG, and other authorities as appropriate.
- refer information to internal and external authorities that have jurisdiction, as appropriate (so that they may pursue independent investigations, audits, and reviews consistent with their authority).
- establish and maintain information collection methods that do not infringe upon the rights of individuals and are consistent with due process of law.
- offer training and consultation to each HHS agency to assist them in understanding their responsibilities, time limits, and to promote establishment of appropriate procedures.



The SAO is authorized and required to:

- Audit any entity receiving funds from the state in accordance with an annual audit plan which is developed based on risk assessment. In performing this duty, the State Auditor is authorized and entitled to investigate and has encouraged receipt of, reports of suspected fraud, waste, or abuse occurring in all HHS programs and agencies.

Each HHS agency and program must:

- Adopt procedures for the required reporting to the IG and the SAO of suspected fraud, waste, and abuse as required by this directive.
- Assure all employees and contractors are informed of their responsibilities and have access to their area's adopted procedures for reporting and preventing fraud, waste, and abuse.
- Authorize and provide to OIG and the SAO, as applicable, full access to any information maintained internally or externally (including full access to records held by the agency or program – including its employees, contractors, and vendors – concerning any incident of reported or suspected fraud, waste, or abuse).

Reporting Fraud, Waste, and Abuse

All employees or contractors who believe fraud, waste, or abuse (including employee misconduct if that misconduct would constitute fraud, waste, or abuse as defined in statute) have occurred are required by Texas Government Code, Section 321.022 to immediately report the questioned activity to both the IG and the SAO. **A report made to the SAO does not satisfy an HHS employee's responsibility under this circular to also report the fraud, waste, or abuse activity to the IG, and vice versa.**

A report to the IG must be made through one of the following avenues:

- IG Toll Free Hotline 1-800-436-6184
- IG Website: https://oig.hhsc.state.tx.us/Fraud_Report_Home.aspx
- IG Mailing Address: Office of Inspector General
 Attn: Fraud, Waste, & Abuse Intake
 MC 1300
 P.O. Box 85200
 Austin, Texas 78708-5200



A report to the SAO must be made through one of the following avenues:

- SAO Toll Free Hotline: 1-800-TX-AUDIT
- SAO website: <http://sao.fraud.state.tx.us/>

In making a report, it is best to provide as much of the following information as possible, including:

- The name, address, telephone number, and e-mail address of person making the report (anonymity is acceptable).
- The date(s) the incident(s) occurred.
- The date the incident was discovered.
- A detailed description of the incident, including any known program area, case numbers, or identifying characteristics that will assist the investigation.
- The name, address, telephone number(s), and email address of each person involved in the incident.
- The name, address, contact number, and e-mail address of each known witness.
- Whether the incident was reported to any other government agencies and, if so, which government agencies.

Once they become aware of fraud, waste or abuse, all HHS employees or contractors are to follow these guidelines:

- Immediately report the incident, providing as much of the information described above as possible.
- Once the reporting HHS employee or contractor decides that an incident meets the criteria requiring a report to IG and SAO for review, do not attempt to further investigate or otherwise contact the suspected or involved individuals to determine facts or demand restitution.
- It is IG's responsibility to inform executive management and the HHSC Office of Chief Counsel of fraud, waste, and abuse investigations. As a result, reporting HHS employees should avoid discussing a reported incident with anyone who does not have a business need to have such information.
- Refrain from retaliation. Retaliation will not be tolerated against any individual providing information or concerning any suspected individual.

Reporting Employee Misconduct

For more information about employee responsibilities and consequences for violating rules of conduct, refer to the HHS Human Resources Manual, Chapter 4.



Some activities that warrant action by managers, up to and including termination, do not meet the IG's aforementioned definitions of fraud, waste, or abuse. Such acts may occur independently or in conjunction with fraud, waste, or abuse. In instances where there are multiple or complex concerns, managers should seek executive and/or IG assistance in understanding how they should proceed, which issues they may address, and which issues may require referral to the IG.

Managers have the discretion to refer suspected employee misconduct that does not constitute fraud, waste, or abuse to the IG for investigation. Where a manager elects to make such a referral, the manager may not determine the merits of the allegations, but instead must work cooperatively with the IG's Internal Affairs Section in any resulting investigation. For any such referral, the IG's Internal Affairs Director reserves the right to decline to investigate the matter for reasons such as the necessity to devote limited resources to the IG's core responsibilities. In such situations, an independent management investigation of the matter may then proceed.

If employee misconduct creates a risk of imminent danger or bodily harm, managers should consider placing the employee on emergency leave in accordance with human resources policy and in consultation with HR Employee Relations Staff and agency Legal Services. Managers should inform the IG of any such safety measures that were employed prior to any referral to IG.

Protection for Reporting Violations of Law, and Confidentiality

HHS employees who report suspected fraud, waste, abuse, or misconduct may fall within the protection of the Whistleblower Act in Texas Government Code, Chapter 554. HHS Policy protection from retaliation is also provided under HHS Human Resources Manual, Chapter 13 – Grievances.

Reports made to the IG involving fraud, waste, or abuse, are confidential by law, and not subject to release in response to an open records request, subpoena, or other means of legal compulsion. Throughout the investigative processes, every effort will be made to maintain the anonymity and to protect the rights of the individuals directly connected with a report of fraud, waste, or abuse. The IG will disclose the results of an audit, review, or investigation in a final report that is produced after all findings are complete (including legal proceedings), and such final reports are open to the public. The IG, in the interim, may disclose information obtained from an investigation, audit, or review to appropriate HHS legal staff and/or client representatives based upon applicable confidentiality law, and in accordance with established program integrity related procedures. The IG has an obligation to provide management with timely and sufficient information to support management's obligations to protect program integrity and to manage the workforce effectively.



Inquiries

Inquiries concerning the content of this circular or requests for assistance with fraud, waste, and abuse training should be addressed to:

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