

RESOLUTION 08-11

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE TWENTYNINE PALMS WATER DISTRICT ADOPTING A POLICY REGARDING FRAUD PREVENTION, DETECTION AND DISCIPLINARY ACTION

WHEREAS, in the course of the annual audit conducted by the District's external auditor, it was recommended to the District by the auditor that the District adopt a policy regarding fraud in the workplace. This recommendation was made as a preventative measure in order to reduce the potential for fraudulent activities in the future. This recommendation was not based on incidences or concerns regarding current or past activities of the District; and

WHEREAS, the District desires to adopt policies and procedures, as recommended by the District's auditor, for reporting acts that are considered to be fraudulent and to set forth the steps to be taken when fraud or other related dishonest or inappropriate activities are suspected; and

WHEREAS, the District desires to adopt and implement such policies and procedures in conjunction with, and pursuant to, personnel policies, procedures, MOUs, agreements and any other policies ("Personnel Policies") which apply to District directors, officers, employees, consultants, vendors, contractors, outside agencies, and any other parties that conduct business with the District; and

NOW, THEREFORE, the Board of Directors does hereby **RESOLVE** and **ORDER** as follows:

- Section 1: The District hereby adopts that certain Policy for Fraud in the Workplace ("Fraud Policy") as set forth in Exhibit "A" attached hereto and incorporated herein by reference. Said Policy includes, but is not limited to, provisions regarding how to report acts that are considered to be fraudulent and the steps to be taken when fraud or other related dishonest or inappropriate activities are suspected. Said steps include, but are not limited to, fraud prevention, detection, and disciplinary action.
- Section 2: It is the intent of the District that the Fraud Policy be implemented in conjunction with, and pursuant to, the Personnel Policies. In the event of a conflict between the provisions of the Fraud Policy and the Personnel Policies or a labor-management Memorandum of Understanding, the provisions of the Personnel Policies or Memorandum of Understanding shall be controlling.
- Section 3: If any provision in this Resolution or the application thereof to any person or circumstances is for any reason held invalid, the validity of the remainder of this Resolution or the application of such provisions to other persons or circumstances shall not be affected thereby. The Board hereby declares that it would have passed this Resolution and each provision thereof, irrespective of the fact that one or more sections, subsections, sentences, clauses or phrases or the application thereof to any person or circumstance be held invalid.
- Section 4: This Resolution shall become effective upon the date of adoption as set forth herein.

Section 5: The Recitals set forth above are incorporated herein and made an operative part of this Resolution.

PASSED AND ADOPTED at a meeting of the Board of Directors of the Twentynine Palms Water District held this 27th day of August, 2008.

Ayes: Directors Anthony, Cisneros, Gallagher, Moore and Yockey
Noes: None

Philip C. Cisneros, President
Board of Directors

Attest:

Mike Wright, Board Secretary
Twentynine Palms Water District

TWENTYNINE PALMS WATER DISTRICT

POLICY FOR FRAUD IN THE WORKPLACE

I. PURPOSE AND SCOPE

To establish policy and procedures for reporting acts that are considered to be fraudulent; and, describing the steps to be taken when fraud or other related dishonest or inappropriate activities are suspected.

II. POLICY

- A. The Twentynine Palms Water District (the District) is committed to protecting its assets against the risk of loss or misuse. Accordingly, it is the policy of the District to identify and promptly investigate any possibility of fraudulent or related dishonest activities against the District and, when appropriate, to pursue legal remedies available under the law.
- B. This policy applies to any irregularity, or suspected irregularity, involving employees, consultants, vendors, contractors, outside agencies, and/or any other parties with a business relationship with the District.
- C. Any investigative activity required will be conducted in an objective and impartial manner without regard to the suspected wrongdoer's length of service, position, title, or relationship to the District.
- D. All employees are responsible for the reporting and prevention of fraud, misappropriations, and other irregularities.

E. DEFINITIONS

- 1. Fraud – the intentional false representation or concealment of material fact for the purpose of personal gain for oneself or others; or inducing another to act similarly. Fraud and other similar irregularities include, but are not limited to:
 - a. Claim for reimbursement of expenses that are not job-related or authorized by current Policy.
 - b. Forgery or unauthorized alteration of documents (checks, promissory notes, time sheets, independent contractor agreements, purchase orders, etc.).
 - c. The taking or other forms of misappropriation, of District assets (cash, checks, securities, supplies, furniture,

equipment, etc.) to include the temporary removal or “borrowing” of District assets.

- d. Improprieties in handling or reporting of money transactions.
 - e. Authorizing or receiving payment for goods not received or services not performed.
 - f. Computer-related activity involving unauthorized alteration, destruction, forgery, or manipulation of data.
 - g. Misrepresentation of information on documents.
 - h. Any apparent violation of Federal, State, or Local laws related to dishonest activities or fraud.
 - i. Seeking or accepting anything of material value from those doing business with the District including vendors, consultants, contractors, lessees, and/or applicants.
- 2. Employee – In this context, employee refers to any individual or group of individuals who receive compensation, either full or part-time, from the District. The term also includes any volunteer who provides services to the District through an official arrangement with the District.
 - 3. Management – In this context, management refers to any administrator, manager, director, supervisor, or other individual who manages or supervises employees or volunteers of the District.
 - 4. Investigator – The District’s General Manager shall be the investigator for all allegations of Fraud or other wrongdoing unless the General Manager is the subject of the investigation. In that case, the President of the Board of Directors shall assign an alternate investigator.
 - 5. External Auditor – In this context, external auditor refers to independent audit professionals who perform annual audits of the District’s financial statements.
- F. It is the District’s intent to fully investigate any suspected acts of fraud, misappropriation, or other similar irregularity. An objective and impartial investigation will be conducted regardless of the position, title, length of service or relationship with the District of any party who might be or become involved in or becomes the subject of such investigation.

- G. Management is responsible for instituting and maintaining a system of internal control to provide reasonable assurance for the prevention and detection of fraud, misappropriations, and other irregularities. Management should be familiar with the types of improprieties that might occur within their area of responsibility and be alert for any indications of such conduct.
- H. The Investigator has the primary responsibility for the investigation of all activity as defined in this policy.
- I. Employees will be granted whistle-blower protection when acting in accordance with the reporting provisions of this policy. When informed of a suspected impropriety, neither the District nor any person acting on behalf of the District shall for retaliatory reasons do any of the following:
 - 1. Dismiss or threaten to dismiss the reporting employee,
 - 2. Discipline, suspend, or threaten to discipline or suspend the reporting employee,
 - 3. Impose any penalty upon the reporting employee, or
 - 4. Intimidate or coerce the reporting employee.

Violations of the whistle-blower protection will result in discipline up to and including dismissal. Nothing herein shall prevent the District from otherwise taking non-retaliatory disciplinary action under the Personnel Policies or an applicable Memorandum of Understanding.

- J. Upon conclusion of the investigation, the results will be reported to the President of the Board of Directors.
- K. The General Manager, following his or her review of the investigation results, will take appropriate action regarding employee misconduct. Disciplinary action shall be imposed in accordance with the District's Personnel Manual and/or Memorandums of Understanding and can include disciplinary action as severe as termination. Further, the case may be referred to an appropriate Law Enforcement Agency and District Attorney's Office for possible arrest and prosecution.
- L. The District will pursue every reasonable effort to obtain recovery of District losses from the offender, or other appropriate sources.

III. PROCEDURES

- A. Management and Non-Management Responsibilities

1. **Management is responsible for** being alert to, and reporting fraudulent or related dishonest activities.
2. **Non-management employees are responsible** to report fraudulent or related dishonest activities.
3. Each manager should be familiar with the types of improprieties that might occur in his or her area and be alert for any indication that improper activity, misappropriation, or dishonest activity is, or was, in existence in his or her area.
4. When an improper activity is detected or suspected, management should determine whether an error or mistake has occurred or if there may be dishonest or fraudulent activity.
5. If any employee of the District is, or becomes, aware of any activity that may involve fraud or other dishonest activities, they are to contact the General Manager immediately unless the General Manager is alleged to have involvement in the alleged misconduct. If the alleged misconduct is said to involve the General Manager, the employee is to immediately notify the President of the Board of Directors.
6. Management should not attempt to conduct individual investigations, interviews, or interrogations. However, management is responsible for taking appropriate corrective actions to ensure adequate controls exist to prevent reoccurrence of improper actions.
7. All employees shall cooperate fully with the Investigator, other involved departments, and law enforcement agencies in the detection, reporting, and investigation of criminal acts, including the prosecution of offenders.
8. In dealing with suspected dishonest or fraudulent activities, great care must be taken. Therefore, all employees should avoid the following:
 - a. Incorrect accusations.
 - b. Alerting suspected individuals that an investigation is underway.
 - c. Treating employees unfairly.
 - d. Making statements that could lead to claims of false accusations or other offenses.

9. In handling dishonest or fraudulent activities, all employees have the responsibility to:
 - a. Make no contact (unless requested) with the suspected individual to determine facts or demand restitution. Under no circumstances should there be any reference to “what you did”, “the crime”, “the fraud”, “the misappropriation”, etc.
 - b. Avoid discussing the case, facts, suspicions, or allegations with anyone outside the District, unless specifically directed to do so by the General Manager or District’s Legal Counsel. (Employees do have the right to consult with an attorney and/or their union representatives.)
 - c. Avoid discussing the case, facts, suspicions, or allegations with anyone other than employees who have a need to know.
 - d. Direct all inquires from the suspected individual, or his or her representative, to the Investigator. All inquires from the media should also be directed to the Investigator.

B. Investigator Responsibilities

1. Upon receiving an allegation of Fraud or other irregularities, the Investigator will promptly conduct a thorough investigation.
2. Employees must cooperate with the Investigator. Refusal, or the conveyance of inaccuracies, may subject an employee to disciplinary action up to and including dismissal.
3. The Investigator shall be available and receptive to receiving relevant, confidential information to the extent allowed by law.
4. If evidence is uncovered showing possible dishonest or fraudulent activities, the General Manager will proceed as follows:
 - a. Take immediate action, in consultation with the District’s Legal Counsel, to prevent the theft, alteration, or destruction of evidentiary records. Such action may include, but is not limited to:
 - 1) Removing the records and placing them in a secure location, or limiting access to the records.
 - 2) Preventing the individual suspected of committing the fraud from having access to the records.

- b. Take immediate action to improve internal control. Such action shall result in the General Manager having reasonable comfort that the changes in procedures will prevent similar future occurrences.
 - c. Take immediate action, in consultation with the District's Legal Counsel, to notify the appropriate Law Enforcement Agency (if appropriate) and to take further steps to recover any financial loss incurred by the District.
5. Unless exceptional circumstances exist, a person under investigation for fraud is to be given notice in writing of the essential particulars of the allegations following the conclusions of the investigation. Where notice is given, the person against whom allegations are being made may submit a written explanation to the Investigator no later than seven calendar days after notice is received.

IV. EXCEPTIONS

Exceptions to this policy must be approved by the Board of Directors.