



TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

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RE: AN INTERNAL AUDIT OF THE ETHICS PROGRAM (REPORT # 14-1059)

To the Audit Committee and the Governing Board of the Texas Department of Housing and Community Affairs:

The Internal Audit Division has completed its audit of the Texas Department of Housing and Community Affairs' (Department's) ethics program. We found that while the Department has an ethics policy and periodically reminds staff of the requirements of the policy, there are opportunities to enhance the ethics policy and to further develop the ethics program. For example, the Department should consider conducting an ethics risk assessment, requiring periodic ethics training and written acknowledgement of receipt of the training, posting situational examples of ethical dilemmas and appropriate responses, maintaining a log of gifts received and their disposal and keeping a record of the ethics opinions issued by the ethics officer.

As part of this audit we evaluated the ethics policy as well as conducted an agency-wide survey of the ethics program. We received responses from 165 (69.9%) of the Department's 236 employees. In addition, we determined if new employees had a signed acknowledgment form in their personnel file that indicated they had received and read the ethics policy. We tested the files of the 48 new employees hired over the last three fiscal years and found that all of them (100%) had a signed acknowledgement in their personnel file.

Conduct an Ethics Risk Assessment

The ethics policy, although comprehensive, is not based on an ethics risk assessment of the Department. Conducting an ethics risk assessment would allow the Department to identify its' highest ethical risk areas and to ensure that the ethics policy addresses those risks.

Recommendation

The Department should consider conducting an ethical risk assessment to ensure that the ethics policy addresses the areas of highest risk to the Department.



Management's Response

Management agrees. The Ethics Advisor, Jeff Pender, has begun this process and anticipates completion by January 15, 2014.

Periodically Update the Acknowledgement Forms

New employees are required to sign an acknowledgment form within 30 days of their date of hire that indicates they have received and read the ethics policy. We tested all 48 new employees hired between September 1, 2010 and September 13, 2013 to determine if they had a signed acknowledgment form in their personnel file. All 48 (100%) of the new employees tested had a signed acknowledgment form in their personnel file.

However, the acknowledgment form is only signed at the beginning of employment and although periodic ethics training is provided, there is no a periodic re-acknowledgment that employees are aware of the ethics policy. Without periodic re-acknowledgment of the ethics policy, employees may not be aware of any changes to the policy and could unintentionally violate it.

Recommendation

The Department should have all employees sign an acknowledgment form on a periodic basis that indicates the employee has read and understands the ethics policy.

Management's Response

Management agrees and will implement a mandatory annual reaffirmation form with the roll out of an updated ethics policy on or before January 31, 2014. Gina Esteves, Human Resources Director will be responsible for implementation.

Increase Communication of the Ethics Policy

We developed an anonymous Department-wide survey (with input from the ethics officer and the general counsel) regarding the ethics program. We received responses from 165 (69.9%) of the Department's 236 employees, however not all respondents answered each survey question. Therefore, the total number of respondents to each individual question may vary.

The results of the survey indicate that employees are generally aware of the ethics policy and know how to report ethical violations. However, the survey responses also indicate that an increase in communication regarding ethical dilemmas and clarification of the ethics policy would be beneficial.

When asked the question, do you understand the ethics policy, 11 (6.8%) of 162 respondents indicated that they did not understand the ethics policy. Forty-two (25.8 %) of 163 respondents were not able to identify the ethics officer.

Thirty-two (19.6%) of 163 respondents indicated they did not know how to report violations of the ethics policy. When asked the question, would you feel comfortable reporting violations of the ethics policy, 39 (23.8%) of 164 respondents indicated that they would not feel comfortable reporting violations of the ethics policy.

When asked the question, are the Department's efforts to promote learning about the ethics policy sufficient, 42 (26.3%) of 160 respondents indicated that they did not believe that the Department's efforts to promote learning about the ethics policy were sufficient.

It is important that management communicate regularly with staff about the ethics policy and provide clarification regarding the ethics policy. This would allow staff to be mindful of the policy and would help prevent unintentional violations.

Recommendation

The Department should increase communication with staff regarding the ethics policy. In addition, the Department should consider posting situational examples related to the ethics policy as well as frequently asked questions to the Department's intranet site.

Management's Response

Management agrees and has already begun this process. The Ethics Advisor has convened a broad based committee to review the Ethics Policy and make recommendations for improvements. Also the Ethics Advisor has sent an agency-wide communication pointing out, among other things, the ability to report suspected ethics violations via the Fraud Hotline. This will be completed by January 31, 2014 by the Ethics Advisor, Jeff Pender.

Enhance the Ethics Policy

We performed an analysis of the ethics policy in comparison to best practices identified by the Institute of Internal Auditors. We determined that although the ethics policy is comprehensive, there are areas that can be strengthened or enhanced. For example, the ethics policy does not identify the fraud, waste, and abuse hotline number as one of the ways employees can report ethical violations nor does it identify the individual who serves as the ethics officer. The ethics policy is currently located in the Department's Human Resources Policy and Procedure Manual, which makes it difficult to locate. Twenty-eight (17.1%) of 164 respondents to the survey did not know where to locate the ethics policy.

Recommendation

The Department should consider including the fraud, waste and abuse hotline number in the ethics policy as one of the ways in which employees can report unethical behavior. In addition, the visibility of the ethics policy could be increased by providing a copy of the policy (or a link to the policy) on the Department's intranet site.

Management's Response

Management agrees and has requested that Information Systems provide a link to the ethics policy and the Hotline on the homepage of the intranet. This was completed on December 3, 2013.

Track Ethical Decisions and the Disposition of Gifts

The ethics policy addresses potential areas where conflicts of interest can occur. In addition, the ethics officer occasionally receives written questions from current and former staff and Board members about potential conflicts of interest. Currently, the ethics officer does not maintain complete files of the information about these opinions. It is important that this information be maintained in the event that questions arise at a later date regarding the opinion.

The ethics policy also states that an employee may not “accept or solicit any gift, favor, or service that might reasonably tend to influence the employee in the discharge of official duties, or that the employee knows or should know is being offered with the intent to influence the employee’s official conduct.” Gifts are often received in the mail and the policy does not specify what an employee is to do with such gifts. Staff has been informed by a memo from the ethics officer that any gift received by an employee should be refused by the employee, returned to the sender, or turned over to Legal Services for disposal. Though some records are kept, a complete record of when and how Legal Services disposes of these gifts is not maintained in every instance. It is important that a record is maintained in order to avoid the appearance that gifts received by staff are not disposed of in the proper manner.

Recommendation

The Department should consider maintaining:

- any written documentation that relates to legal opinions made regarding conflict of interest questions, and
- a record of how Legal Services disposes of gifts received by the Department or by staff.

Management’s Response

Management agrees. The Ethics Advisor maintains records but is developing a more formal and comprehensive structure for organizing and retaining these records for the required periods. The record system will be completed by December 16, 2013 by the Ethics advisor, Jeff Pender.

Objective, Scope and Methodology

The objective of this audit was to examine and assess the Department’s ethics program to determine if there are processes in place to encourage employees to report ethical misconduct, promote learning about ethics, and establish and maintain an acceptable agency-wide culture. The scope of our fieldwork was fiscal year 2011, 2012, and 2013 up to and including October 25, 2013. Our methodology consisted of interviewing responsible individuals, reviewing documentation, and developing and completing a Department-wide survey regarding the ethics program.

This audit was conducted as part of our fiscal year 2014 internal audit plan. We conducted our fieldwork in October and November 2013. We conducted this performance audit in accordance with *Generally Accepted Government Auditing Standards*. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and

conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusion based on our audit objectives. This audit was also conducted in conformance with the *International Standards for the professional Practice of Internal Auditing*.

We would like to extend our sincere thanks to the individuals involved with the ethics program for their cooperation and assistance during the course of this audit.

Sincerely,

Sandra Q. Donoho, CISA, CIA, CFE, CICA
Director of Internal Audit

Sqd/nak

cc:

Tim Irvine, Executive Director
Barbara Deane, General Counsel
Jeff Pender, Deputy General Counsel