

# **FORT BEND COUNTY**

## **INTERNAL COMPLIANCE PROGRAM POLICY**

*Effective Date: June 2, 2017*

### **I. COMPLIANCE PROGRAM OVERVIEW**

A formal internal compliance program affirms an organization's principles, practices, and structure to ensure compliance with all applicable laws, rules, and regulations. It also specifies the processes used to prevent and detect any violations. This ongoing, proactive agenda demonstrates how the organization will operate in a fully legal and ethical manner, and how its code of conduct will be applied to address specific organizational risks.

Fort Bend County has a long tradition of recognizing the importance of fair standards and stewardship in governmental operations. The County is moving forward to develop a formal compliance program to include a plan that integrates legal and internal compliance efforts throughout county government to mitigate risk, assure quality, and improve the performance of internal monitoring systems.

The County Compliance Program expands accountability for fraud, waste and abuse, calling on County staff to look more closely at compliance requirements and to expect the same from vendors and grant sub-recipients. This Compliance Program Document (CPD) addresses Program oversight; related policies; education and training; assessing risk and steps for corrective action; and routine reporting.

#### **A. Policy**

It is the policy of Fort Bend County to comply with all applicable federal, state, and local laws and regulations and payer requirements. It is also the County's policy to adhere to its adopted Rules of Conduct, which is made up of the ethical standards set forth by the Commissioners Court.

#### **B. Rules of Conduct**

The County believes that rules of ethical conduct are essential to ensure that public officers and employees observe a high degree of moral conduct. Accordingly, the County adopted its Rules of Conduct, which sets forth specific rules of ethical conduct that all county officers and employees are required to follow. These standards include rules of personal conduct as well.

Eight Elements of an Effective Fort Bend County Compliance Program

1. Auditor's Office serves as Compliance Office
2. Written Policies and Procedures
3. Documented Disciplinary Procedures
4. Training for Staff and Governing Board(s)
5. Routine Identification of Compliance Risk Areas
6. System/Steps for Monitoring and Corrective Action
7. Whistleblower/Non-Retaliation Protections
8. Confidential Reporting

## Political Activity in the Workplace:

County employees are prohibited from:

1. Using public time or resources to engage in partisan political activity;
2. Using one's official authority or influence to interfere with an election;
3. Engaging in political activity while on County business;
4. Coercing, directly or indirectly, contributions from a subordinate in support of a political party or candidate.

These activities are also prohibited by Federal law for employees whose job is in connection with an activity financed in whole or in part by Federal funds.

### **C. Commitment**

We have always been and remain committed to our responsibility to conduct our business affairs with integrity based on sound ethical and moral standards. We hold our employees and agents to these same standards. We are committed to maintaining and routinely measuring the performance and effectiveness of our compliance program, using internal and external expertise, as needed.

### **D. Responsibility**

Each employee and agent will acknowledge his or her responsibility to report any suspected or known instances of noncompliance to his or her immediate supervisor or the County Auditor. Reports may be made anonymously without fear of retaliation or retribution. Failure to report known noncompliance or making reports that are not in good faith will be grounds for disciplinary action, up to and including termination.

### **E. Policies and Procedures**

The County will communicate its compliance standards and policies through required training for all employees and agents and the ongoing maintenance of a comprehensive Employee Information Manual. The County will also maintain a Website that includes pertinent information about the Compliance Program. Further, the County will demonstrate its commitment to these efforts through periodic update and distribution of this CPD, which serves as the County's compliance policy, and adherence to the County Rules of Conduct.

### **F. Detection, Enforcement and Response**

Detected noncompliance, through any mechanism, (e.g., compliance review procedures, confidential reporting, etc.) will receive an expedient response. The County is dedicated to the resolution of such matters and will take all reasonable steps to prevent further similar violations, including any necessary modifications to the Program. This approach will be enforced consistently through appropriate disciplinary mechanisms including, if appropriate, discipline of responsible individuals for failure to detect and/or report noncompliance.

## **G. Due Diligence**

The County will, at all times, exercise due diligence in regard to exclusion screenings, background checks, and professional license investigations for all prospective employees and agents. Any employee or prospective employee who holds, or intends to hold, a position for Fort Bend County is required to disclose any name changes and any involvement in non-compliant activities, including health care-related crimes. In addition, the County performs reasonable inquiries into the background of such applicants and agents.

## **II. COMPLIANCE PROGRAM OVERSIGHT**

### **A. The Role of the County Auditor**

The County Auditor will oversee the administration of the Compliance Program. These responsibilities include, but are not limited to:

1. Overseeing and monitoring implementation of the compliance program, including assisting with the development and implementation of compliance policies and procedures.
2. Directing County internal reviews established to monitor effectiveness of compliance standards.
3. Providing guidance to management and individual departments/offices regarding policies and procedures and governmental laws, rules, and regulations.
4. Updating the Program, periodically, as changes occur in County operations, in law and regulations, or by governmental and third-party payers.
5. Overseeing efforts to communicate awareness of the existence and contents of the Program.
6. Coordinating, developing, and participating in the educational and training program.
7. Ensuring Employees and Agents are aware of the requirements of the County's Compliance Program.
8. Seeking up-to-date material and releases regarding regulatory compliance.
9. Maintaining a reporting system, including a dedicated and confidential Whistleblower HelpLine, and responding to concerns, complaints, and questions related to the Program.
10. Acting as a resource for regulatory compliance issues.
11. Coordinating internal investigations and implementing corrective action on issues related to noncompliance or compliance-related risk.
12. Reporting annually to the County Commissioners Court on Program activities and any areas of concern.

The roles of the County Auditor in administering the Compliance Program will include:

1. Analyzing the environment where the County does business, including legal requirements with which it must comply.
2. Reviewing and assessing existing policies and procedures that address these risk areas for possible incorporation into the Compliance Program.
3. Working with departments/offices to develop standards, policies, and procedures that address specific risk areas and encourage compliance according to legal and ethical requirements.
4. Advising and monitoring appropriate departments related to compliance matters.
5. Developing internal systems and controls to carry out compliance standards and policies.
6. Monitoring internal and external reviews to identify potential noncompliant issues.
7. Implementing corrective and preventive action plans.
8. Developing a process to solicit, evaluate, and respond to complaints and problems.

All employees are required to fully cooperate with the County Auditor in administering the Internal Compliance Program. All supervisory employees are responsible for ensuring that their subordinates cooperate, are aware of and understand the tenets of the Program, and comply with the Program and the Rules of Conduct.

### **III. EDUCATION AND TRAINING**

#### **A. Expectations**

Education and training are critical elements of the County Compliance Program. Every employee and agent is expected to be familiar with and knowledgeable about the Program and have a solid working knowledge of his or her responsibilities under the Program. Compliance policies and standards will be communicated to all employees and designated agents through required participation in annual training programs. Department Heads are responsible for ensuring staff receives appropriate, timely training. As part of staff orientation, each new employee (or agent) shall receive a written copy of the CPD, policies, and specific standards of conduct affecting the employee's position or will be directed to a place where these documents can be accessed.

#### **B. Attendance**

All education and training relating to the Program will be verified by attendance records and signed acknowledgement of receipt of Program documents. Attendance at compliance training sessions is mandatory and a condition of continued employment.

### **IV. EFFECTIVE CONFIDENTIAL COMMUNICATION**

#### **A. Expectations**

Open lines of communication between the Compliance Officer and every employee and agent subject to this Program are essential to the success of our Compliance Program. Every employee has an obligation to refuse to participate in any wrongful course of action and to report the actions according to the procedure listed below.

#### **B. Reporting**

If an employee or agent witnesses, learns of, or is asked to participate in any activities that are potentially in violation of County policy or procedure, or state or federal law, he or she must contact his or her immediate supervisor or the County Auditor. Similarly, a member of the public may also confidentially disclose information she or he reasonably believes evidences a violation of law; an abuse of authority or regulation; a substantial and specific danger to public safety; or a gross mismanagement or gross waste of county funds. Reports may be made in person, or by calling the County Auditor [281-341-3760], or by mailing information to the Fort Bend County Auditor, 301 Jackson St. Suite 701, Richmond, Texas 77469.

### **C. Protections**

The identity of reporters will be safeguarded to the fullest extent possible and reporters will be protected against retribution. Reporting of any suspected violation of County policy or procedure, or state or federal law by following the requirements of this policy shall not result in any retribution. Any threat of reprisal against a person who acts in good faith pursuant to his or her responsibilities under the Program is acting against the County's compliance policy. Discipline, up to and including termination of employment will result if such reprisal is proven.

### **D. Guidance**

Any employee or agent may seek guidance from the County Auditor with respect to the Program or standards of conduct at any time by following the reporting mechanisms outlined above.

## **V. ENFORCEMENT OF COMPLIANCE STANDARDS**

### **A. Background Investigations**

For all employees who have authority to make decisions that may involve compliance issues, the County will conduct a reasonable and prudent background investigation, including a reference check, as part of every employment application.

### **B. Disciplinary Action (General)**

Employees who fail to comply with County policy or procedure, or state or federal law, or who have engaged in conduct with the potential to impair the County's status as a reliable, honest, and trustworthy service provider, will be subject to disciplinary action, up to and including termination. Any disciplinary action will be appropriately documented in the employee's personnel file, along with a written statement of reason(s) for imposing such action. The County Auditor shall maintain a record of all disciplinary actions involving the Program and report at least annually a summary of these actions to the Commissioners Court.

### **C. Disciplinary Action (Supervisory)**

Supervisors will be sanctioned for failure to adequately instruct their staff or for failure to detect noncompliance with applicable policies and legal requirements where reasonable diligence on the part of the manager or supervisor would have led to the earlier discovery of any problems or violations and would have provided the County with the opportunity to correct them.

## **VI. REVIEWING AND MONITORING OF COMPLIANCE ACTIVITIES**

Ongoing assessment is critical to raising awareness of potential vulnerability and risks and detecting non-compliance. Engaging staff in proactive assessment activities also helps to ensure the success of County's Compliance Program as an integrated part of overall County operations. Ongoing review and monitoring will be done using internal and external resources implemented by the County Auditor. At a minimum, County Department Heads will be expected to routinely review department-specific internal quality controls that address the following:

1. Efficiency of communications for routing information throughout the department about new or updated laws, regulations, and policies.
2. Sufficient information management protocols that guide appropriate access to and maintenance and distribution of sensitive or confidential information, including private information (PI) and protected health information (PHI).
3. Consistency of internal controls, paper-based and electronic, particularly related to financial transactions, to safeguard against waste, fraud, and abuse, and procedures for reporting and mitigation.
4. Routine training and information exchange that address quality assurance issues and high-risk situations as these relate to daily department operations.
5. Annual staff training on Rules of Conduct and overall compliance.

Adopting these simple steps will help departments determine if existing measures are adequate and help identify opportunities for improvement.

## **VII. DETECTION AND RESPONSE**

### **A. Violation Detection**

The County Auditor, in consultation with the County Attorney, will review whether any basis exists to suspect that a violation of the Compliance Program has occurred. Should a violation or potential violation appear to have occurred, the County Auditor shall initiate a more detailed investigation.

### **B. Reporting**

At the conclusion of an investigation, the County Attorney may be asked by the County Auditor to prepare a written report summarizing the findings and providing recommendations, which may include rendering an opinion regarding whether a violation of the law has occurred.

### **C. Rectification**

If the County identifies that an overpayment was received from any third-party payer, the overpayment will be returned with proper documentation. If required, regulatory (funder) and/or prosecutorial (attorney general/police) authorities will be appropriately notified with the advice and assistance of the County Attorney. In instances where it appears an affirmative fraud may have occurred, appropriate amounts shall be returned after consultation and approval by involved regulatory and/or prosecutorial authorities. Systems shall also be put in place to prevent such overpayments in the future.

### **D. Record Keeping**

Regardless of whether a report is made to a governmental agency, the County Auditor shall maintain a record of the investigation, including copies of all pertinent documentation. This record will be considered confidential and privileged and will not be released without the approval of the County Attorney.

## **VIII. WHISTLEBLOWER PROVISIONS AND PROTECTIONS**

### **A. Provisions**

The federal False Claims Act of 1863 (revised in 1986) provides protection to qui tam relators who are discharged, demoted, suspended, threatened, harassed, or in any other manner discriminated against in the terms and conditions of their employment as a result of their furtherance of an action under the False Claims Act. Qui tam is a provision of the Federal Civil False Claims Act that allows private citizens to file a lawsuit in the name of the U.S. Government charging fraud by government contractors and others who receive or use government funds, and to share in any money recovered. The County will not take any retaliatory action against an employee if the employee discloses information about the County's policies, practices or activities to a regulatory, law enforcement, or other similar agency or public official.

### **B. Protections**

The employee's disclosure is protected only if the employee first brought up the matter with a supervisor or the County Auditor and gave the employer a reasonable opportunity to correct the alleged violation, unless the danger is imminent to the public or a patient and the employee believes in good faith that reporting to a supervisor would not result in corrective action. The County will protect qui tam relators in accordance with the Federal Civil False Claims Act. This policy is intended to support the reporting of illegal activities and to protect officers and employees from retaliation who, in good faith, have reported a concern of improper governmental action. Any officer or employee of the County who becomes aware of improper governmental action by an officer or employee of the County must report such conduct. No officer or employee of the County shall take retaliatory action against an employee because the employee makes a good-faith report of any information regarding fraud, waste, abuse, misconduct, or any alleged prohibited or illegal activity in violation of any law, rule, or regulation governing officers and employees of Fort Bend County. Reports of concerns will be kept confidential to the extent possible, consistent with the need to conduct a complete and fair investigation.

### **C. Procedures for the Receipt, Retention, and Treatment of Complaints**

The following procedures apply to all Whistleblower complaints received by the County Auditor:

1. The County Auditor shall log the complaint into a complaint book or electronic database (the "log").
2. The County Auditor shall determine if it is a complaint that is appropriate for investigation, i.e. one that alleges a violation of law or regulations.
3. The County Auditor will notify the County Attorney to determine the most appropriate individual or group to conduct the investigation.
4. The selected investigator(s) shall perform the investigation, which may include interviews, reviews of documents, and other appropriate methods of gathering evidence.
5. The investigator shall document conclusions of the investigation.
6. The County Auditor and County Attorney shall determine what actions to take as a result of the investigation.
7. The most appropriate County official will notify the complainant if appropriate and any other appropriate individuals or parties, including law enforcement, State or Federal agencies.
8. The County Auditor shall note in the log that the investigation is complete and the actions taken.

## **IX. EXCLUSION SCREENING**

Fort Bend County government and its related entities are committed to maintaining high- quality service and integrity in its financial and business operations. Therefore, all necessary steps will be taken to ensure that employees, providers, contractors, etc., who provide and/or perform services for or on behalf of the County have not been the subject of adverse governmental actions and/or excluded from the related federal programs. The exclusion-screening policy demonstrates the County's intent to comply with Federal and State mandates to screen employees, independent contractors, business vendors, key providers, and governing-board members to verify that they have not been involved in adverse governmental actions related to fraud, patient abuse, licensing-board sanctions, license revocation/suspension/surrender, or have defaulted on Federal Assistance Loans and are therefore on a federal (or state) Excluded Parties List. The Excluded Parties List System (EPLS), hosted on the System for Award Management (SAM) website, is an electronic, Web-based system that identifies those parties excluded from receiving federal contracts, certain subcontracts, and certain types of federal financial and non-financial assistance and benefits. EPLS keeps the user community aware of administrative and statutory exclusions across the entire government. The County will conduct monthly exclusion screening of all employees, potential vendors, and governing Board members that have authority to grant appropriations or that contribute to the development or execution of policy as these actions relate to the use of federal funds. In addition, for employees that require specific license/certification in order to perform their duties, these credentials will be verified with appropriate licensing and disciplining authorities.

The County will conduct exclusion checks of the following sources to determine if the individual or entity's name appears on any exclusion lists, including but not limited to the following:

1. Exclusion file maintained by General Services Administration (GSA);
2. List of Excluded Individuals/Entities (LEIE) maintained by the United States Department of Health and Human Service's Office of Inspector General;
3. Specially Designated Nationals (SDN) File maintained by the United States Department of the Treasury; and

Individuals and entities excluded from federal healthcare programs will be prohibited from holding a position, or conducting business with the County, in any area that is directly or indirectly funded by a state or federal program that bars participation by such excluded individuals and entities.

## **X. BREACH OF CONFIDENTIALITY**

In 2013, the U.S. Department of Health and Human Services moved to strengthen the privacy and security protections for health information established under the Health Insurance Portability and Accountability Act of 1996 (HIPAA). The HIPAA Privacy and Security Rules have focused on health care providers, health plans and other entities that process health insurance claims. In 2013, the HIPAA Omnibus Rule was created to expand many of the requirements to business associates of these entities that receive protected health information, such as municipalities, contractors and subcontractors. This includes Fort Bend County. The rule also increases penalties for noncompliance and strengthens the Health Information Technology for Economic and Clinical Health (HITECH) Breach Notification requirements by clarifying when breaches of unsecured health information must be reported to HHS. In compliance with the demands by Federal regulatory authorities, Fort Bend County is committed to safeguarding Personal Health Information (PHI) and all other forms of Personal Information (PI). Breach-Incident Response provides a common standard for all staff regarding the processes and procedures for reporting a known or suspected information breach. Any member of the Fort Bend

County workforce who becomes aware of a situation that may put confidential or private information at risk must report the discovery as a potential breach to the County Auditor.

Personal Information (PI) and Personal Health Information (PHI) are types of information that can be used on their own or with other information to identify, contact, or locate a single person, or to identify an individual in context.

Examples of Personal Information (PI):

1. Credit card number
2. Social security number
3. Birthdate
4. Name and Address

Examples of Personal Health Information (PHI):

1. Health background information
2. Medical records
3. Lab test results and X-rays
4. Medical diagnoses



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Executed by Robert E. Sturdivant  
Fort Bend County Auditor

June 2, 2017

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Execution Date