


Office of the State Courts Administrator

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MEMORANDUM

TO: Chief Judges of the District Courts
Chief Judges of the Circuit Courts
Supreme Court Managers
Clerks and Marshals of the District Courts
Trial Court Administrators
OSCA Managers

FROM: Lisa Goodner 

DATE: September 27, 2012

SUBJECT: State Courts System Fraud Policy

Enclosed for your review and information is the State Courts System Fraud Policy that was approved by the Florida Supreme Court on September 25, 2012. This policy applies to all officers and employees of the court system, as well as all consultants, vendors, and contractors who enter into a business relationship with the courts.

The policy was developed in response to Report No. 2012-176, an operational audit of judicial branch entities issued by the Auditor General's Office in April 2012. The audit report recommended that judicial-related agencies, which had not already done so, develop and implement formal fraud policies to aid in the detection and prevention of fraud.

The fraud policy will be posted on the Florida Courts website. We ask that you distribute the fraud policy within your respective courts, as well.

Enclosure

cc: Chief Justice Ricky Polston
Greg White, Inspector General

Florida State Courts System Fraud Policy

Approved by Florida Supreme Court on September 25, 2012

I. Applicability

This policy applies to all officers and employees of the State Courts System (SCS), and to all consultants, vendors and contractors who enter into a business relationship with a State Courts System entity.

II. Policy Statement

The SCS is committed to establishing and maintaining an organizational culture that will ensure fraud prevention and detection are integral parts of all activities, consistent with Standards of Conduct contained in the Code of Judicial Conduct and the Code of Ethics for Public Officers and Employees (Chapter 112, Part III, Florida Statutes). The SCS will not tolerate or condone fraudulent, unethical or dishonest activities. It is the policy of the SCS to identify and promptly investigate suspected fraudulent, unethical or dishonest activities, and, if substantiated, to pursue legal remedies available under the law.

III. Definition of Fraud

Fraud is a willful or deliberate act or omission by which an individual intends to obtain an unauthorized benefit, service, property or something of value by deception, misrepresentation or other unethical or unlawful means. Fraud may be committed through many different methods, including mail, e-mail, telephone or the Internet. Fraudulent, unethical or dishonest acts include, but are not limited to:

- Forgery or unauthorized alteration of documents or computer records;
- Falsification or misrepresentation of reports to management and external agencies, including time sheets, official travel claims for reimbursement or other expense reimbursement reports;
- Authorizing or receiving payment for time not worked;
- Misappropriation of funds, supplies or other assets;
- Impropriety in handling or reporting of money or financial transactions;
- Unauthorized activities that result in a conflict of interest;
- Disclosure of confidential or proprietary information to unauthorized individuals;

The SCS Inspector General (IG) shall provide guidance to management as to whether specific actions constitute fraud.

IV. Management's Responsibilities

- A. "Management" refers to any marshal, administrator, manager, director, supervisor or other individual who manages or supervises SCS funds, entities, offices, or personnel.
- B. Management is responsible for ensuring implementation of an effective system of internal controls for detecting and preventing fraudulent or dishonest activities. These internal controls should ensure that transactions are properly authorized and recorded, assets are properly safeguarded, and accountability for actions and resources is appropriately identified and documented. Management should be familiar with the types of improprieties that could occur and be alert for any indication of improper activity, misappropriation, or dishonest activity. When improper activity is suspected or detected, management should promptly determine to the extent possible if the activity occurred because of an error or mistake or because of fraud or dishonesty.

- C. If management suspects an activity may involve fraud or dishonesty, management shall report the suspicious activity to the Chief Justice or Chief Judge and the IG. The IG will conduct an investigation, contacting and involving internal and external entities and offices as deemed appropriate. After reporting suspicious activity to the IG, management should not attempt to conduct investigations, interviews, or interrogations. Management is responsible for implementing corrective actions to ensure adequate controls exist to prevent reoccurrence of improper activities.

V. Employee Responsibilities

When suspected fraudulent, unethical or dishonest activities are observed by or made known to an employee, the employee must:

- i. Report the incident to his/her supervisor for subsequent reporting to the Chief Justice or Chief Judge, and IG. When the employee believes the supervisor may be involved in the inappropriate activity, the employee shall make the report directly to the next higher level of management or the IG.
- ii. Refrain from further investigation of the incident, confrontation with the alleged violator, or further discussion of the incident unless otherwise directed by the IG or law enforcement personnel.

VI. Investigation of Allegations of Fraud

a. Authority to Investigate Allegations of Fraud

- i. The IG is authorized under section 20.055(6), Florida Statutes, to initiate, conduct, supervise, and coordinate investigations designed to detect, deter, prevent and eradicate fraud, waste, mismanagement, misconduct, and other abuses in state government. The IG is also authorized to receive and investigate complaints filed pursuant to the Whistle-blower's Act in section 112.3187-112.31895, Florida Statutes. The IG shall refer complaints involving judges, attorneys or other licensed or regulated individuals to the appropriate oversight or regulatory body for investigation and determination of probable cause.

- ii. In the course of investigating fraud, suspected fraud or other wrong-doing within the scope of this policy, the IG shall have free and unrestricted access to all records and premises required to evaluate allegations. When investigating fraud, suspected fraud or other wrong-doing within the scope of this policy, the IG may inspect, examine, copy or remove SCS records and property without prior consent of any individual who may have custody of such items.

b. Complaint Procedures

Complaints may be filed with the IG by telephone at 850-488-9123 or email at lspgenl@flcourts.org.

The State of Florida has established a Whistle-blower hotline through which individuals can anonymously submit complaints of fraud, waste, abuse, or misuse of State resources. The State of Florida Whistle-blower Hotline number is 1-800-543-5353.

c. Inspector General Review

The IG shall, after sufficient review or investigation, determine whether the allegations contained in a complaint are substantiated. The IG shall also determine whether violations discovered during the course of an investigation are criminal in nature and shall report such violations to the Florida Department of Law Enforcement or other law enforcement agency as deemed appropriate.

d. Reporting

The IG shall report the outcome of all investigations of fraudulent, unethical or dishonest activities, except investigations involving the Whistle-blower Act, to the Chief Justice, and when applicable, to the Chief Judge. Based upon the IG findings, the Chief Justice or Chief Judge, in consultation with the State Courts Administrator and the OSCA General Counsel's Office, will determine the

appropriate responsive actions. Whistle-blower Act investigations will be conducted and reported in accordance with section 112.3189, Florida Statutes.

e. Confidentiality of Records

Information provided to the IG will be confidential to the extent permitted by law or court rule. Complaints alleging misconduct against judges, including complaints forwarded to the Judicial Qualifications Commission, are confidential under rule 2.420(c)(3)(A), Florida Rules of Judicial Administration, until probable cause is established. Complaints alleging misconduct against entities or individuals licensed or regulated by the courts are confidential until a finding of probable cause or no probable cause is established under rule 2.420(c)(3)(B), Florida Rules of Judicial Administration. Reports of the IG are public record except for information that is made confidential or exempt from public disclosure by statute or court rule. The name or identity of an individual who makes a complaint under the Whistle-blower's Act is confidential under section 20.055(5)(b), Florida Statutes, unless the complainant consents to disclosure, or the inspector general determines that such disclosure is unavoidable during the course of the investigation.

f. Sanctions

If an investigation results in substantiated allegations by the IG, a recommended course of action will be developed for approval by the hiring judge or justice for personal staff or the Chief Justice, Chief Judge, marshal, trial court administrator, state courts administrator or manager for consultants, contractors or vendors, or employees of a court or administrative office of a court who are not personal staff.
