



Review of Ethics Office policies and procedures and recommended changes

Audit and Ethics Committee

Item 7a

October 7, 2019

Process Review

- Jan. 2018-present: Olson Hagel assessment and collaboration with staff
- A&E Committee presentations
- June 2019 proposal to A&E Committee
- Review by new Ethics Officer

Additional Recommendations

1. Oversight and Feedback
2. Gift Limits for Employees
3. Establishing Levels of Severity for Violations
4. Discretion Whether to Open Investigations
5. Notice to Subjects of an Investigation
6. Quarterly or Monthly Reports on Pending Investigations
7. Whistleblower/Retaliation Investigations and Protections
8. Public Notice for Contracts of \$50,000 or more

Oversight and Feedback

- Would allow oversight and feedback mechanism between Ethics Office and A&E Chair/Vice-Chair.
- Strict confidentiality
- Advisory only

Gift Limits for Employees

Existing

- \$500 state gift limit
- Form 700 filers only
- No reference to contractors

June Proposal

- \$50 limit from certain contractors
- Form 700 filers only
- Stricter than state law

Revised Proposal

- No gifts from Metropolitan contractors
- Applies to all employees
- Exceptions:
 - Modest food
 - Items of nominal value
 - Not to exceed \$50 per contractor

Levels of Severity for Violations

	Level	Description
I	Severe	<ul style="list-style-type: none">• Seriously undermines integrity of governmental decision-making
II	Significant	<ul style="list-style-type: none">• Undermines integrity of governmental decision-making
III	Violation	<ul style="list-style-type: none">• Isolated or limited in nature
IV	Incidental	<ul style="list-style-type: none">• Minor or technical infraction

Levels of Severity for Violations

- Mitigating or Aggravating Factors
 - Duties and position of employee
 - Whether intentional or inadvertent
 - Cooperation
 - Acceptance of responsibility
 - Prior violations

Discretion Whether to Open Investigations

- Currently: Ethics Office must investigate all alleged violations, unless:
 - Outside of jurisdiction
 - Insufficient information
- Proposal: Ethics Office would have some discretion to decline or defer an investigation.
 - Example: Adequate alternative process available (Reason documented in case file)

Notice to Subjects of Investigation

Existing

- No time limit on preliminary review
- Notice to subject when investigation opened

June Proposal

- 15 business days to open investigation and notify subject

New Proposal

- 30 calendar days to open investigation and notify subject

Reports on Pending Investigations

Existing

- Monthly reports

June Proposal

- Monthly reports
- Requires reporting on general nature, status, how long pending, expected completion, resolution

New Proposal

- Quarterly reports
- Includes same categories as June proposal, but allows for additional reporting

Whistleblower/Retaliation Investigations and Protections

Existing

- Investigate retaliation for reporting violations of:
 - work-related law
 - gross waste of funds
 - gross abuse of authority
 - dangers to public health/safety
 - abuse of authority for personal gain
 - conflict of interest
- No carve-out for EEO-related (including sexual harassment) retaliation

June Proposal

- Investigate retaliation only for reporting ethics-related violations.
- HR investigates cases involving any other type of retaliation

New Proposal

- Investigate retaliation for reporting ethics-related violations and violations of:
 - work-related law or Metropolitan policy, aside from EEO-related
 - gross abuse or waste of resources
 - gross public health/safety danger
- Expressly exempts EEO-related (including sexual harassment) retaliation from Ethics Office jurisdiction
- Clarifies to whom whistleblower must report.

Public Notice for Contracts of \$50,000 or more

Existing

- No current Ethics rule on public notice for contracts of \$50,000 or more

June Proposal

- Intentional non-compliance with MWD contracting procedures is a violation

New Proposal

- Includes new requirement to post information about all existing contracts of \$50,000 or more

Next Steps

- Receive Committee input today
- Finalize proposed Administrative Code amendments
- Present to A&E Committee in November
- Communicate with bargaining units
- Board action

Discussion

