

 **PRACTICE**

No. 3-31

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Last reviewed: 12/10/2018

FRAUD, WASTE, & ABUSE**AUTHORITY**

The Commission last adopted amendments to this Administrative Practice on February 20, 2013. Amendments were approved by the Executive Committee, effective December 10, 2018.



Anju A. Bennett, Acting Executive Director

APPLICATION

This Administrative Practice applies to all employees including Merit System and contract employees, volunteers, and appointed officials. In the event that any portion of this Administrative Practice conflicts with a Collective Bargaining Agreement, the Agreement shall prevail for members of the respective Collective Bargaining Unit.

CONTACT

General questions regarding this policy can be directed to the Policy Office by calling 301-454-1719 or by emailing policyreview@mncppc.org. For questions directly related to reporting fraud, waste, or abuse, please see Subsection II(A) (Reporting Concerns), or contact the Office of the Inspector General at 301-446-3334.

**PURPOSE /
BACKGROUND**

As a taxpayer supported entity, the M-NCPPC has an ongoing and paramount responsibility to ensure the highest level of integrity in the appropriate use of M-NCPPC property/resources. This Administrative Practice was initially approved by the Commission on April 20, 2005 to:

- Strengthen the prohibition of fraud, waste, and abuse with respect to M-NCPPC property/resources;
- Clearly communicate the affirmative obligation of all employees to report known or suspected fraud, waste, and abuse of M-NCPPC property/resources; and
- Outline the responsibilities in connection with the reporting of fraud, waste, and abuse.

**PURPOSE/
BACKGROUND
(Continued)**

Since inception, the Practice has been revised as follows:

- February 20, 2013: Revised to reflect the restructured responsibilities of the Office of the Inspector General (formerly Internal Audit Office), provide clearer guidance to employees and management on the reporting and handling of fraud, waste, and abuse complaints, and clarify protections
- December 10, 2018: Amended to update definitions and terminology consistent with State law, modify reporting requirements as related to vendors, and reflect that reported matters may be referred to outside entities, as appropriate.

REFERENCES

- Division II of the Land Use Article of the Annotated Code of Maryland, the Maryland- National Capital Park and Planning Commission;
- Merit System Rules and Regulations;
- Administrative Practice 1-31, “Organization and Functions of the Audit Committee and Office of the Inspector General”;
- Administrative Practice 2-14, “Non-Commission Employment and Non-Commission Business”;
- Administrative Practice 2-15, “Employee Use of M-NCPPC Property”;
- Administrative Practice 2-16, “Contract Employment: Seasonal/Intermittent, Temporary and Term Employment”;
- Administrative Practice 2-24, “Ethics”;
- Administrative Practice 4-10, “Purchasing Policy”;
- Administrative Practice 6-13, “Electronic Communications Policy”; and,
- Maryland False Claims Act, and its non-retaliation provisions.

DEFINITIONS

In the context of this Administrative Practice, the terms below are defined as follows:

Appointed Officers: This term refers collectively to the following positions: the Executive Director, the General Counsel, and the Secretary-Treasurer.

The Commission: The governing body of the Maryland-National Capital Park and Planning Commission (“M-NCPPC” or agency) which is comprised of five members from each of the agency’s two Planning Boards for Montgomery County and Prince George’s County.

Commissioners: Members of the Commission.

Conflict of Interest: Any relationship, which is or appears to be not in the best interest of the organization. A conflict of interest would prejudice an individual’s ability to carry out their duties and responsibilities objectively. Conflict of interest is further defined in these related M-NCPPC Administrative Practices:

- Administrative Practice 2-14, “Non-Commission Employment and Non-Commission Business”.
- Administrative Practice 2-24, “Ethics” (ethical standards).
- Administrative Practice 4-10, “Purchasing Policy”.

Executive Committee: A three-member committee that is comprised of the Commission Chair, the Commission Vice-Chair, and the Executive Director.

Fraud, Waste, and Abuse:

- **Fraud:** Means an intentional act or attempt to obtain something of value from the M-NCPPC or another person through willful misrepresentation. Fraud includes a willful false representation of a material fact, whether by words or by conduct, by false or misleading allegations, or by concealment of that which should have been disclosed, which causes the M-NCPPC to act, or fail to act, to the detriment of the agency’s interest.

- **Waste:** Means an inappropriate act or omission by an employee with control over, or access to, M-NCPPC property or funds that unreasonably deprives the M-NCPPC of value. Waste includes mismanagement or other unintentional conduct that is deficient or improper when compared to conduct a prudent person would consider necessary to preserve the value of M-NCPPC property or funds under the same facts and circumstances.

- **Abuse:** Means an employee’s intentional or reckless misconduct or misuse of authority or position:
 - (I) Involving M-NCPPC property or funds that is improper or deficient when compared to conduct a prudent person would consider reasonable under the same facts and circumstances, or

 - (II) For the purpose of furthering improperly the private interests of the employee, a family member, or a personal or business associate.

Abuse also includes theft or misappropriation of M-NCPPC property or funds, and, destruction or alteration of official records and any intentional breach of a legal or equitable duty, M-NCPPC policy, or violation of federal or state laws that cause harm to the agency.

Inspector General: The individual selected and appointed by the Audit Committee to carry out the responsibilities and functions of the Office of the Inspector General.

The Maryland-National Capital Park and Planning Commission: For purposes of this Practice, “M-NCPPC” or “agency” shall be used to reference the entity acting in its organizational capacity.

M-NCPPC Property/Resources: Any service or asset/property (physical, digital, electronic, virtual, or intellectual) owned, purchased, leased, or under contract with the agency. This includes, but is not limited to: facilities; general equipment and tools; natural items (e.g., plants, trees, mulch, compost and firewood, etc.); vehicles and machinery; office equipment and supplies, including M-NCPPC stationery; computer hardware, software, and other electronic equipment; printers and copiers; telecommunication services such as telephones, paging devices, facsimile machines, internet/intranet and electronic mail; mobile technology (e.g., phones, personal digital assistants (PDAs), electronic tablets, air cards and transponders, etc.); data stored on, received by, or transmitted by the agency's operating systems and/or servers; M-NCPPC-issued uniforms; staff services delivered by employees, contractors, or volunteers of the agency; and rights under any license or other agreement relating to intellectual property, know-how, and information of commercial value, whether or not protected by patent, trademark, copyright or other legal entitlement.

Office of the Inspector General (OIG): The Office which carries out the internal audit functions pursuant to this Practice and in compliance with Generally Accepted Government Auditing Standards.

Vendor: A party obligated by contract or subcontract to provide any goods, services, or property to the M-NCPPC for consideration, including without limitation, contracts and subcontracts for construction and professional services related to construction.

POLICY

The M-NCPPC prohibits all conduct constituting fraud, waste, and abuse. This prohibition covers the participation in, or assistance of others engaged in fraud, waste, or abuse, including specifically and without limitation, any intentional acts or omissions that have the purpose or effect of concealing fraud, waste, or abuse.

The use of M-NCPPC property/resources is intended for the conduct of official business of the agency. The use of agency property/resources for non-M-NCPPC employment, non-agency business, or for personal gain is prohibited unless specifically permitted under "Allowable Exceptions" in Administrative Practice 2-15, titled *Employee Use of M-NCPPC Property/Resources*. The terms "Non-Commission employment" and "Non-Commission business" are defined within Administrative Practice 2-14, titled *Non-Commission Employment and Non-Commission Business*."

The M-NCPPC requires all individuals covered by this policy, including Merit System and contract employees, volunteers, appointed officials, vendors and individuals doing or seeking to do business with the M-NCPPC, to:

- Refrain from committing fraud, waste, and abuse with respect to agency property/resources.
- Refrain from participating in, or assisting others engaged in, fraud, waste, or abuse, including specifically and without limitation, any intentional acts or omissions that have the purpose or effect of concealing fraud, waste, or abuse.

- Report any known or suspected instances of fraud, waste, or abuse by any person or entity including, but not limited to, M-NCPPC employees and appointed officials, volunteers, vendors doing, or seeking to do, business with the agency, or any other individual using M-NCPPC property/resources. Reports shall be made in accordance with Section II, Allegations of Fraud, Waste, or Abuse.
- Cooperate fully in the review of reported allegations. Individuals, including managers, are required to cooperate in any investigation conducted by any unit authorized by the M-NCPPC, including, but not limited to, the Office of the Inspector General. Cooperation includes, without limitation, providing relevant documents, participating in requested interviews, and providing sworn or recorded statements.
- Refrain from retaliation on the basis of an individual's cooperation with the review of allegations.

Management may not retaliate against any employee for making a report in good faith pursuant to provisions of this Administrative Practice. Furthermore, management may not take, or refuse to take, any personnel action as a reprisal against an employee in connection with reporting information that the employee reasonably believes supports a violation of fraud, waste, or abuse as outlined in this Practice.

Any individual who has engaged in fraud, waste, or abuse, or who fails to meet any other requirements outlined in this document, is in violation of this policy. Reporting of fraud, waste, and abuse does not excuse any violation of policy. Violations shall be handled consistent with relevant M-NCPPC policies and applicable laws. (See also: Section titled Violations.)

The Commission has established reporting mechanisms to address concerns which fall outside of fraud, waste, or abuse to ensure they are reviewed appropriately and timely. For example, employment matters, including those related to workplace conduct and discipline are addressed in Merit Rules, Chapter 1900 (Workplace Conduct and Discipline); and those related to the misapplication of policy and discrimination are addressed in the Merit Rules, Chapter 2000 (Disputes), and Practice 2-25, (Employment Dispute Resolution). Salary equity reviews are addressed in Procedure 14-08, (Salary Equity Reviews/Adjustments and Retention Incentives). Represented Merit System employees may also refer to their respective Collective Bargaining Agreement for applicable provisions.

Individuals may also contact the Policy Office for guidance on the appropriate reporting mechanisms related to matters which do not fall under the definition of fraud, waste, and abuse.

RESPONSIBILITIES

Responsibilities for implementing this policy and handling concerns of fraud, waste, and abuse are outlined below.

I. **Communication of Policy:**

- Management shall ensure that this policy is well communicated through supervisory communications, agency training, publications, and/or website access, although by the adoption of this Administrative Practice, all employees are immediately on notice of its provisions and are required to comply without excuse.
- The Department of Finance is responsible for communicating and providing this policy to all vendors.

II. **Allegations of Fraud, Waste, or Abuse:**

Individuals are provided a number of options for reporting fraud, waste, and abuse. Reports of fraud, waste, and abuse shall be reviewed in a timely manner and investigated, as appropriate, in accordance with this Administrative Practice.

A. **Reporting Concerns**

Individuals may report concerns in writing or orally.

1. **Employees/ Volunteers/Management** are required to report any suspected or known fraud, waste, or abuse. Individuals may direct their concerns to any of the following resources, as appropriate, given the circumstances of the matter:
 - a. The Department Head responsible for the program in which Fraud, Waste, and Abuse is suspected.
 - b. M-NCPPC's Office of the Inspector General:
 - 1-800-363-5524 (M-NCPPC Fraud, Waste, and Abuse Hot Line)
 - Online reporting via www.reportlineweb.com/mncppc;
 - (301) 446-3334 (Direct); or
 - 7833 Walker Drive Suite 425, Greenbelt, MD 20770.
 - c. Park Police at:
 - 301-949-8010 for Montgomery offices/operations
 - 301-459-9088 for Prince George's and bi-county offices/operations; or
 - d. The Executive Director at 301-454-1740. All allegations of fraud, waste, and abuse involving the Office of the Inspector General shall be reported directly to the Executive Director.

2. **Vendors** shall report any suspected or known fraud, waste, or abuse. Reports may be made directly to the Secretary-Treasurer or the Office of the Inspector General.

- a. The M-NCPPC's Office of the Secretary-Treasurer:
 - o (301) 454-1540; or
 - o 6611 Kenilworth Avenue, Riverdale Maryland 20737
- b. The M-NCPPC's Office of the Inspector General:
 - o 1-800-363-5524 (M-NCPPC Fraud, Waste, and Abuse Hot Line); or
 - o Online reporting via www.reportlineweb.com/mncppc or directly at (301) 446-3334; or
 - o 7833 Walker Drive Suite 425, Greenbelt, MD 20770
- c. The Secretary-Treasurer will share all cases of fraud, waste, and abuse with the Inspector General.
- d. The Inspector General, exercising appropriate discretion, shall advise the Secretary-Treasurer in confidence concerning any ongoing fraud, waste, or abuse that could be interrupted or prevented by the agency without unduly prejudicing the discharge of responsibilities under this Practice.

B. Responsibilities for Handling Reported Concerns

While concerns of fraud, waste, and abuse may be communicated in writing or orally, the intake source of such reports shall ensure that any information received is documented in writing.

1. **Department Heads/Management:**

- a. Will take reasonable steps, to the extent practicable, to maintain the confidentiality of any individual who makes a report under this Administrative Practice.
- b. May not retaliate against any employee for making a report in good faith pursuant to provisions of this Administrative Practice. (See also: Section titled *Policy*.)
- c. If an allegation of fraud, waste, and abuse is suspected, known, or filed directly with the Department Head/Management, he/she must promptly report the matter to the Office of the Inspector General. The matter must also be reported to the Park Police, if criminal activity is apparent or suspected.

- d. Allegations of fraud, waste, and abuse that involve any member of the Office of the Inspector General must be directed to the Executive Director.
- e. Concerns Regarding Vendors or Other Individuals Doing/Seeking to Do Business with the M-NCPPC:
Department Heads/Management must report to the Inspector General or the Secretary-Treasurer for review, any instances of suspected non-compliance by vendors or other individuals doing/seeking to do business with the M-NCPPC.
 - i. For matters reported directly to the Secretary Treasurer: The Secretary-Treasurer will share all cases of fraud, waste, and abuse with the Inspector General.
 - ii. For matters reported directly to the Office of the Inspector General: The Inspector General, exercising appropriate discretion, shall advise the Secretary-Treasurer in confidence concerning any ongoing fraud, waste, or abuse that could be interrupted or prevented by the agency without unduly prejudicing the discharge of responsibilities under this Practice.

2. **Office of the Inspector General Responsibilities**

- a. Upon receipt of an allegation of fraud, waste, and abuse from employees/vendors/management, the Office shall review the concern to determine necessary follow up actions. (See also: Section III, Investigation of Reports of Fraud, Waste, or Abuse Filed by Employees / Volunteers / Management/ Vendors.)
- b. The Inspector General shall use discretion in the exercise of its authority and refer matters when it concludes another party is better situated to lead an investigation. After the Inspector General conducts a preliminary assessment, the Inspector General should refer matters for reasons including, but not limited to:
 - i. The availability and efficient use of resources;
 - ii. Jurisdiction over the matter in question.
 - iii. The existence of an outside entity more suited to address the matter in question (e.g., State’s Attorney, Equal Employment Opportunity Commission, State Ethics Commission, etc.); or,
 - iv. The interest of another party within or external to the M-NCPPC with authority to remedy the matter.

- c. The Office of the Inspector General shall ensure that the concern is shared with the affected Department Head, as appropriate.
- d. The Executive Director shall be advised on any allegation affecting any employees, volunteers, management, vendor, or entities doing, or seeking to do, business with the M-NCPPC to ensure relevant review of employment concerns, corporate policy, collective bargaining provisions, or other contractual agreements affecting the M-NCPPC.
- e. The Inspector General, exercising appropriate discretion, will advise the Secretary-Treasurer in confidence concerning any ongoing fraud, waste, or abuse that could be interrupted or prevented by the agency without unduly prejudicing the discharge of responsibilities under this Practice.

2. **Required Record Keeping**

The Office of the Inspector General will track all allegations of fraud, waste, and abuse. In cases where an investigation is warranted, notification shall be provided to the Commission Chair.

As part of the annual process, the Inspector General will meet with the Executive Director and the Secretary-Treasurer to review the list, in its entirety, of all allegations reported during the previous fiscal year.

3. **Executive Director Responsibilities**

- a. Will forward suspected or known fraud, waste, or abuse to the Inspector General. A copy of the concern shall be shared with the affected Department, as appropriate. Allegations of fraud, waste, and abuse involving employees of the Office of the Inspector General shall be discussed with the Commission Chair, the Commission Vice-Chair, and the General Counsel for appropriate handling.
- b. Shall advise the Commission Chair and the Commission Vice-Chair of any allegations against Department Heads, Deputy Directors, Board Members, Auditors, and/or Division Chiefs.
- c. Must communicate to the Inspector General and the affected department, as appropriate, any concerns related to investigations including relevant collective bargaining provisions.

- d. In preparation of external financial reviews of the agency, shall meet with the Office of the Inspector General to examine its tracked listing of all reported or suspected cases of fraud, waste, and abuse.

4. **Secretary-Treasurer Responsibilities**

- a. Shall review all submitted concerns related to vendors or other individuals doing/seeking to do business with the M-NCPPC.
- b. Must forward to the Inspector General any known or suspected cases of fraud, waste, or abuse. A copy of the concern shall be forwarded to the Executive Director.
- c. In preparation of external financial reviews of the agency, shall meet with the Office of the Inspector General to examine its tracked listing of all reported or suspected cases of fraud, waste, and abuse.

5. **Park Police Responsibilities**

Shall communicate any suspected or known fraud, waste, and abuse to the Office of the Inspector General.

III. Investigation of Reports of Fraud, Waste, or Abuse

A. Investigation of Allegations Filed by Employees/Volunteers/Management

The appropriate investigative approach shall be determined by the Office of the Inspector General after a review of the specific allegation(s), the scope of the violation(s), and the alleged parties involved.

1. If necessary to fulfill the duties assigned to the Office of the Inspector General, the Inspector General, or a staff member authorized by the Inspector General, may:
 - a. Administer an oath or affirmation;
 - b. Take an affidavit from any person; and
 - c. Take a deposition and other testimony.
2. The Inspector General may subpoena any person or evidence for the purpose of investigating fraud, waste, or abuse at the M-NCPPC.
3. The Executive Director shall advise the Inspector General on any concerns pertaining to investigations involving employees represented by collective bargaining.

4. The Inspector General, exercising appropriate discretion, will advise the General Counsel of violations of law.
5. If reasonable grounds exist to believe that a serious violation of federal, state, or local law has occurred, the Inspector General, shall notify:
 - a. The appropriate law enforcement agency;
 - b. The State Ethics Commission; or
 - c. Any other agency with jurisdiction to enforce the law, as appropriate.

B. Investigation of Vendor Related Allegations

The appropriate investigative approach shall be determined by the Inspector General. When appropriate, the Inspector General may request the assistance of the Secretary-Treasurer, General Counsel, or other relevant party.

IV. Issuance and Review of Fraud, Waste, and Abuse Investigation Reports

Final investigation reports shall be distributed to the Audit Committee, the Commission Chair and the Commission Vice-Chair, and the Director of the affected department. Copies of the reports shall also be provided to the M-NCPPC's appointed officers (the Executive Director, the General Counsel, and the Secretary-Treasurer).

- The General Counsel shall furnish advice and guidance on legal issues and procedures to be followed.
- The Executive Director shall ensure that findings of fraud, waste, or abuse are addressed consistently.
- The Department Head shall respond in writing within 30 calendar days (or any extended period as authorized in Practice 1-31) to any recommendations and/or corrective actions from a Final Investigation Report. Such response shall set forth a schedule for implementation of recommendations and/or corrective actions, as appropriate.
- The Audit Committee shall include findings and recommendations/corrective actions of incidents of fraud, waste, and abuse as part of the regular audit/financial reports to the Commission Chair and Vice Chair.

VIOLATIONS

Employees, who violate any portion of this Administrative Practice, are subject to disciplinary action up to and including termination of employment. Disciplinary actions shall be handled in accordance with the Merit System Rules and Regulations, Chapter 1900, Workplace Conduct and Discipline; applicable Collective Bargaining Agreements; and M-NCPPC Administrative Practice 2-16, "Contract Employment: Seasonal/Intermittent, Temporary, and Term Employment," Discipline Section. Employees covered under the Law Enforcement Office's Bill of Rights (LEOBR) shall be afforded their rights pursuant to the LEOBR statute as well as any applicable Collective Bargaining Agreement. Department Heads shall consult with the M-NCPPC Human Resources Director before implementing any disciplinary action to ensure appropriate action is taken.

In addition to disciplinary actions up to termination, violations of policy also may result in criminal prosecution and recovery of losses. Any expenses incurred from an employee's unauthorized use/misuse or loss of M-NCPPC property/resources may be recovered by the agency through direct repayment of such expenses by the employee, or collection of such expenses through payroll deduction. The M-NCPPC reserves the right to determine the method of recovery of such expenses and to withhold wages or payments otherwise due the employee, or otherwise pursue legal action for collection of any monies owed by an employee. Disciplinary and recovery actions shall be coordinated through the Department of Human Resources and Management and the Office of the General Counsel.

Vendors may be held financially responsible for loss/damage to M-NCPPC property/resources resulting from violation of this Administrative Practice or any applicable federal, state or local law. Vendors and individuals doing business, or seeking to do business, with the M-NCPPC are required to comply with the terms of their contract or agreement and all applicable Administrative Practices and Procedures. Failure to comply may result in the vendor or individual being debarred from doing business with the agency or, if applicable, action pursuant to Administrative Practices and Procedures and federal, state or local laws.

Any sanctions for violations by vendors or persons conducting/wishing to do business with the agency shall be handled pursuant to Administrative Practice 4-10, Purchasing Policy, and any applicable contract provisions or laws. The M-NCPPC may also withhold payment of funds otherwise due the offending vendor to satisfy the loss or damage it caused.

PROCEDURES

The Inspector General shall develop any operating procedures governing the investigation process for fraud, waste and abuse concerns.