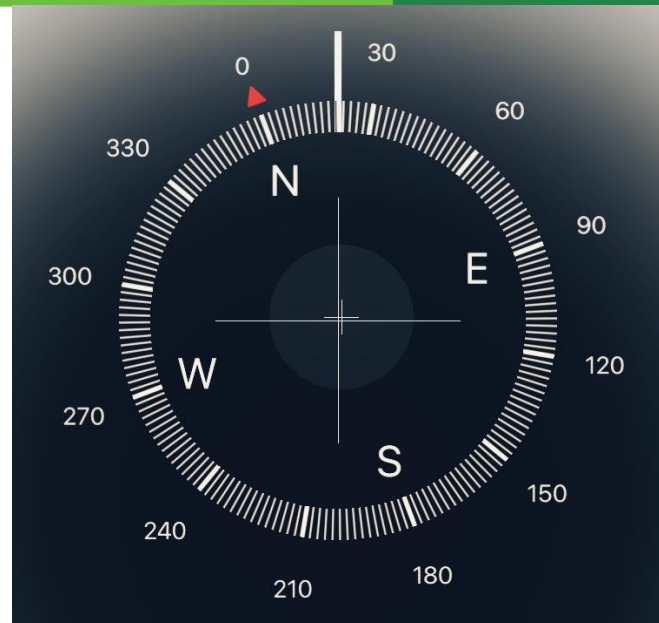




Conflict of Interest Investigation



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Conflict of Interest Investigation

Executive Summary

Objective

This investigation was conducted to determine whether two employees, on separate occasions, violated the Conflict of Interest Policy.

Background

The Conflict of Interest Policy for City, Secondary and Other Employment relationships was last updated July 11, 2005. Its stated objective is:

To avoid any actual or apparent conflict in the discharge of duties which may interfere with efficient City operations, either in off-duty employment and/or in personal work while on duty.

Conclusion

Controls were not adequate to prevent or detect employees who were violating the Conflict of Interest Policy.

Highlights

- 1. Human Resources should improve controls to prevent or detect violations of the City's Conflict of Interest Policy.***
 - Two employees violated the Conflict of Interest Policy.
- 2. HR should ensure that Department Directors require all city employees to complete the ethics training program, including Conflict of Interest, annually.***
 - City Policy prohibits an employee from having a direct or indirect interest in any contract or agreement with the City.
- 3. HR should establish consistent policies for disciplining employees who violate the Conflict of Interest Policy.***
 - An employee directed payments to a vendor with whom a relationship existed prior to employment with the City.

Recommendations

- 1) Human Resources should develop queries to conduct regular, periodic compliance audits. HR should consider whether to engage Internal Audit to assist with the review of potential conflicts.
- 2) HR should ensure that Department Directors require all employees to complete ethics training, including Conflicts of Interest, annually.
- 3) HR should establish consistent policies for disciplining employees who violate the Conflict of Interest Policy.

Actions Planned

Human Resources is updating the Conflict of Interest Policy to address the audit concerns identified. HR will provide employee address data to Procurement for periodic matching with vendor data.

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Background

The Conflict of Interest Policy (HR13) for City, Secondary and Other Employment relationships was last updated July 11, 2005. Its stated objective is:

To avoid any actual or apparent conflict in the discharge of duties which may interfere with efficient City operations, either in off-duty employment and/or in personal work while on duty.

The policy also states:

No employee shall have or acquire a direct or indirect interest in any contract or agreement with the City. An employee will have a direct or in-direct interest in a contract between the City and any firm if the employee or any member of the employee's immediate household: is an officer or director of the firm or owns or controls more than 5% of the ownership of the firm as a shareholder, member, partner, sole proprietor, or in any other manner of exercising beneficial ownership of the firm. A firm includes any legal entity, such as, but not limited to, a corporation, partnership association or sole proprietorship.

If an employee's interest in a contract or agreement with the City is based on an immediate family member's involvement as defined in paragraph 8 (above) of this policy, and the totality of the circumstances regarding the employee's and his/her immediate household member's role in the agreement doesn't not result either (1) an actual conflict, or (2) the reasonable appearance of a conflict, the City Manager can determine that entering into the contract or agreement will not cause a violation of this policy. The City Manager's decision will be made after consultation with the Human Resources Director. It is the responsibility of the employee's Key Business Executive, or his/her designee, to bring the potential conflict to the attention of the Human Resources Director of the City Manager.

Objective

This investigation was conducted to determine whether two City employees, on separate occasions, violated the Conflict of Interest Policy.

Scope, and Methodology

Scope

This investigation began after Internal Audit learned of a possible conflict of interest with a Department's (Department A) employee (Employee A) providing catering services. While that review was taking place, Internal Audit was notified of another potential conflict in a different Department (Department B) where a City employee (Employee B) may have hired a personal acquaintance for catering.

Auditors reviewed:

- P-Card transactions for Employee A from July 2016 through November 2018,
- Department B's P-Card transactions from July 2015 through January 2019, and
- Copies of relevant vendor purchase orders.

Methodology

To achieve the investigation objectives, auditors performed the following:

- Interviewed staff and supervisors,
- Reviewed P-Card transactions, and
- Reviewed purchase orders.

Findings and Recommendations

1. Human Resources should improve controls to prevent or detect violations of the City's Conflict of Interest Policy.

Two employees in different departments violated the City's Conflict of Interest Policy in 2019 and 2018. One provided a service to the City under contract, while the second was responsible for hiring a service provider with whom a relationship existed prior to employment with the City.

It is not possible to prevent all conflicts – except through education and enforcement, as addressed below. However, it is important to detect violations as quickly as possible. Timely detection can limit the City's exposure to negative consequences. In addition, detection can discourage additional violations.

Detection of some (but not all) potential violations can be accomplished through the performance of address comparisons. HR has provided all employees notification entitled "How Human Resources uses your personal data." The notice, which is also found on the HR home page on CNet states that employee personal data can be used "...to conduct audits to check for compliance with procurement and contracting conflict of interest policies."

The two potential violations brought to the attention of Internal Audit for review were substantiated. One would have been identified by comparing addresses of vendors and employees. The other required a more detailed review of documentation submitted by the vendor and employee. The vendor may have been unaware of the City's conflict of interest policy, and auditors did not find any deficiency with the vendor's actions. The employee who should have been aware of City policy provided false information about the relationship, when questioned. (See finding #3 below.)

Recommendation: Human Resources should develop queries to conduct regular, periodic compliance audits. HR should consider whether to engage Internal Audit to assist with the review of potential conflicts.

Value Added: Compliance; Risk Reduction

Human Resources Response: The ability to query an employee's address does exist. The use of personal data in this manner was raised with City legal staff. The opinion at that time was that employees must be provided notice of such use. HR approved this as a business use in February 2019. HR will provide the employee address query to Procurement for comparison to the vendor addresses on file monthly.

2. HR should ensure that Department Directors require all city employees to complete the ethics training program, including Conflicts of Interest, annually.

Department A made several vendor payments between 2015 and 2019 to one of its own employees (Employee A) for catering services. Five payments were made during 2015 and 2016; and one payment was made in January 2019. In 2015, the employee had submitted a W-9 for the business. City policy HR13 prohibits an employee from having a direct or indirect interest in any contract or agreement with the City.

After auditors were made aware of the potential conflict, a review found that the employee's home and business address in MUNIS were the same. In response to Internal Audit inquiry, Employee A stated that the business was set up as a vendor upon a former supervisor's request. During the review, auditors verified that the employee used vacation time when providing services to the Department.

Employee A also claimed that other City employees have provided services. Internal Audit was unable to verify this claim due to the lack of data access at that time. Regardless, the belief among employees that it is acceptable to have such arrangements indicates a lack of attention to City policy.

Recommendation: HR should ensure that Department Directors require all employees to complete ethics training, including Conflicts of Interest, annually.

Value Added: Compliance; Risk Reduction

Action Taken (A): Employee A's vendor account is no longer active in MUNIS, and the employee is no longer providing services.

Human Resources Response: The Code of Ethics training module exists on the City's Learning Management System and HR has recently made the training an annual requirement. The revised Conflict of Interest policy is currently pending review and approval and will be added to the eLearning platform when finalized.

3. HR should establish consistent policies for disciplining employees who violate the Conflict of Interest Policy.

Employee B was involved with a vendor payment made via P-Card to a PayPal account. Employee B did not possess a City P-Card but directed the payment be made by a co-worker under the supervision of Employee B.

Department B's Director addressed the matter with Employee B, who described the relationship with the vendor inaccurately. Employee B claimed to have only recently met the vendor at a community event.

Internal Audit interviewed Employee B, who denied any prior relationship. Employee B specifically stated that the relationship began at a Charlotte community event, following initial employment in 2018. However, further review determined that Employee B and the vendor shared a common address at the time of Employee B's initial employment, and appeared to have lived nearby in a different state prior to City employment. The first catering receipt was dated 10 days after Employee B's start date with the City. In total there were seven transactions amounting to \$5,640.

Recommendation: HR should establish consistent policies for disciplining employees who violate the Conflict of Interest Policy.

Value Added: Compliance; Risk Reduction

Action Taken: The Department B Head directed Employee B to conduct no further business with the vendor in question.

Human Resources Response: The revised Conflict of Interest policy is currently pending review and approval and will be added to the eLearning platform when finalized. The Progressive Performance Management Policy is under revision and will outline how discipline will be managed based on the infraction or violation. Department HR Managers will work with the Department Directors to determine discipline based on the incident.

Conclusion

Controls were not adequate to prevent or detect employees who were violating the Conflict of Interest Policy.

Distribution of Report

This report is intended for the use of the City Manager's Office, City Council, and all City departments. Following issuance, reports are sent to City Council and subsequently posted to the [Internal Audit website](#).