



**PERALTA COMMUNITY COLLEGE DISTRICT
GOVERNING BOARD POLICY**

POLICY #	TITLE	EFFECTIVE	REVISED
6.85	Independent Contractors/Consultant	12/1/1968	5/13/09

PURPOSE

The Governing Board recognizes the District may need to obtain the services of independent contractors and consultants to provide expertise that may not be available with existing staff. Instances when it is more appropriate that the services of a consultant or contractor be used include feasibility, cost-effectiveness and timeliness. The purpose of this policy is to provide direction in the use of independent contractors and consultants and to ensure a process for the monitoring and control of expenses incurred in the use of independent contractors and consultants.

POLICY

Independent contractors and consultants shall be hired according to the requirements of the Internal Revenue Service pertaining to independent contractors. The Governing Board retains the right to request a competitive bid for any independent contractor or consultant service.

Contract Agreement

All requests for contract/consultant services shall be duly passed and adopted by majority vote of the Governing Board prior to the start of work. Should an emergency exist, the Chancellor has the authority to invoke Board Policy 6.83 which allows for Board ratification of a prior Chancellor action taken to avoid delay or disruption to a project.

The District shall not maintain a contractual relationship with an independent contractor or consultant for more than two consecutive years, unless and until the following has taken place:

- Competitive bid process
- Staff analysis of alternatives
- Successful prior performance with the District, including completing deliverables as contracted
- Board approval

Prior to any contract being executed, the agreement shall be reviewed, authorized and approved in accordance with District policies, procedures and requirements for procurement of goods and services. All contracts shall be in writing, with clearly written deliverables that adhere to the agreed upon scope of work. Business expenses and incidentals are expected to be included in the vendor proposal. The District will not separately reimburse business expenses.

Vendor Performance

Monies expended for procurement purposes, whether general fund, grant or otherwise comes with the expectations that the Governing Board and District management are expending these funds in the best interest of the public trust. In that regard, all contractual services shall be undertaken with the goal that the project will be completed within budget and on time.

The Governing Board expects that the District will not only consider the lowest responsive bidder, but lowest responsible bidder. Management shall do its due diligence on reference checks and past performance of a vendor before entertaining a proposal from a contractor or consultant.

The District shall have a system to evaluate the performance of contractors and consultants that are awarded contracts. The system shall consider the vendor's performance for the entire length of the contract and evaluate the deliverables produced by the vendor. The District shall include a copy of the Vendor Performance Report template in

the initial request for service to all potential vendors. At the completion of a contract term, all District cost centers shall submit to the Office of the Inspector General a Vendor Performance Report. Contracts for contractor and consultant services shall be subject to review and/or audit(s) by the Inspector General, Internal Auditor or other auditing entity. Final and/or periodic payments shall be made after validation of satisfactory completion of the job or interval tasks.

Providing misleading or false information and documentation to the District shall exclude a vendor from contracting with the District. Contracts may be terminated should the District determine a vendor has violated any of the District's policies related to a drug free workplace, non-discrimination, sexual harassment, and civility and mutual respect, in addition to the Public Contracts Code and District administrative procedures governing procurement.

District Management

District employees who are authorized to provide consultant services to the District shall be retained as an employee on special assignment and not as a vendor. To ensure fair and equitable opportunities for internal staff and the general public, independent contractors and consultants shall not be hired as District employees until one year after their contract services have ended.

In the event there is evidence of malfeasance, the District officer, college officer or employee who entered into the subject contract shall be personally liable for any and all monies that the District paid out as a result of his or her malfeasance.

It is the intent of the Governing Board that an accompanying Administrative Procedure to Board Policy 6.85 Independent Contractor/Consultant be developed by management and confirmed by the Governing Board not later than 60 days from approval of this policy.

DEPARTMENT/MANAGER RESPONSIBLE

Vice Chancellor General Services

PERALTA COMMUNITY COLLEGE DISTRICT SOURCE

STATE/FEDERAL ENACTMENT

Amended: Board of Trustees TBD
 Approved: Board of Trustees 8/13/1996
 Approved: Administrative Procedure 6.85, 8/13/1996
 Replaced: Board Policy 5.55 12/1/1968

Internal Revenue Code Section 3401
 Education Code Section 81655, et. seq.
 Public Contract Code Section 20651, et. seq.



**PERALTA COMMUNITY COLLEGE DISTRICT
GOVERNING BOARD POLICY**

POLICY #	TITLE	EFFECTIVE	REVISED
TBD	Fraud Prevention	TBD	5/13/09

PURPOSE

This policy has been established to facilitate the development of internal controls, protect District assets and interest, increase overall fraud awareness, and to ensure a coordinated approach toward resolution of fraud at the Peralta Community College District (District).

This policy is governed by Strategic Planning Goal D: Culture of Innovation and Collaboration.

POLICY

INTRODUCTION

The Fraud Prevention Policy (Policy) has been established to combat and deter destructive acts such as fraud, waste and abuse against the integrity and effectiveness of the District. All matters raised by any source shall be taken seriously and properly investigated. Those persons found to have committed fraud shall be subject to punitive action and the District will pursue prosecution if the results of an investigation indicate the possibility of criminal activity.

Failure to comply with this policy subjects an employee (including management) to disciplinary action including immediate termination. Failure to comply by a person doing business with the District or in any other relationship with the District could result in cancellation of the relationship between the entity and the District.

Suspected improprieties concerning an employee's moral, ethical, or behavioral conduct should be resolved by departmental management rather than the Office of the Inspector General (OIG). If there is any question as to whether an action constitutes fraud, contact the Inspector General (IG) for guidance.

SCOPE OF POLICY

This policy is intended to promote consistent, legal and ethical organizational behavior by assigning responsibility for reporting fraud, waste and abuse; providing guidelines to conduct investigations of suspected fraudulent behavior and requiring each employee to attend fraud awareness training.

The policy applies to all District employees and will be enforced without regard to past performance, position held or length of service. As well, the policy applies to any fraud or suspected fraud involving officers or trustees, as well as members, vendors, consultants, contractors, funding sources and/or any other parties with a business relationship with the District.

RESPONSIBILITIES

All employees are required to report suspected fraud, waste or abuse to management and/or the IG, even if the suspected illegal activity came from another employee or individual.

Management

Management is responsible for the detection and prevention of fraud, misappropriations, and other inappropriate conduct. Management shall develop and enforce internal controls and policies that will provide the security and accountability of the resources entrusted to them; and report to the IG any indication that an act of fraud is occurring or has occurred in their area.

Management does not have the authority to determine the merits of a report of suspected fraud. The IG will make this determination with the assistance of the Board Audit and Finance Committee (Committee), General Counsel and, when appropriate, law enforcement. All managers are to cooperate fully with those performing an investigation pursuant to this policy.



PERALTA COMMUNITY COLLEGE DISTRICT GOVERNING BOARD POLICY

Employees

Employees who know or suspect that other District employees are engaged in theft, fraud, embezzlement, fiscal misconduct or violation of District financial policies, have a responsibility to report it to their supervisor, appropriate administrator or the OIG. Employees should not confront the individual under suspicion or initiate investigations on their own; as such actions could compromise any ensuing investigation by the OIG. All employees are to cooperate fully with those performing an investigation pursuant to this policy.

General Counsel

The General Counsel and the IG work in concert when a matter of fraud as described in this policy is suspected. It is the responsibility of the General Counsel to advise the Governing Board of the potential legalities of the IG's findings of fraud and proposed recommendations to cure the matter. Should the General Counsel find it necessary to seek outside assistance, he/she shall make that decision after consulting in closed session with the IG, Governing Board and Chancellor.

Governing Board

The Committee has oversight responsibilities for management's efforts to create a strong internal control environment, including the design and implementation of antifraud programs and controls. Members of the Committee shall ensure the organization has anti-fraud programs and controls in place to properly fulfill their fiduciary duties. The Committee has the authority to conduct closed session meetings at which matters reported to the committee may be discussed confidentially.

Inspector General

The IG has the primary responsibility for the investigation of all suspected fraudulent acts as defined in this policy. If the investigation substantiates that fraudulent activities have occurred, the IG will issue a report(s) to the appropriate designated personnel. Decisions to prosecute or refer the results to the appropriate law enforcement and/or regulatory agencies for independent investigation will be made in conjunction with the Governing Board, General Counsel and the Chancellor, as will final decisions on disposition of a case.

Every effort shall be made to protect the rights and identity of everyone involved in a report of suspected fraud, including the individual who in good faith alleges perceived misconduct, as well as the alleged violator(s). However, disciplinary action may be taken as provided by this policy if a report is made in bad faith. Each employee involved in an investigation of suspected fraud shall keep the content of the investigation strictly confidential to the full extent provided by law. Investigation results shall not be disclosed or discussed with anyone other than those who have a legitimate need to know.

INVESTIGATION

The purpose of the investigation and the reporting of appropriately documented fraudulent activities are to provide a sound foundation for the protection of the innocent, the removal or discipline of the wrongdoers, appropriate judicial action when warranted by the facts, and the basis for seeking recovery.

Those individuals assigned to investigate suspected fraud shall have free and unrestricted access to all District records, information and premises, whether owned or rented; and shall have the authority to examine, copy, and/or remove all or any portion of the contents of files, desks, cabinets, and other storage facilities on the premises without prior knowledge or consent of any individual who may use or have custody of any such items or facilities when it is within the scope of their investigation.

All requests for assistance from law enforcement or regulatory agencies shall be immediately forwarded to the IG for determination and handling.



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If suspected fraud or other wrongdoing involves programs funded in whole or in part with federal funds, additional responsibilities, such as special reporting and disclosure to the awarding agency, may apply. It is the policy of the District to fully comply with all additional reporting disclosures and other requirements pertaining to suspected acts of fraud as described in government award documents.

Confidentiality

The IG shall treat all information received confidentially. The identity of an employee or complainant who reports suspected fraud will be protected to the full extent allowed by law. Any employee who suspects dishonest or fraudulent activity will notify the IG immediately, and should not attempt to personally conduct investigations or interviews related to any suspected fraudulent act.

Employees involved in an investigation will retain the rights, privileges, and protection afforded to them through applicable District policies and state and federal laws in effect at the time. Any inquiries from the suspected individual, his or her attorney/representative, or any other inquirer shall be directed to the IG, and if necessary, the IG will refer these inquiries to the General Counsel.

Reporting Suspected Fraud

All employees have a duty to report any information or suspicions about the possible fraudulent or corrupt activity of any officer, employee, vendor or any other party associated with the District. Such duty includes reporting this immediately to the employee's supervisor, unless reporting the activity to the supervisor would compromise the integrity of the information in any way. In that instance, the employee should contact the next level manager up or may go directly to the IG. If the employee reports the alleged fraud to a supervisor, it is the responsibility of the supervisor to immediately report the alleged fraud to the IG.

All inquiries concerning the activity under investigation from the suspected individual, his or her attorney or representative, or any other inquirer should be directed to the IG or General Counsel. No information concerning the status of an investigation will be given out. If an individual is proven to have committed fraud, information relating to the offence will be placed on the appropriate District file. The retention of such records will be governed by established records retention policies.

Disciplinary Action

Employees who commit an act of fraud will be subject to disciplinary actions, and failure by employees to report suspected fraud also may result in discipline. Contractors, vendors, and other business partners who have been found to have committed fraud will have their contract terminated.

An individual who in good faith reports a suspicion of fraud will be protected from retaliation and retribution. Under no circumstances will this individual be threatened, intimidated, or dismissed because he or she acted in accordance with this policy. In addition, every effort shall be taken to mitigate any consequences of the process for other individuals who may unintentionally be adversely affected by it. However, if an employee is determined to have acted maliciously or with deceit in making a false accusation, the employee will be subject to disciplinary action.

DEPARTMENT/MANAGER RESPONSIBLE

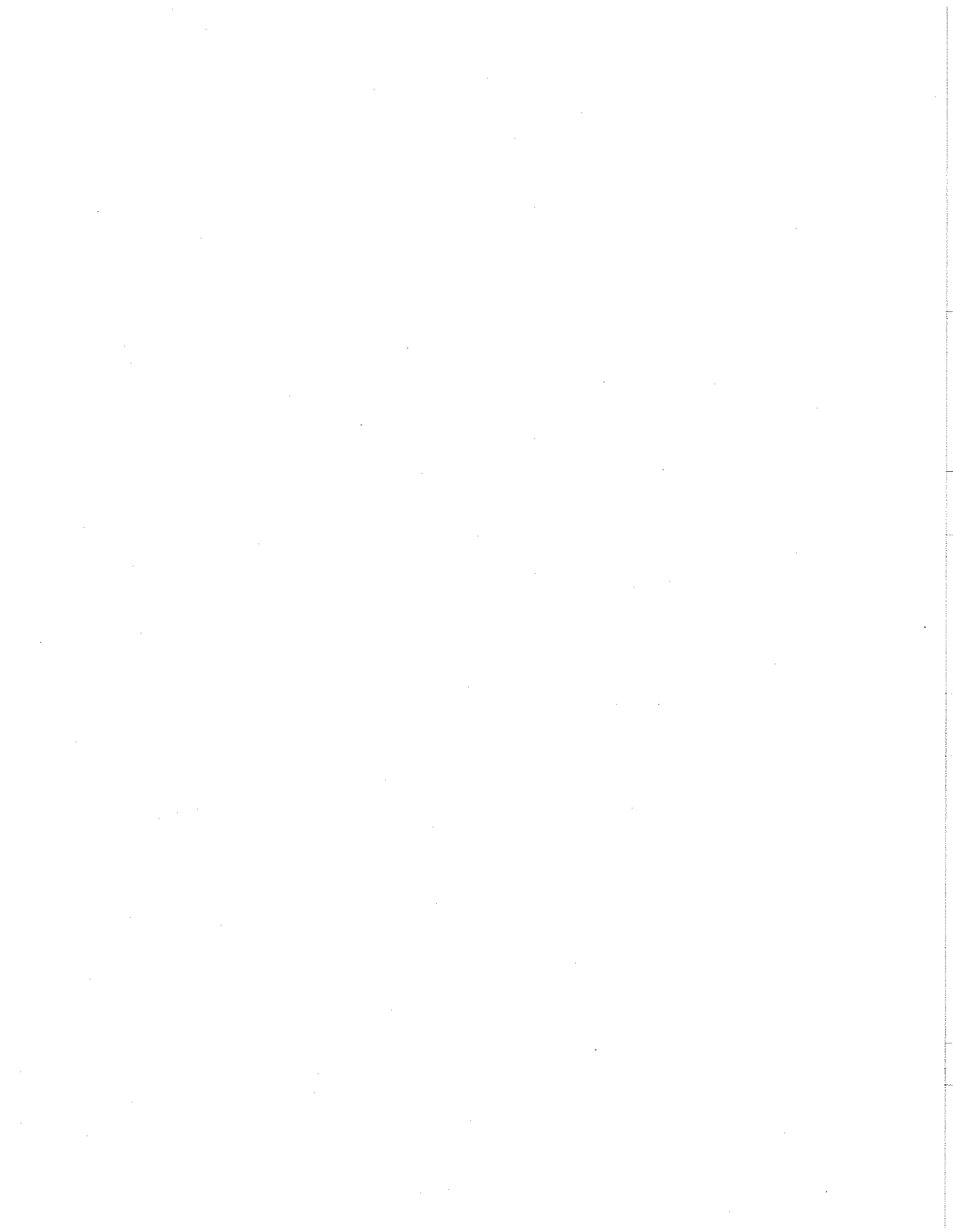
Office of the Inspector General in collaboration with the Governing Board, Chancellor, General Counsel, Human Resources and Risk Management, if necessary.

PERALTA COMMUNITY COLLEGE DISTRICT SOURCE

STATE/FEDERAL ENACTMENT

Governing Board OIG Resolution: #06/07-17
Conflict of Interest Board Policy: #6.86
Fraud Prevention Standard Operating Procedure: #TBD

State of California Education Code: §87160-87164



1.

FRAUD PREVENTION

Detect, Deter and Defeat

2.

RISKS AND COSTS

- Direct financial costs
- Legal and investigative costs
- Regulatory fines
- Increased insurance premiums
- Increased cost/inability to raise new revenues
- Management time
- Loss of key staff and stakeholders


Detect, Deter and Defeat

3.

PEOPLE WHO COMMIT FRAUD

Detect, Deter and Defeat

4.




COMMON CHARACTERISTICS

- No criminal history
- Tenured employee – 5 years or more
- 40 years old and over
- Income is less than \$50,000
- Male
- Has a Bachelor's degree

Detect, Deter and Defeat

5.



FRAUD CLASSIFICATIONS


<u>Asset Misappropriation</u>	<u>Corruption</u>
<ul style="list-style-type: none"> • Larceny • Skimming • Fraudulent Disbursements 	<ul style="list-style-type: none"> • Conflicts of Interest • Bribery • Economic Extortion

Fraudulent Financial Reporting

- Fictitious revenues
- Improper disclosures
- Concealed liabilities and expenses
- Timing differences
- Improper asset valuations

Detect, Deter and Defeat

6.




ASSET MISAPPROPRIATION

- Accounting employees more likely to engage in cash larceny, payroll fraud, and billing schemes
- Significantly less likely to engage in corruption, possibly because they tend to have less contact with outside vendors and customers

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7.




CORRUPTION

- Executives much more likely to engage in bribery, conflicts of interest and fraudulent statement schemes
- Most managers and executives have greater authority to circumvent or override controls, which makes it harder to detect the fraud

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8.




FRAUDULENT REPORTING

- Pressures to meet earnings forecasts
- Environment characterized by irresponsible and ineffective corporate governance
- Management chooses personal wealth, corporate status and risk of indictment

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9.




ANTI-FRAUD CONTROLS

- Surprise Audits
- Job Rotation
- Mandatory Vacation
- Confidential Communication
- Fraud Training
- Internal Audit
- Fraud Prevention Policy
- Code of Conduct
- Review of Internal Controls
- External Audit
- Board Audit Committee
- Rewards for Whistleblowers

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10.




CONTROL ENVIRONMENT

- Create and maintain a culture of honesty, high ethical standards and behavior
- Discipline and/or prosecute fraud
- Set a tone about the organization's tolerance for fraud
- Promote and support controls once in place

Detect, Deter and Defeat

11.




WAYS TO FIGHT FRAUD

1. Strong tone at the top
2. Effective programs and controls
3. Risk assessment
4. Data analytics
5. Fraud policy and response plan
6. Anonymous communication avenues
7. Awareness training
8. Evaluation of compliance
9. Anonymous survey of employees
10. Controls over technology

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12.




ANTI-FRAUD PLAN

- A written policy to convey expectations of the Board and management
- Assess risk exposure to identify potential schemes and events
- Establish prevention techniques
- Establish detection techniques
- Install a reporting process to solicit input
- Use a coordinated approach to investigate and correct actions

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13.




NEXT STEPS

- Step 1: Evaluate fraud risk factors
- Step 2: Identify possible fraud schemes and scenarios
- Step 3: Prioritize identified fraud risks
- Step 4: Evaluate effectiveness of mitigating controls

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14.



FRAUD PREVENTION INFORMATION

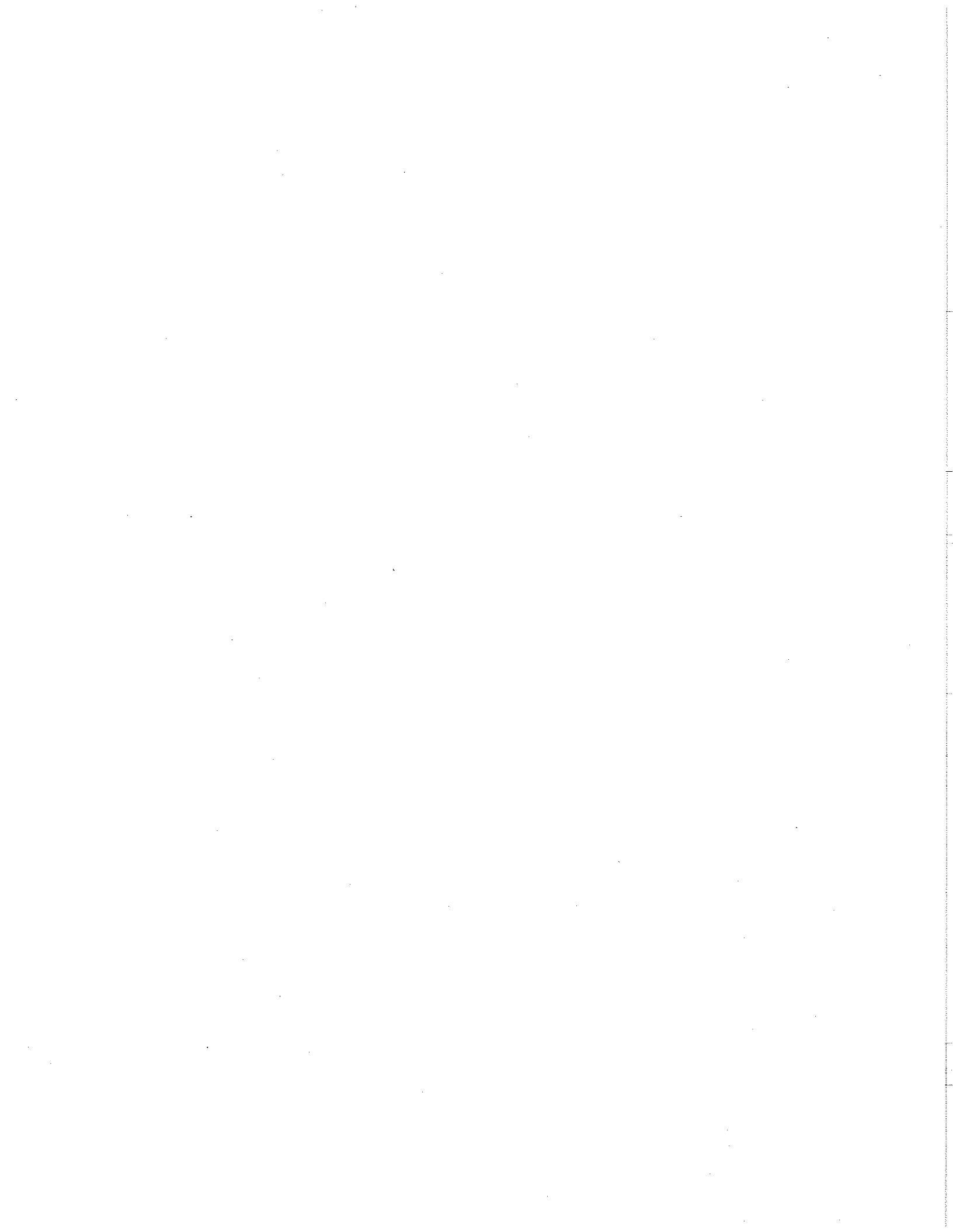
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Audit and Finance Committee Responsibilities Checklist

RESPONSIBILITY	TIMING	JAN/MAR	APR/JUNE	JUL/SEP	OCT/DEC
Committee Meetings					
1. Schedule meetings for the fiscal year	Annual				
2. Review and approve Committee minutes	Quarterly				
3. Meet in executive session w/ <ul style="list-style-type: none"> • Chief Financial Officer • Inspector General • External Auditor 	Annual Monthly	X	X		X
Oversight of External Auditor					
1. Hire auditor subject to confirmation of Board	Annual	X			
2. Meet with auditor to determine audit scope	Annual		X		
3. Determine and approve non-audit services	TBD				
4. Review issues raised during recent review	Annual		X		
5. Review and evaluate auditor's independence	Annual	X			
6. Review any difficulties or problems encountered with the audit	Annual				X
7. Discuss management scope and quality of internal controls in effect	Annual				X
8. Review management letter or other material communications and management's response to that communication	Annual				X
Oversight of Financial Statements					
1. Obtain DRAFT statements for review and approval	Annual				X
2. Review statements w/external auditor and management <ul style="list-style-type: none"> • Significant transactions outside ordinary operations • Selection/changes to District's accounting principles • Material correcting accounting adjustments • Process in formulating accounting estimates • Risk assessment and risk management 	Annual				X
3. Review w/General Counsel current or pending litigation	Annual			X	
Oversight of Inspector General					
1. Review and approve Work Plan	Annual			X	
2. Evaluate performance	Annual		X		
3. Obtain briefings on IG activities	Monthly				
Risk Management					
1. Review risk management policies	Annual		X		
2. Discuss w/IG and management major risk exposures	Annual		X		
3. Obtain understanding of District's physical security over Collections	TBD	X			



Audit and Finance Committee Self-Assessment Questionnaire

Rank 1= Poor; 2=Needs Improvement; 3=Consistently Good; 4=Outstanding. Comment can be written below questions.

Committee Information	Rankings			
1. Are you receiving clear and concise background information prior to Committee meetings that helps you understand and evaluate Committee agenda items?	1	2	3	4
2. Has the Committee satisfactorily identified and communicated to management the Committee's informational needs, including identifying potential areas of concern?	1	2	3	4
3. Are you receiving information concerning Committee agenda items in a timely fashion?	1	2	3	4
4. How could the information prepared for the Committee be improved upon? Explain				
Committee Meetings and Accountability				
5. Are Committee meetings productive?	1	2	3	4
6. Are the number of scheduled meetings sufficient? Explain				
7. Is sufficient meeting time devoted to discussion of Committee responsibilities? Explain				
8. Are Committee meetings conducted in a manner that ensures open communication, meaningful participation and timely resolution of issues?	1	2	3	4
9. Are Committee members prepared for meetings?	1	2	3	4
10. Are Committee members knowledgeable about the District and the issues it faces?	1	2	3	4
11. Does the Committee encourage/ensure open lines of communication				
• Between Committee members and management	1	2	3	4
• Among Committee members	1	2	3	4
• Between Committee members and the Inspector General	1	2	3	4
• Between Committee members and the external auditor	1	2	3	4
12. Does the Committee challenge management when appropriate?	1	2	3	4
13. Are Committee goals, expectations and concerns openly communicated with the Board?	1	2	3	4
14. Are Committee meetings candid and constructive, and conducted where there can be civil disagreement and critical questioning?	1	2	3	4
15. Do you believe Committee members ask the appropriate questions of management?	1	2	3	4
Committee Authority and Responsibilities				
16. Has the Committee obtained adequate advice and assistance from legal counsel? Explain				
17. Has the Committee obtained adequate advice and assistance from financial counsel? Explain				
18. Are the frequency and quality of the Committee's reports to the Board adequate? Explain				
19. How would you rate the Committee's assessment of the Committee Charter?	1	2	3	4
20. Is there anything the Committee is not currently doing that will help its effectiveness?				

