



WSSC WATER

DELIVERING THE ESSENTIAL

Office of the Inspector General
Regulations

April 2020

WSSC Water OIG Regulations



PROPOSED AMENDED REGULATIONS

- Chapter 1.15 Bylaws, Rules, and Regulations, the proposed amendment deletes Section 1.15.03 (C) covering the Commission's appointment of the Internal Auditor, and adds Section 1.04 which covers the Commission's appointment of the Inspector General.
- The amendment also deletes language relating to the Commission's oversight of the Small Local and Minority Business Enterprise (SLMBE) Director.
- Chapter 15.210 Fraud, Waste, and Abuse, the proposed amendment moves this Chapter to a newly created subtitle covering the Office of the Inspector General, and:

PROPOSED AMENDED REGULATIONS, CONT'D

- Incorporates certain definitions, responsibilities and duties of the Office of the Inspector General.
- Instructs the OIG to include language in its contract with the FWA Hotline Provider to ensure that an allegation made concerning the OIG is forwarded by the Hotline Provider directly to the Chair of the Commission and the Corporate Secretary.
- Chapter 5.95 SDC Credits and Reimbursements, the proposed amendment adds a definition for “administrative costs,” for SDC eligible projects, and incorporates language that the Inspector General will automatically calculate such costs at 5% of the construction, design and other qualified projects costs.

PROPOSED AMENDED REGULATIONS, CONT'D

- Chapter 9.30 Comprehensive Whistleblower Protection, the proposed amendment emphasizes that Whistleblower complaints are to be filed, investigated and decided by the Inspector General, and it incorporates language that permits an employee of the OIG to file a Whistleblower complaint with the Chair and the Corporate Secretary. Further, all references to the General Manager handling such complaints are deleted.
- Chapter 9.85 Official Travel Expense Reimbursement, the proposed amendment deletes references to the Internal Auditor and clarifies that the Commission Chair shall have the responsibility for approving the travel requests of all Commission direct reports.

PROPOSED AMENDED REGULATIONS, CONT'D

- Chapter 2.50 Definitions, the proposed new chapter, defines terms that appear in the Office of the Inspector General's newly created subtitle.
- Chapter 2.55. Powers, Duties, and Responsibilities, the proposed new chapter sets forth certain powers of the Inspector General and also sets out the responsibilities of Commission employees and vendors with regard to investigations, audits, evaluations, and other activities conducted by the Office of the Inspector General.

SUMMARY

- All applicable regulations have been reviewed and determined to be legally sufficient by the GCO.
- References to “Internal Audit” were changed to “Office of the Inspector General” or “Inspector General.” Acronym was changed from “IAO” to “OIG.”
- Two new regulations added (Definitions and Powers, Duties, and Responsibilities).
- The OIG will calculate administrative costs at 5% of qualified project costs for SDCs.


Questions?







Interoffice Memorandum

TO: COMMISSIONERS

THRU: ARTHUR A. ELKINS, JR., INSPECTOR GENERAL 
OFFICE OF THE INSPECTOR GENERAL

FROM:  DANA WHITING, DEPUTY ASSISTANT INSPECTOR GENERAL FOR
AUDIT 
OFFICE OF THE INSPECTOR GENERAL

DATE: MARCH 10, 2020

SUBJECT: NEW AND AMENDED REGULATIONS FOR COMMISSION APPROVAL

The purpose of this memo is to brief Commissioners on proposed amendments to existing regulations and two new regulations. The majority of the proposed amendments to existing regulations involve substituting references to the Internal Audit Office with references to the Office of the Inspector General. In addition, some of the new language is necessary to ensure compliance with the legislation, now set forth in §§17-106, *et. seq.* of the Maryland Annotated Code, Public Utilities Article, which established the Office of the Inspector General. The following is a summary of substantive changes/amendments to the specific regulations:

Summary of Amendments to Existing Regulations

- Chapter 1.15 Bylaws, Rules, and Regulations: The proposed amendment deletes Section 1.15.03 (C) covering the Commission's appointment of the Internal Auditor and adds Section 1.04 which, covers the Commission's appointment of the Inspector General. The amendment also deletes the obsolete language relating to Commission oversight of the SLMBE Director.
- Chapter 15.210 Fraud, Waste, and Abuse: This Chapter will be moved to a newly created subtitle covering the Office of the Inspector General. It will be under Title 2. Administration, Subtitle 3. Office of the Inspector General, Chapter 2.60. The proposed amendments incorporate certain definitions, responsibilities and duties that are set-forth in the legislation which created the Office of the Inspector General. The proposed amendments also add Section 2.60.090 (B), which instructs the OIG to include necessary language in the contract with the Fraud, Waste and Abuse Hotline Provider to ensure that an allegation made concerning the OIG is forwarded by the

Hotline Provider directly to the Chair of the Commission and the Corporate Secretary.

- Chapter 5.95 SDC Credits and Reimbursements: The proposed amendment adds a definition for “administrative costs” in the context of developer reimbursement of SDC eligible projects. Section 5.95.030 (1) adds language that the Inspector General will automatically calculate administrative costs at 5% of the construction, design and other qualified projects costs. Previously, a developer was required to submit documentation for all requested administrative costs.
- Chapter 9.30 Comprehensive Whistleblower Protection: The proposed amendments emphasize that Whistleblower complaints are to be filed, investigated and decided by the Inspector General. References to the General Manager handling Whistleblower complaints have been deleted. In addition, language has been added (1) in Section 9.30.090 (A); (2) which states that if the complainant is an employee in the OIG, the employee may file the complaint with the Chair and the Corporate Secretary.
- Chapter 9.85 Official Travel Expense Reimbursement: The proposed amendments delete references to the Internal Auditor and clarify that the Commission Chair shall have the responsibility for approving the travel requests of all Commission direct reports.

Summary of New Regulations

- *A new subtitle III has been created under Title II, Administrative to house those regulations covering the Office of the Inspector General including Chapter 2.50 Definitions, Chapter 2.55, Powers, Duties and Responsibilities, and Chapter 2.60 Fraud, Waste and Abuse (which is currently codified at Chapter 15.210)*
- Chapter 2.50 Definitions: This chapter defines terms that appear in newly created Subtitle III. Office of the Inspector General.
- Chapter 2.55. Powers, Duties, and Responsibilities: This chapter sets forth certain powers of the Inspector General and also sets out the responsibilities of Commission employees and vendors with regard to investigations, audits, evaluations, and other activities conducted by the Office of the Inspector General.

In order to implement and communicate the changes to the public, we would like to present the regulations to the Commissioners for information at the March 18, 2020, Commission Meeting. The regulations will be on the April 2020 Commission agenda for a vote. The effective date of the amended regulations would be June 1, 2020.

Thank you for your review and consideration.

Attachments

- Proposed Regulations
- Legal Sufficiency Review Memorandum

Legal Review of Regulations (Post-ELT Review)

Proposed amendments to the following regulations were reviewed as required by Chapter 1.42 of the Manual of Standard Procedures and an initial Legal Sufficiency document was signed by the General Counsel on December 19, 2019.

1. Code of Regulations
Title 1. Governance
Subtitle 1.15. Bylaws, Rules and Regulations
Chapter 1.15.03 Commission Staff
2. Code of Regulations
Title 2. Administration
Subtitle 3. Office of the Inspector General
Chapter 2.50 Definitions
3. Code of Regulations
Title 2. Administration
Subtitle 3. Office of the Inspector General
Chapter 2.55 Powers, Duties, and Responsibilities
4. Code of Regulations
Title 2. Administration
Subtitle 3. Office of the Inspector General
Chapter 2.60 Fraud, Waste and Abuse
5. Code of Regulations
Title 5. Financial Management
Subtitle 2. System Development Charge
Chapter 5.95. SDC Credits and Reimbursements
6. Code of Regulations
Title 6. Procurement
Subtitle 1. General
Chapter 6.20.060 Purchase Card Program, Ethical responsibility and audit guidelines
7. Code of Regulations
Title 9. Human Resources Management.
Subtitle 1. Personnel Management
Chapter 9.30 Comprehensive Whistleblower Protection
8. Code of Regulations
Title 9. Human Resource Management
Subtitle 1. Personnel Management
Chapter 9.85.050 Official Travel Expense Reimbursement, General Provisions

9. Code of Regulations
Title 9. Human Resource Management
Subtitle 2. Recruitment and Hiring
Chapter 9.170.040 Background Investigations, Policy

1. Legal Sufficiency Review:

The following two regulations have been reviewed again following the comments offered by members of the Executive Leadership Team (ELT). In consideration of the comments received, edits were made to the Regulations listed below. The General Counsel's Office has reviewed the edits and finds that they are legally sufficient.

Code of Regulations
Title 9. Human Resources Management.
Subtitle 1. Personnel Management
Chapter 9.30 Comprehensive Whistleblower Protection

Code of Regulations
Title 2. Administration
Subtitle 3. Office of the Inspector General
Chapter 2.55 Powers, Duties, and Responsibilities

2. Approval Authority

The Commission has authority to adopt these Regulations.


Amanda Stakem Conn
General Counsel

2/20/20
Date

WSSC Code of Regulations 2019

Title 1. Governance.

Subtitle I. Policy and Procedure.

Chapter 1.15. Bylaws, Rules, and Regulations.

Section 1.15.03. Commission staff.

A. General Manager.

1. The Commission is permitted to appoint and prescribe the functions of a General Manager (GM) pursuant to the Public Utilities Article, § 18-106(b)(2), Annotated Code of Maryland.
2. The GM shall be appointed, and may be removed, by action taken in accordance with this chapter.
3. Pursuant to the WSSC delegation of authority (WSSC Chapter 1.25), and/or other directives of the Commissioners, the GM is charged with the day-to-day supervision, operation and management of the Commission and with carrying out the Commissioners' actions, decisions, and policies.

B. Corporate Secretary.

1. The Commission shall appoint a Corporate Secretary to conduct the administrative, policy, and governance activities of the Commissioners' Office.
2. The Corporate Secretary shall be appointed by action taken in accordance with Article II of this chapter.
3. The Corporate Secretary shall have the authority vested as the Commission's Parliamentarian at Commission meetings.
4. The Corporate Secretary shall have such other duties as the Commissioners may prescribe and/or as delegated in the delegation of authority.

C. Internal Auditor

1. The Commissioners shall appoint an Internal Auditor to evaluate and improve the effectiveness of risk management, control, and governance processes.

2. The Internal Auditor shall be appointed by action taken in accordance with Article II of this chapter.

3. The Internal Auditor shall have such duties as the Commissioners may prescribe and/or as delegated in the Internal Audit Charter.

D. Director, Small, Local and Minority Business Enterprises.

1. The Commissioners shall direct the policy aspects of the duties of the Director, Small, Local and Minority Business Enterprises (SLMBE). The GM shall direct the operational aspects of the SMLBE Director.

2. The SLMBE Director shall have such duties as the Commissioners may prescribe or as are delegated in the delegation of authority.

E.] Other Positions as May Be Determined by the Commission.

1. The Commissioners shall direct the policy aspects of the duties of [other] positions as may be determined by the Commission.

2. The other positions as may be determined by the Commission shall have such duties as the Commissioners may prescribe or as are delegated in the delegation of authority.

Section 1.04 Inspector General.

A. THE COMMISSION SHALL APPOINT AN INSPECTOR GENERAL IN ACCORDANCE WITH TITLE 17, SUBTITLE 6 OF THE PUBLIC UTILITIES ARTICLE OF THE ANNOTATED CODE OF MARYLAND.

B. THE INSPECTOR GENERAL SHALL BE APPOINTED BY ACTION TAKEN IN ACCORDANCE WITH ARTICLE II OF THIS CHAPTER.

C. THE INSPECTOR GENERAL SHALL HAVE THE DUTIES AS PRESCRIBED IN STATE LAW.

D. IN ACCORDANCE WITH STATE LAW, THE OFFICE OF THE INSPECTOR GENERAL SHALL OPERATE INDEPENDENT FROM THE MANAGEMENT OF THE COMMISSION.

**WSSC CODE OF REGULATIONS
2019**

TITLE 2. ADMINISTRATION.

SUBTITLE III. OFFICE OF THE INSPECTOR GENERAL

CHAPTER 2.50. DEFINITIONS

(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(B) "COMMISSION OR WSSC" MEANS THE WASHINGTON SUBURBAN SANITARY COMMISSION.

(C)(1) "EMPLOYEE" MEANS A WSSC:

(I) APPOINTED OFFICIAL; AND

(II) MERIT SYSTEM, PROBATIONARY, CONTRACT, TEMPORARY, PART-TIME, AND FULL TIME EMPLOYEE.

(2) "EMPLOYEE" DOES NOT INCLUDE A CONSULTANT EMPLOYED BY A VENDOR.

(D)(1) "ENTITY" MEANS A CORPORATION, LIMITED LIABILITY COMPANY, PARTNERSHIP, JOINT PARTNERSHIP, OR A NON-PROFIT ORGANIZATION.

(2) "ENTITY" INCLUDES ANY OFFICER, DIRECTOR, PARTNER, JOINT VENTURE, AFFILIATE, EMPLOYEE, OR CONTRACTOR OF THE ENTITY.

(E)(1) "OFFICE" OR "OIG" MEANS THE OFFICE OF THE INSPECTOR GENERAL.

(2) "OFFICE" OR "OIG" INCLUDES THE STAFF OF THE OFFICE.

(F)(1) "RETALIATION" MEANS THE TAKING OF AN ACTION, OR THREATENING TO TAKE AN ACTION AGAINST AN EMPLOYEE, VENDOR, OR EMPLOYEE OF ANY VENDOR, FOR PROVIDING GOOD FAITH INFORMATION TO, COOPERATING WITH, OR IN ANY WAY ASSISTING THE OFFICE IN CONNECTION WITH ANY ACTIVITY UNDER THIS CHAPTER.

(II) "RETALIATION" INCLUDES DISCIPLINE, TERMINATION, DEMOTION, SUSPENSION, THREATS, OR HARASSMENT.

(G)(1) "VENDOR" MEANS AN ENTITY OBLIGATED BY CONTRACT TO PROVIDE GOODS, SERVICES, OR PROPERTY TO WSSC FOR CONSIDERATION.

(2) "VENDOR" INCLUDES A SUBCONTRACTOR TO A VENDOR THAT HAS A CONTRACT WITH WSSC.

**WSSC CODE OF REGULATIONS
2019**

TITLE 2. ADMINISTRATION.

SUBTITLE III. OFFICE OF THE INSPECTOR GENERAL

CHAPTER 2.55. POWERS, DUTIES, AND RESPONSIBILITIES

2.55.010 PURPOSE.

(A) THE PURPOSE OF THIS CHAPTER IS TO IMPLEMENT TITLE 17, SUBTITLE 6, OFFICE OF THE INSPECTOR GENERAL OF THE PUBLIC UTILITIES ARTICLE OF THE ANNOTATED CODE OF MARYLAND.

(B) THIS CHAPTER SETS FORTH THE RESPONSIBILITIES OF ALL COMMISSION EMPLOYEES AND VENDORS WITH REGARD TO INVESTIGATIONS, AUDITS, EVALUATIONS, AND OTHER ACTIVITIES CONDUCTED BY THE OFFICE OF INSPECTOR GENERAL.

2.55.020 DEFINITIONS.

(A) IN THIS CHAPTER THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(B) "CONTRACT" HAS THE MEANING IN CHAPTER 6.15.070 OF THE CODE OF REGULATIONS.

2.55.030 SCOPE.

THIS CHAPTER APPLIES TO THE OFFICE, WSSC EMPLOYEES, AND VENDORS.

2.55.040 DUTIES AND RESPONSIBILITIES.

(A) THE OFFICE SHALL INDEPENDENTLY AND OBJECTIVELY:

(1) ASSIST THE COMMISSION BY PROVIDING INDEPENDENT EVALUATION AND RECOMMENDATIONS REGARDING OPPORTUNITIES TO:

**(I) PRESERVE THE COMMISSION'S REPUTATION; AND
(II) IMPROVE THE EFFECTIVENESS, PRODUCTIVITY, OR EFFICIENCY OF COMMISSION PROGRAMS, POLICIES, PRACTICES, AND OPERATIONS;**

(2) ENSURE PUBLIC ACCOUNTABILITY BY PREVENTING, INVESTIGATING, AND REPORTING INSTANCES OF FRAUD, WASTE, AND ABUSE OF WSSC PROPERTY OR FUNDS;

(3) EXAMINE, EVALUATE, AND REPORT ON THE ADEQUACY AND EFFECTIVENESS OF THE SYSTEMS OF INTERNAL CONTROLS AND THEIR RELATED ACCOUNTING, FINANCIAL, TECHNOLOGY, AND OPERATIONAL POLICIES;

(4) REPORT NONCOMPLIANCE WITH AND PROPOSE WAYS TO IMPROVE EMPLOYEE COMPLIANCE WITH APPLICABLE LAW, POLICY, AND ETHICAL STANDARDS OF CONDUCT;

(5) CONDUCT AUDITS AS REQUIRED UNDER § 25-405(D) OF THE PUBLIC UTILITIES ARTICLE OF THE ANNOTATED CODE OF MARYLAND;

(6) CONDUCT OTHER AUDITS RELATED TO THE OPERATION OF THE COMMISSION; AND

(7) DEVELOP OTHER RECOMMENDATIONS CONCERNING THE COMMISSION.

(B) IN DEVELOPING RECOMMENDATIONS, THE OIG MAY:

(1) CONDUCT ADMINISTRATIVE INVESTIGATIONS, BUDGETARY ANALYSES, AND FINANCIAL, MANAGEMENT, OR PERFORMANCE AUDITS AND SIMILAR REVIEWS;

(2) PROVIDE MANAGEMENT ADVISORIES; AND

(3) UTILIZE THE ASSISTANCE FROM ANY OTHER GOVERNMENT AGENCY OR PRIVATE PARTY TO COMPLETE A PROJECT INITIATED BY THE OIG.

(C) THE INSPECTOR GENERAL:

(1) MAY NOT DISCLOSE ANY RECORD, REPORT, OR RELATED INFORMATION THAT IS PROTECTED FROM DISCLOSURE UNDER THE PUBLIC INFORMATION ACT;

(2) MAY PROVIDE AN ORAL REPORT IF APPROPRIATE UNDER GENERALLY ACCEPTED GOVERNMENT AUDITING STANDARDS; AND

(3) SHALL ESTABLISH AND FOLLOW PROCEDURES FOR SAFEGUARDING THE IDENTITY OF CONFIDENTIAL SOURCES AND PROTECTING PRIVILEGED AND CONFIDENTIAL INFORMATION.

2.55.050 REPORTING TO OTHER AGENCIES AND BOARDS.

IF REASONABLE GROUNDS EXIST TO BELIEVE THAT A SERIOUS VIOLATION OF FEDERAL, STATE, OR LOCAL LAW OR COMMISSION REGULATIONS HAS OCCURRED, THE INSPECTOR GENERAL SHALL REPORT THE ALLEGATION TO:

- (1) AN APPROPRIATE LAW ENFORCEMENT AGENCY;**
- (2) THE STATE ETHICS COMMISSION;**
- (3) THE COMMISSION BOARD OF ETHICS; AND**
- (4) OR ANY OTHER AGENCY WITH JURISDICTION TO ENFORCE THE LAW.**

2.55.060 EMPLOYEE DISCLOSURE TO THE OFFICE; COOPERATION.

(A) ALL EMPLOYEES SHALL COOPERATE WITH THE OIG IN ORDER FOR THE OIG TO CARRY OUT ITS STATUTORY MANDATE.

(B) ON REQUEST FROM THE INSPECTOR GENERAL, A COMMISSION EMPLOYEE OR OFFICIAL SHALL PROMPTLY PROVIDE TO THE INSPECTOR GENERAL ANY AVAILABLE DOCUMENT OR OTHER INFORMATION CONCERNING COMMISSION OPERATIONS, BUDGET, PROGRAMS, OR VENDOR CONTRACTS.

(C) THE INSPECTOR GENERAL SHALL PROMPTLY NOTIFY THE COMMISSION CHAIR, VICE CHAIR, AND GENERAL MANAGER IF ANY COMMISSION EMPLOYEE OR OFFICIAL FAILS TO PROVIDE ANY INFORMATION OR DOCUMENT REQUESTED WITH REASONABLE PROMPTNESS.

(D) THE COMMISSION CHAIR, VICE CHAIR, OR GENERAL MANAGER SHALL TAKE ADMINISTRATIVE ACTION TO PRODUCE COMPLIANCE WITH A PENDING REQUEST FOR INFORMATION BY THE INSPECTOR GENERAL AS WARRANTED AND APPROPRIATE.

2.55.070 VENDOR DISCLOSURE TO THE OFFICE; COOPERATION.

(A) ALL VENDORS SHALL COOPERATE WITH THE OIG IN ORDER FOR THE OIG TO CARRY OUT ITS STATUTORY MANDATE.

(B) A VENDOR SHALL PROVIDE TO THE INSPECTOR GENERAL ANY AVAILABLE DOCUMENT OR OTHER INFORMATION CONCERNING ANY COMMISSION VENDOR CONTRACT, INCLUDING DOCUMENTS RELATED TO THE PROCUREMENT OF THE CONTRACT.

(C) THE INSPECTOR GENERAL SHALL PROMPTLY NOTIFY CHAIR, VICE CHAIR, OR GENERAL MANAGER IF ANY VENDOR FAILS TO PROVIDE ANY INFORMATION OR DOCUMENT REQUESTED WITH REASONABLE PROMPTNESS.

(D) THE COMMISSION SHALL TAKE APPROPRIATE ADMINISTRATIVE OR CIVIL ACTION TO PRODUCE VENDOR COMPLIANCE WITH A PENDING REQUEST FOR INFORMATION BY THE OIG.

2.55.080 RETALIATION.

A COMMISSION EMPLOYEE, OFFICIAL, OR VENDOR MAY NOT BE RETALIATED AGAINST, PENALIZED, OR THREATENED WITH RETALIATION OR PENALTY, FOR PROVIDING INFORMATION TO, COOPERATING WITH, OR IN ANY WAY ASSISTING THE OIG IN CONNECTION WITH ANY ACTIVITY AUTHORIZED UNDER TITLE 17, SUBTITLE 6, OFFICE OF THE INSPECTOR GENERAL OF THE PUBLIC UTILITIES ARTICLE OF THE ANNOTATED CODE OF MARYLAND

2.55.090 OATHS, DEPOSITIONS, AND SUBPOENAS.

(A) THE INSPECTOR GENERAL, OR A STAFF MEMBER AUTHORIZED BY THE INSPECTOR GENERAL MAY, IF NECESSARY IN PERFORMING THE DUTIES UNDER TITLE 17, SUBTITLE 6 OF THE PUBLIC UTILITIES ARTICLE OF THE ANNOTATED CODE OF MARYLAND,;

(1) ADMINISTER OATHS OR AFFIRMATIONS; AND

(2) TAKE AFFIDAVITS OR DEPOSITIONS.

(B) THE INSPECTOR GENERAL MAY SUBPOENA ANY PERSON OR EVIDENCE FOR THE PURPOSES OF INVESTIGATING FRAUD, WASTE, OR ABUSE WITHIN THE COMMISSION.

(C) IF A PERSON FAILS TO COMPLY WITH A LAWFUL ORDER OR SUBPOENA ISSUED BY THE INSPECTOR GENERAL, ON PETITION OF THE INSPECTOR GENERAL, A COURT OF COMPETENT JURISDICTION MAY COMPEL:

(1) COMPLIANCE WITH THE ORDER OR SUBPOENA; OR

(2) TESTIMONY OR THE PRODUCTION OF EVIDENCE.

2.55.100 CONTACTING THE OIG.

(A) REPORTS OF POTENTIAL WRONGDOING RELATED TO THE PROGRAMS AND OPERATIONS OF THE WSSC MAY BE REPORTED TO THE OIG IN THE FOLLOWING WAYS:

(1) IN PERSON;

(2) BY THE HOTLINE IN ACCORDANCE WITH CHAPTER 2.60 OF THE CODE OF REGULATIONS;

(3) TELEPHONE;

(4) UNITED STATES POSTAL SERVICE;

(5) EMAIL; OR

(6) FACSIMILE.

(B) A PERSON MAKING A REPORT IN AN OFFICIAL CAPACITY, SUCH AS A MANAGER REQUESTING OIG ASSISTANCE, IS REQUESTED TO CONTACT THE APPROPRIATE OIG UNIT DIRECTLY, RATHER THAN USING THE HOTLINE.

(C)(1) PERSONS REPORTING ALLEGATIONS TO THE OIG MAY DO SO ANONYMOUSLY OR CONFIDENTIALLY.

(2) DUE TO THE NATURE OF EMAIL COMMUNICATIONS, AN INDIVIDUAL WHO DESIRES ANONYMITY SHALL MAKE A COMPLAINT BY TELEPHONE, THE HOTLINE, OR IN WRITING VIA UNITED STATES POSTAL SERVICE.

2.55.110 DISCLOSURE OF IDENTITY; PROHIBITION; EXCEPTIONS.

THE OIG MAY NOT DISCLOSE THE IDENTITY OF A PERSON THAT REPORTS AN ALLEGATION OF FRAUD, WASTE, OR ABUSE UNLESS:

(1) THE REPORTING PERSON CONSENTS TO DISCLOSURE OF THE PERSON'S IDENTITY;

(2) DISCLOSURE IS REASONABLY NECESSARY TO COMPLETE AN AUDIT OR INVESTIGATION; OR

(3) ANOTHER PERSON IS LEGALLY ENTITLED TO DISCLOSURE OF THE IDENTITY OF THE REPORTING PERSON.

WSSC Code of Regulations 2019

Title [15. Risk Management] **2. ADMINISTRATION**

Subtitle [VI. Internal Audit] **III. OFFICE OF THE INSPECTOR GENERAL**

Chapter [15.210] **2.60. Fraud, Waste, and Abuse [Hotline Policy]**

[15.210.010] **2.60.010** Policy statement.

(A) The Washington Suburban Sanitary Commission [(WSSC)] prohibits any conduct constituting fraud, waste, and abuse [and expects anyone covered or affected by this policy to report such known or suspected activities using its third-party-administered fraud, waste, and abuse hotline].

(B) THE OFFICE IS CHARGED WITH INVESTIGATING MISMANAGEMENT, MISCONDUCT, FRAUD, WASTE, AND ABUSE AT WSSC PURSUANT TO TITLE 17, SUBTITLE 6 OF THE PUBLIC UTILITIES ARTICLE OF THE ANNOTATED CODE OF MARYLAND.

[15.210.020] **2.60.020** Purpose .

[A.] (A) This fraud, waste, and abuse [hotline policy] **CHAPTER** is designed to:

(1) OUTLINE THE RESPONSIBILITIES OF THE OFFICE OF THE INSPECTOR GENERAL CONCERNING FRAUD, WASTE, AND ABUSE;

[1.](1) Provide [a] **FOR** centralized reporting [vehicle] for the WSSC employees and other [customers/stakeholders] **STAKEHOLDERS** of the [Washington Suburban Sanitary District (WSSD)] **COMMISSION** to report confidentially, [(to the extent consistent with WSSC 15.210.060(E)(4))], suspected occurrences of fraud, waste, and abuse, without fear of retaliation, **TO THE OFFICE OF THE INSPECTOR GENERAL;** and

2. [Clearly] outline the responsibilities **OF EMPLOYEES** in connection with the reporting of fraud, waste, and abuse allegations.

[B.1.] (B) This [policy] **CHAPTER** is not intended to be:

(1) used in lieu of the WSSC employee rights, employee liaison, or communications [policies. Those three policies] **REGULATIONS OR STANDARD PROCEDURES THAT** address individual rights and employee complaints, issues, concerns, opinions, ideas, and suggestions where confidentiality may not be relevant[. It is also not intended to be]; **AND**

(2) a whistleblower [policy] REGULATION.

[15.210.030 Authority.

The authority for the adoption of this policy is granted by the Commission via Resolution Number 2010-1845, Fraud, Waste, and Abuse Hotline Policy.

15.210.040] **2.60.030** Definitions.

[As defined in the context of this policy are:

“Abuse” means any thing that is harmful, injurious, or offensive.

“Abuse” also includes excessive and wrongful misuse of anything, including authority/power. Examples of abuse include: nonbusiness use of office supplies, bid rigging, purchases schemes, and invoice kickbacks]

(A) IN THIS CHAPTER, THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(B)(1) “ABUSE” MEANS AN EMPLOYEE’S INTENTIONAL MISCONDUCT OR MISUSE OF AUTHORITY OR POSITION:

(I) INVOLVING COMMISSION 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 CLOSE PERSONAL OR BUSINESS ASSOCIATE.

(2) “ABUSE” INCLUDES:

(I) THEFT OR MISAPPROPRIATION OF COMMISSION PROPERTY OR FUNDS; AND

(II) DESTRUCTION OR ALTERATION OF OFFICIAL RECORDS.

(C) “Code” means the WSSC Code of Ethics (WSSC Chapter 1.70) [as established by Resolution Number 2003-1669 and as subsequently amended.

“Commission means the Washington Suburban Sanitary Commission.

“Fraud” means any act characterized by deceit, concealment, or violation of trust, including but not limited to acts involving affirmative misrepresentation or intentional omission of or failure to state material facts, knowledge of which would be necessary to make other statements not misleading. These acts are not dependent upon the application or threat of violence or physical force. Fraud is perpetrated by parties and organizations to obtain money, property, or services; to avoid payment or loss of services; or to secure personal or business advantage. These acts include the use of one’s occupation for personal enrichment. Fraud examples include, but are not limited to, misappropriation schemes that steal or misuse company resources via false invoicing, payroll fraud, skimming, as well as complex financial statement fraud.]

(D) (1) “FRAUD” MEANS AN INTENTIONAL ACT OR ATTEMPT TO OBTAIN SOMETHING OF VALUE FROM THE COMMISSION OR ANOTHER PERSON THROUGH WILLFUL MISREPRESENTATION.

(2) “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, THAT CAUSES THE COMMISSION TO ACT, OR FAIL TO ACT, TO THE DETRIMENT OF THE COMMISSION’S INTEREST.

(E) “Good faith report” means a report made with:

(I) an honest belief [,];

(II) the absence of malice; **OR**

(III) [and] the absence of design to defraud or to seek an unconscionable advantage.

[“Governance” means the combination of processes and structures implemented by the Commissioners in order to inform, direct, manage, and monitor the activities of the WSSC toward the achievement of its objectives.

“Internal controls” means a process, affected by the WSSC’s Commissioners, management, and other personnel, designed to provide reasonable assurance regarding the achievement of objectives.

“Internal investigations” means systematic fact-finding inquiries/examinations conducted by personnel of the WSSC in response to allegations of WSSC fraud, waste, and abuse.

“Irregularities” means not being or acting in accord with laws, rules, or established custom.

“Risk management” means a process to identify, assess, manage, and control potential events or situations to provide reasonable assurance regarding the achievement of the WSSC’s objectives.]

(F) “Stakeholders” means groups or individuals having a legitimate interest in the activities of the WSSC, generally comprising customers, employees, the community, suppliers, and lenders.

["Waste" means:

1. Resources consumed in excess through inefficient, nonessential, or unproductive activities;
2. Process or material that does not add value to a good or service; or
3. Material discharged to, deposited in, or emitted to an environment in such amount or manner that causes a harmful change.

"Whistleblower" means an employee who discloses information that the employee reasonably believes evidences:

1. An abuse of authority, gross mismanagement, or gross waste of money;
2. A substantial and specific danger to public health or safety; or
3. A violation of law.]

(G) (1) "WASTE" MEANS AN INAPPROPRIATE ACT OR OMISSION BY AN EMPLOYEE WITH CONTROL OVER, OR ACCESS TO, COMMISSION PROPERTY OR FUNDS THAT UNREASONABLY DEPRIVES THE COMMISSION OF VALUE.

(2) "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 COMMISSION PROPERTY OR FUNDS UNDER THE SAME FACTS AND CIRCUMSTANCES.

[15.210.050] **2.60.040** [Roles and responsibilities] **SCOPE.**

A. Depending on the nature of the alleged fraud, waste, or abuse, different groups within the WSSC will have varying responsibilities and roles for detecting, reporting, investigating, and correcting the alleged irregularity.

B. All Persons. All persons employed by the WSSC, including merit system, contract, part-time, full-time, as well as appointed officials, are expected to adhere to this policy by reporting incidents of suspected fraud, waste, and abuse, and are expected to fully cooperate with investigation of reported allegations of fraud, waste or abuse].

THIS CHAPTER APPLIES TO EMPLOYEES.

2.60.050. EMPLOYEE ROLES AND RESPONSIBILITIES.

EMPLOYEES ARE EXPECTED TO COMPLY WITH THIS CHAPTER BY:

**(1) REPORTING INCIDENTS OF SUSPECTED FRAUD, WASTE, AND ABUSE;
AND**

(2) FULLY COOPERATING WITH AN INVESTIGATION OF REPORTED FRAUD, WASTE, OR ABUSE.

2.60.060. OIG ROLES AND RESPONSIBILITIES

(A) IN ACCORDANCE WITH TITLE 17, SUBTITLE 6 OF THE PUBLIC UTILITIES ARTICLE OF THE ANNOTATED CODE OF MARYLAND, THE OFFICE MAY INVESTIGATE MISCONDUCT, MISMANAGEMENT, FRAUD, WASTE, AND ABUSE AT THE COMMISSION.

(B) THE OFFICE IS RESPONSIBLE FOR:

(1) CONDUCTING AN INVESTIGATION AUTHORIZED BY THIS CHAPTER;

(2) DECLINING INVESTIGATIONS THAT DO NOT MEET THE CRITERIA IN SUBSECTION (C) OF THIS SECTION;

(3) REFERRING CREDIBLE ALLEGATIONS DETERMINED TO BE WITHIN THE PURVIEW OF MANAGEMENT OR ANOTHER ENTITY AND NOT THE PURVIEW OF THE OFFICE;

(4) REPORTING SIGNIFICANT FRAUDS AND IRREGULARITIES IMPACTING THE COMMISSION TO THE COMMISSIONERS;

(5) REPORTING OF SERIOUS VIOLATIONS OF FEDERAL, STATE, OR LOCAL LAW OR COMMISSION REGULATION TO:

(I) AN APPROPRIATE LAW ENFORCEMENT AGENCY;

(II) THE STATE ETHICS COMMISSION;

(III) THE COMMISSION BOARD OF ETHICS;

(IV) ANY OTHER AGENCY WITH JURISDICTION TO ENFORCE THE LAW;

(6) COMPLYING WITH THE COUNCIL OF INSPECTORS GENERAL ON INTEGRITY AND EFFICIENCY (CIGIE) QUALITY STANDARDS FOR INVESTIGATIONS INVOLVING FRAUD, WASTE, AND ABUSE;

(7) HANDLING ALL CRIMINAL MATTERS PERTAINING TO THIS CHAPTER INCLUDING PARTICIPATION IN INVESTIGATIONS AND MAKING APPROPRIATE REFERRALS;

(8) SERVING AS THE PRIMARY WSSC CONTACT FOR THE THIRD-PARTY FRAUD, WASTE, AND ABUSE HOTLINE PROVIDER;

(9) MANAGING THE THIRD-PARTY HOTLINE PROVIDER CONTRACT;AND

(10) CONDUCTING FOLLOW-UP REVIEWS TO ENSURE THAT, WHERE APPLICABLE, CORRECTIVE ACTION HAS BEEN IMPLEMENTED.

(C)(1) THE OFFICE MAY DECLINE TO INVESTIGATE A MATTER IF THE MATTER MEETS ONE OF THE FOLLOWING CRITERIA:

(I) THE MATTER DOES NOT ENGENDER A SIGNIFICANT SUSPICION OF A VIOLATION OF LAW, REGULATION, OR STANDARD PROCEDURE;

(II) THE MATTER IS IN ADJUDICATION BY A COURT OF LAW OR BY THE STATE OFFICE OF ADMINISTRATIVE HEARINGS;

(III) THE MATTER IS ON AN APPEAL WITHIN THE COMMISSION IF THE APPEAL IS AUTHORIZED BY WSSC REGULATIONS; OR

(IV) ANOTHER ENTITY HAS COMPLETE OR PRIMARY JURISDICTION OVER THE MATTER.

(2) IF THE MATTER DOES NOT MEET THE CRITERIA IN THIS SUBSECTION, THE OFFICE MAY SEND A LETTER OF DECLINATION TO THE COMPLAINANT.

(3) THE OFFICE MAY DECIDE TO PROVIDE THE COMMISSIONERS OR THE GM/CEO, OR BOTH A COPY OF THE DECLINATION LETTER TO INFORM THEM OF THE IMPENDING RELEASE OF THE LETTER.

(4) A LETTER OF DECLINATION MAY BE FORMALLY LABELED AS A LETTER OF DECLINATION.

(5) A LETTER OF DECLINATION MAY BE MADE PUBLICLY AVAILABLE ON THE OIG WEB PAGE.

(D) IF A MATTER CONTAINS BOTH ALLEGATIONS OF FRAUD, WASTE, OR ABUSE AND VIOLATIONS OF EQUAL EMPLOYMENT OPPORTUNITY LAWS, WORKPLACE HARASSMENT, OR RETALIATION, THE INSPECTOR GENERAL SHALL CONSULT WITH THE EQUAL OPPORTUNITIES OFFICER BEFORE PROCEEDING WITH THE INVESTIGATION.

2.60.070. MANAGEMENT RESPONSIBILITIES.

[C.] (A) Management is responsible for:

[1.] (1) Ensuring all employees under their supervision understand and comply with the provisions of this policy[.];

[2.] (2) Complying with the applicable fraud, waste, and abuse guidelines for specific investigations and handling of documented fraud, waste, and abuse allegations[.];

[3.] (3) Working in conjunction with Human Resources to ensure training on this policy[.];
AND

[4.] (4) Taking [corrective/disciplinary] **CORRECTIVE OR DISCIPLINARY** action once the investigation is complete, and informing the investigator of the matter [(J)whether corrective action has been taken or not)].

[D. Internal Audit Office (IAO) is responsible for:

1. Serving as the primary WSSC contact for the third-party fraud, waste, and abuse hotline provider.
2. Managing the third-party fraud, waste, and abuse hotline provider contract.
3. Assisting in the coordination of investigations with various Commission resources.
4. Coordinating investigations involving possible impropriety in matters pertaining to WSSC internal controls, governance, and risk management.
5. Reporting significant frauds and irregularities impacting the Commission to the WSSC Commissioners.
6. Adhering to the Institute of Internal Auditors' International Standards for the Professional Practice of Internal Auditing and any relevant laws applicable to WSSC employees in overseeing investigations of fraud, waste, and abuse.
7. Conducting follow-up reviews to ensure that corrective action has been implemented, where applicable.
8. Reviewing for risk-mitigation sufficiency, reported corrective actions taken to rectify any actual fraud, waste, or abuse identified, where appropriate.]

(B) EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, EMPLOYEES SHOULD REPORT ANY FRAUD, WASTE, OR ABUSE TO THE OFFICE.

(C)(1) IF THE MATTER CONCERNS THE OFFICE OR THE INSPECTOR GENERAL, AN EMPLOYEE SHALL REPORT THE ALLEGED FRAUD, WASTE, OR ABUSE TO THE CHAIR OF THE COMMISSION AND THE CORPORATE SECRETARY.

(2) THE COMMISSION CHAIR, AFTER CONSULTATION WITH THE GENERAL COUNSEL'S OFFICE, SHALL REFER THE REPORT TO:

(I) THE BOARD OF ETHICS IF THE REPORT IS WITHIN THE JURISDICTION OF THE BOARD OF ETHICS UNDER TITLE 19 OR §17-606(B)(2) OF THE PUBLIC UTILITIES ARTICLE OF THE ANNOTATED CODE OF MARYLAND;

(II) ANOTHER MARYLAND INSPECTOR GENERAL OR AN EQUIVALENT MARYLAND OFFICE SUCH AS THE STATE OFFICE OF LEGISLATIVE AUDITS THAT HAS AGREED TO CONDUCT THE INVESTIGATION ON ALLEGATIONS OF FRAUD, WASTE OR ABUSE INVOLVING THE OFFICE OR THE INSPECTOR GENERAL; OR

(III) TO BOTH IF THE REPORT CONCERNS BOTH ETHICAL MATTERS AND AN ALLEGATION OF FRAUD, WASTE, OR ABUSE.

[E. WSSC Police Department/Investigation Unit.] **(D) The WSSC Police [Department/Investigation Unit is responsible for handling all criminal matters pertaining to this policy including participating in investigations and making appropriate referrals] AND HOMELAND SECURITY DIVISION POLICE OFFICERS HAVE THE AUTHORITY GRANTED TO THEM UNDER §28-201 OF THE PUBLIC UTILITIES ARTICLE OF THE ANNOTATED CODE OF MARYLAND AND THE POWERS OF A LAW ENFORCEMENT OFFICER IN THE STATE.**

[F.](E) **THE** Human Resources Office [(HRO)] is responsible for[:

1. Ensuring consistency in discipline and compliance with applicable laws and collective bargaining agreements.
2. Providing] **PROVIDING** management support and appropriate review for fraud, waste, and abuse investigations involving employee and labor relations, substance abuse, [wage/hour] **WAGE OR HOUR** issues, and personnel policy issues.

[G. Fair Practice Office (FPO)].

(F) The [FPO] THE EQUAL OPPORTUNITIES OFFICE [will be utilized for fraud, waste, and abuse investigations concerning alleged] IS RESPONSIBLE FOR:

(1) INVESTIGATING VIOLATIONS OF EQUAL EMPLOYMENT OPPORTUNITY [(EEO)] LAWS, WORKPLACE HARASSMENT, OR RETALIATION; AND

(2) HANDLING REFERRALS FROM OIG CONCERNING violations of equal employment opportunity [(EEO)] laws, workplace harassment, or retaliation.

[H.General Counsel's Office (GCO) is responsible for:

1. Advising and assisting all investigative parties on legal matters and the conduct of investigations involving matters of potential unlawful (criminal, civil, or regulatory) activity.
2. Reviewing recommendations for corrective action to ensure compliance with applicable laws, including discrimination and other employment laws;
3. Working with applicable management to determine the need for notification of authorities outside of WSSC.

4. Offering guidance on matters qualifying as “attorney/client privilege.”

I. Safety Office.]

(G) The WSSC Safety Office will be responsible for assisting with investigations into employee allegations involving unsafe work practices, conditions, and concerns.

[J. Board of Ethics.]

(H)(1) Investigations concerning alleged violations of the WSSC Code of Ethics [(WSSC Chapter 1.70) may be resolved by Commission management in accordance with this chapter or may] **WILL** be referred to the Board of Ethics

(2) THE BOARD OF ETHICS WILL HAVE PRIMARY RESPONSIBILITY TO INVESTIGATE ABUSE ALLEGATIONS COVERED UNDER §15.210.040(B) OF THIS CHAPTER CONCERNING THE FURTHERING OF PRIVATE INTERESTS OF THE EMPLOYEE, A FAMILY MEMBER, OR A CLOSE PERSONAL OR BUSINESS ASSOCIATE

[K. Third-Party Hotline Provider. A third-party hotline provider will be responsible for maintaining the WSSC fraud, waste, and abuse hotline, as well as the other contractual obligations specified in the related hotline provider contract.]

[15.210.060] **2.60.080.**

Administrative process.

[A.] (A) Fraud, Waste, and Abuse Hotline [(Hotline)].

[1.] (1) All WSSC employees and nonemployee stakeholders are encouraged to make a good faith report of any improper activities, violations [and/or] **AND** other suspected incidents of wrongdoing using [our] third-party-serviced 24 hours/seven days per week WSSC fraud, waste, and abuse hotline via telephone, email, fax, other written correspondence, or Internet (WSSC website).

[2.] (2) The facts reported are to be stated with as much specific information as possible so that the allegations can be adequately investigated.

(3) The reporting individual should not speculate or draw conclusions and should be prepared for possible questioning by [interview] **INTAKE** specialists [and/or] **OR** investigators, **OR BOTH**.

[3.] (4) [Under no circumstances shall anyone] **AN INDIVIDUAL MAY NOT** directly or indirectly interfere with a hotline investigation, or induce or coerce others not to cooperate with investigators.

(5) Any attempt to directly or indirectly interfere with a hotline investigation **BY AN EMPLOYEE** is also prohibited and is subject to appropriate disciplinary action up to and including [discharge] **TERMINATION**.

[B. False Reports.] (B) Any intentional filing of false reports [and/or] **OR** false allegations, **OR BOTH** is:

(1) considered improper activity; and

(2) [is] grounds for disciplinary action in accordance with the WSSC [personnel policy (if reported by a WSSC employee.)] **PERSONNEL REGULATIONS AND STANDARD PROCEDURES**.

[C. Good Faith Reports.] (C) If investigators conclude there is reasonable belief by the reporting individual of improper activity, violations [and/or] **OR** suspected wrongdoings, **OR BOTH**, and the reporting individual made a good faith report, then the reporting individual [shall] **MAY** not be liable for filing a false report if [his or her] **THE INDIVIDUAL'S** allegations are not substantiated.

[D. Nonretaliation.

1.](D)(1) WSSC will not tolerate acts of retaliation [against employees for good faith reporting and/or disclosure of alleged improper activities, violations, or other suspected wrongdoings whether or not such activity results in a finding of fraud, waste or abuse of WSSC assets. Retaliation includes discipline, termination, demotion, suspension, threats and/or harassment].

2.](2) Efforts will be taken to protect the reporting WSSC employee from any retaliation.

(3)(I) If a WSSC employee believes retaliation occurred, the [Fair Practice] **EQUAL OPPORTUNITY** Office will be notified to investigate the [allegation(s)] **ALLEGATIONS**.

(II) If allegations are confirmed, the WSSC will take the appropriate action **IN ACCORDANCE WITH THE APPROPRIATE REGULATIONS AND STANDARD PROCEDURES**.

2.60.090 INVESTIGATIONS.

[E. Investigations.

1. Investigations are not limited to the aforementioned parties identified in WSSC 15.210.050, Roles and responsibilities. The primary investigative party and supporting investigative party will vary depending on the circumstances underlying the investigation.

2.](A)(1) Upon receipt of an incident report, a third-party hotline interview specialist will commence to gather relevant facts.

(2) After incident reports are reviewed for quality assurance, they will be automatically disseminated to the recipients designated by the OFFICE OF THE INSPECTOR GENERAL.

[3.](3) Based on the information disseminated, the action warranted may include investigative work by a combination of resources outlined above. [However, information]

(B) THE OFFICE OF THE INSPECTOR GENERAL IS RESPONSIBLE FOR INCLUDING NECESSARY LANGUAGE IN THE CONTRACT WITH THE FRAUD WASTE AND ABUSE HOTLINE PROVIDER TO ENSURE THAT AN ALLEGATION MADE CONCERNING THE OFFICE OR THE OIG IS FORWARDED BY THE HOTLINE PROVIDER DIRECTLY TO THE CHAIR OF THE COMMISSION AND THE CORPORATE SECRETARY.

(C) INFORMATION sharing will only be done on a legitimate need-to-know basis with relevant parties, including external law enforcement officials.

[4.]

(D)(1) To the extent possible within the limitations of law, policy, and the need to conduct a competent investigation, an effort will be made to maintain confidentiality; however, it].

(2) IT is possible that the identity of the reporting individual and that of the alleged violator may become known for reasons outside of the control of the [investigator(s) and/or] INVESTIGATOR, the WSSC, OR BOTH.

[5. The details about the reporting mechanisms used, review and investigation of allegations and handling of outcomes is available in the related WSSC Fraud, Waste, and Abuse Hotline Operations Manual and Investigation Guidelines.]

[F. Reporting Internal Investigations.

1. At least quarterly, all WSSC primary investigators performing fraud, waste, and abuse investigations in accordance with the aforementioned guidelines are to report investigation results to the Internal Auditor.

2.]

(E) Summary reports that analyze incidents and hotline activity, including the results of all ongoing investigations, will be provided to management, the General Manager[, and/or] OR WSSC Commissioners, OR BOTH, as appropriate for oversight responsibilities.

WSSC Code of Regulations 2019

Title 5. Financial Management

Subtitle II. Systems Development Charge

Chapter 5.95. SDC Credits and Reimbursements

5.95.010 Purpose.

- (a) Define procedures for the issuance of a system development charge (SDC) credit earned through private design and construction to serve the applicant's property. These procedures pertain only to either an approved capital improvement program (CIP) project or a project that provides only local service, is 2,000 feet or less in length, is either a sewer main 15 inches or greater in diameter, or water main 16 inches or greater in diameter and is built to avoid unnecessary and uneconomical duplication when a major project is constructed.
- (b) Describe how the SDC credit due an applicant will be determined.
- (c) Describe when SDC credit and reimbursement will occur.

5.95.020 Definitions.

(A) "ADMINISTRATIVE COSTS" MEANS COSTS INCURRED BY THE APPLICANT FOR PROCESSING AND MANAGING THE DESIGN AND CONSTRUCTION OF THE PROJECT. EXAMPLES INCLUDE ADMINISTRATIVE SERVICES, UTILITIES, AND SUPPLIES.

[(a)]**(B)** "Applicant" means any firm, corporation, partnership, joint venture, municipality, agency, person or persons whom WSSC has authorized to design and construct a qualified project eligible for SDC credit or whom WSSC has required to provide eligible private funding of the Commission's costs to design and construct such a project.

[(b)]**(C)** "Credit voucher" means the document (Attachment B), executed by the applicant, which serves as the instrument to obtain SDC credit associated with an application for permit to install plumbing fixtures. Each credit voucher may apply only to a single application for plumbing permit and shall:

- (1) Identify the qualified project from which credit is derived; and
- (2) Specify the qualified property for which the credit is requested; and
- (3) Be signed by the applicant or its authorized agent, be duly notarized; and
- (4) Show the amount to be credited in lieu of SDC payment.

[(c)](D) “Eligible private funding” means payment required by and made to WSSC by an applicant to cover WSSC costs to design and construct a CIP project needed to accommodate growth.

[(d)](E) “Memorandum of understanding (MOU)” means a written agreement made between the WSSC and an applicant which covers the applicant’s design and construction of a CIP project and which identifies the estimated total applicant costs eligible for SDC credit and/or reimbursement. A qualified project built without a signed MOU is not eligible for SDC applicant credits or reimbursement.

[(e)](F) “Qualified project” means any CIP facility, CIP line, sewer main 15 inches or greater, or water main 16 inches or greater in diameter necessary to serve the applicant’s property, which is designed and constructed by and at the sole expense of an applicant pursuant to an MOU or SEP or other agreement. Also, any CIP project which is constructed by WSSC that the applicant is required to provide eligible private funding of WSSC design and construction costs.

[(f)](G) “Qualified project scope” means the specific scope of the qualified project. For pipelines built under an SEP, the specific scope will be included with the SDC credit agreement and will include pipeline lengths and diameters, valves, vaults and any other appurtenant structures. For facility projects, the specific scope of work will be included with the MOU.

[(g)](H) “Qualified properties” means the specific properties located within the geographic area which WSSC identifies as served by the qualified project, as defined in WSSC 5.95.030(c).

[(h)](I) “SDC credit” means a dollar value which is credited to an applicant against SDC payable in connection with qualified properties and which equals the total eligible costs as defined in WSSC 5.95.030(f) incurred by the applicant in the applicant’s design and construction of a qualified project or the amount of eligible private funding made by the applicant to cover WSSC costs to design and construct a qualified project. An applicant who designs a qualified project must also construct that project in order to be eligible to receive SDC credits.

[(i)](J) “SDC credit agreement” means an agreement that summarizes the eligible costs considered for SDC credit (as described in WSSC 5.95.030(f)). The SDC credit agreement is appended to an SEP. The credit agreement is included in the MOU as Attachment A.

[(j)](K) “SDC ledger” means the record of SDC credit authorized for an applicant and the amount(s) of SDC credit issued or reimbursed to the applicant for fixtures covered by plumbing permits obtained in the course of developing qualified properties associated with a qualified project.

[(k)](L) “System development charge (SDC)” means a fee paid to the WSSC at the time of application for a plumbing permit intended to cover the cost of building CIP projects needed to accommodate growth.

[(l)](M) “System extension permit (SEP)” means a permit/agreement made between the WSSC and an applicant pursuant to the Development Services Code or any subsequently adopted revisions. A qualified project built under a system extension permit issued without a signed accompanying SDC credit agreement is not eligible for SDC applicant credits or reimbursement.

[(m)](N) “Wet weather project” means proposed developments connecting into or upstream of CIP size trunk sewer stretches that have projected sanitary sewer overflows based on existing dry weather flow (including ground water) and rainfall dependent infiltration and inflow from a two-year design storm (specified by WSSC).

All other proposed developments projected to generate flows over 100,000 gallons per day (gpd) connecting into or upstream of CIP size trunk sewer stretches that have projected sanitary sewer overflows based on existing dry weather flow (including ground water) and rainfall dependent infiltration and inflow from a 10-year design storm (specified by WSSC).

5.95.030 General procedures.

(a) An applicant shall declare a desire to design and construct a qualified project eligible for SDC credit either as an element of its request for a hydraulic planning analysis filed with the Development Services Group or in a written response to the letter of findings prepared by the Development Services Group. For projects that were previously authorized, but have not yet been issued an SEP or MOU, the applicant may request an authorization amendment to allow the applicant to design and construct a qualified project eligible for SDC credit.

(b) The applicant agrees to pay WSSC all review fees normally due WSSC. Letters of credit are not acceptable in lieu of fees.

(c) When an applicant has requested that it be permitted to design and construct a CIP project, the Development Services Group shall prepare a map during its hydraulic planning analysis that identifies the qualified properties to be served by the CIP project which the applicant has requested to design and construct. SDC credit will only be issued to properties within the geographic boundaries identified in the map as qualified properties. A copy of the prepared map will be sent to the applicant.

(d) If WSSC either authorizes the applicant to design and construct a qualified project or requires eligible private funding from the applicant of WSSC's design and construction costs, then the properties identified as served by the project will receive credit and/or be subject to SDC payments which may be reimbursed to the applicant up to the total eligible amount. The Permit Services Unit will establish an applicant's SDC ledger following either (1) execution of a MOU or SEP covering applicant design and construction of the qualified project or (2) WSSC receipt of eligible private funding of the qualified project from the applicant. Prior to establishing the applicant's SDC ledger, the Permit Services Unit requires a map identifying all qualified properties to be served by the qualified project from the Development Services Group. Please note that for pipeline jobs, the applicant will not receive SDC credit or reimbursement unless the SDC credit agreement is signed before the SEP is issued.

(e) The SDC ledger will reflect the total amount of SDC credit/reimbursement that the applicant is eligible to receive. If the applicant is designing and constructing the qualified project, the ledger will initially reflect the applicant's SDC credit based upon the estimated total eligible costs agreed upon in the MOU or SEP. The applicant's initial ledger credit amount will be adjusted to reflect the actual total eligible costs for the qualified project, as determined by the [WSSC's Internal Audit Manager] **INSPECTOR GENERAL** (as discussed in subsections (f), (g), (h), (i) and (m) of this section), after the qualified project has been accepted and placed in service by WSSC. If WSSC is designing and constructing a qualified project, the ledger will reflect the total amount of eligible private funding received from the applicant.

(f) SDC credits may not exceed 50 percent of the estimated total eligible project cost (not to include contingency for increase in scope items (see subsection (i) of this section)) until such time as final audit is completed and the actual total eligible project cost is determined. Once the actual total eligible project cost is determined, SDC credits are available up to the eligible project

cost and quarterly refunds (based upon SDC collected for qualified properties) will commence. Prior to the final audit, the credit voucher is the only method of reimbursement to the applicant.

Following WSSC receipt of eligible private funding, SDC credits against the ledger amount may be granted. However in the SDC credits toward the private funding may not exceed 50 percent of the total estimated project cost.

(g) When an applicant is designing and constructing a qualified project, SDC credit is the total eligible project cost incurred and paid by the applicant. The SDC credit is subject to the general guidelines that (1) eligible costs will be the types of costs that WSSC would have incurred had WSSC designed and constructed the qualified project, and (2) the SDC credit will not exceed the maximum amount mutually agreed upon in the SDC credit agreement. Eligible costs must be directly allocable to the qualified project. Examples include but are not limited to:

(1) *Engineering Costs.* Design, reprographics, survey (topo), soil borings, as-built drawing preparation and bonding fees.

(2) *Permit Costs.* Costs for permits that WSSC would have had to acquire had WSSC built the project.

(3) *WSSC Fees for Pipelines.* Fees for extra WSSC reviews or retesting will be considered only if noneligible portions of the job do not require extra reviews or retesting. Unless mentioned otherwise, fees will be allocated to the qualified project based on estimated costs and overall water and sewer project cost for the project number.

(4) *WSSC Fees for Facilities.* All WSSC direct costs and overhead associated with the qualified project as stated in the MOU.

(5) *Construction Costs.* Contractors bid price, survey (stake out), geotech (compaction testing), off-site restoration and construction management.

(6) *Interest Costs.* Interest costs for funds used during design and construction, at an average interest rate not to exceed the rate paid by WSSC on short-term construction notes outstanding during the period beginning with the date of WSSC signature on the SEP or MOU agreement and ending when the qualified project is substantially complete.

(7) *Off-Property Rights-of-Way.* Acquisition costs are eligible up to amount appraised by WSSC for purchase of applicant's off-property right-of-way and construction strips, plus up

to 25 percent of the appraised amount for direct costs associated with purchase of off-site rights-of-way and construction strips.

- (h) Examples of costs that are not eligible include but are not limited to:
- (1) Areawide planning not directly related to the qualified project;
 - (2) Attorney fees;
 - (3) The WSSC hydraulic review fee;
 - (4) Costs for negotiation of SDC credit agreement or MOU;
 - (5) Bonus payments or acceleration costs paid to the contractor for completion of construction;
 - (6) Third-party inspection costs for facility projects;
 - (7) Applicant's overhead costs not directly attributable to the qualified project;
 - (8) Costs outside the scope of the qualified project;
 - (9) Permit costs associated with a development rather than the qualified project;
 - (10) Site acquisition costs beyond what WSSC would have paid;
 - (11) Facilities capital cost of money;
 - (12) Fines and penalties;
 - (13) Maintenance costs;
 - (14) Maintenance bond costs that are beyond both two years after substantial completion and beyond one year after release of service or final acceptance;
 - (15) Grading of rights-of-way;
 - (16) Sediment control for grading;
 - (17) Clearing and grubbing for public rights-of-way in which the qualified project will be installed;
 - (18) Federal and state income taxes;

(19) Administrative or management fees not directly associated with the qualified project;
and

(20) Personal injury compensation or damages.

(i) The maximum SDC reimbursement shall not exceed 110 percent of the contractor bid price plus other eligible costs.

(j) The SDC credit agreement will not provide payment to the applicant for costs the applicant did not incur or for costs reimbursed to the applicant from other sources. The SDC credit agreement will not provide any premiums for expedited work.

(k) Prior to SDC credit agreement or MOU approval, the WSSC project manager for the project is responsible to have components of the SDC credit agreement or MOU reviewed by other offices. The Contract Technical Services Unit should review the applicant's construction costs using a copy of the signed plans. [Internal Audit] **THE INSPECTOR GENERAL** is to review any item that the WSSC project manager proposes which is contrary to subsections (g) and (h) of this section. Other appropriate WSSC offices should be consulted such as the Land Acquisition Unit for additional land acquisition costs and the Planning Group for planning costs.

(l) For qualified projects, the SEP or MOU agreements should indicate that the maintenance bond should remain in effect at least two years beyond the date of release for service for SEP projects or at least one year beyond the date of final acceptance for MOU projects. The applicant will submit a written request for audit to WSSC's [Internal Audit Manager] **INSPECTOR GENERAL** after the qualified project built by the applicant has been released for service (pipelines) or finally accepted (facilities). Along with the request, the applicant must submit an itemized listing of eligible qualified project costs, incurred and paid, supporting the total amount of SDC credit claimed. It should be emphasized that the applicant should retain all the contracts, invoices and payments for [WSSC Internal Audit] **THE INSPECTOR GENERAL** to inspect and review to determine the SDC credits. **THE INSPECTOR GENERAL WILL CALCULATE ADMINISTRATIVE COSTS AT 5% OF THE CONSTRUCTION, DESIGN AND OTHER (GEOTECHNICAL, PERMITS, ETC.) QUALIFIED PROJECT COSTS. THE 5% CALCULATION WILL NOT INCLUDE WSSC COSTS OR INTEREST. IF THE REQUESTED AMOUNT EXCEEDS 5%, SUPPORTING DOCUMENTATION IS REQUIRED TO JUSTIFY ALL COSTS.**

(m) In compliance with Public Utilities Article, § 25-405(d), Annotated Code of Maryland, WSSC's [Internal Audit Manager] **INSPECTOR GENERAL** shall review and approve the

costs incurred by the applicant. The [Internal Audit Manager] **INSPECTOR GENERAL** will strive to initiate the audit within 90 days of the applicant's request, if the request includes the required itemized cost listing. The [Internal Audit] **INSPECTOR GENERAL'S** Report will be the formal document that communicates the final results of the audit to WSSC and the applicant. When an audit is complete, prior to the final [Internal Audit] **INSPECTOR GENERAL** Report, the [Internal Audit Manager] **INSPECTOR GENERAL** will issue to the applicant an unsigned discussion draft to allow the applicant an opportunity to discuss with [Internal Audit] **THE INSPECTOR GENERAL** any concerns the applicant has with the proposed SDC credit. Subsequently, the [Internal Audit Manager] **INSPECTOR GENERAL** will issue to the applicant its final report on the SDC credit to be provided the applicant.

(n) SDC credits against an applicant's SDC credit balance will be issued by WSSC upon receipt of a complete and fully executed credit voucher submitted at the time of plumbing permit application. The application must be made in connection with a qualified property served by the qualified project being built by the applicant. Also, the amount specified in the credit voucher shall not exceed the calculated SDC for plumbing fixtures covered by the permit application. Credit vouchers reflecting and specifying an amount in excess of calculated SDC for the requested permit will not be accepted. The plumbing permit will be issued after verification that a sufficient credit balance remains to cover the credit voucher amount. Insofar as possible, credit vouchers will be considered on a "first come – first served" basis. For a plumbing permit application accompanied by a credit voucher for which an applicant's credit balance has been exhausted, the credit voucher and the associated application will be returned to the applicant. WSSC is not responsible for managing or assisting the applicant in managing the issuance of credit vouchers. Managing the issuance of credit vouchers is not an eligible cost of reimbursement.

(o) In the event an issued plumbing permit expires or is canceled by the owner or plumber, no SDC reimbursement to the applicant will be approved for that permit. In such cases, any credit voucher will be voided and the credit amount added to the applicant's outstanding ledger balance.

(p) In conformance with subsection (s) of this section, SDC payments received in association with applications for plumbing permits for qualified properties will be identified as eligible for reimbursement (after the [Internal Audit] **INSPECTOR GENERAL** Report has been completed – see subsection (m) of this section) to the applicant who has constructed the qualified projects serving those qualified properties.

(q) For those situations where more than one qualified project serves a qualified property, SDC reimbursement payments shall be made in proportional shares to the applicants who have built or funded the qualified projects. A proportional share is calculated based upon a qualified project's actual eligible costs or funding expressed as a percentage of the sum of all actual eligible costs and/or funding of qualified projects serving the qualified property.

(r) At the conclusion of each calendar quarter, the Permit Services Unit will determine the total SDC receipts eligible for reimbursement made for each previously identified qualified property. Only those SDC receipts filed in association with plumbing permits under which all covered work has received an approved final inspection are eligible for reimbursement.

(s) Based upon the quarterly reconciliation, the Permit Services Unit will prepare and forward to the Accounting Group a payment request to be made to the appropriate applicant in an amount equal to the sum of qualifying SDC receipts not yet reimbursed, and a memorandum recommending reimbursement of SDC receipts and identifying the maximum amount recoverable. The memorandum shall be accompanied by a statement detailing eligible plumbing permits.

(t) Following review of the recommended reimbursement, the Accounting Group will forward the payment request and supporting documentation to the Disbursements Group which will issue payment to the applicant.

(u) When an applicant has designed and constructed a qualified project, the sum of SDC credits and reimbursements pursuant to this procedure will be made only to the maximum determined by the [Internal Audit] **INSPECTOR GENERAL** Report and only to the applicant identified in the MOU or SEP.

(v) The applicant may issue credit vouchers to multiple builders to facilitate construction of residential or nonresidential structures within the qualified property and reimbursement of qualified project costs. If the applicant wishes to transfer its right and title to any remaining SDC credit from a qualified project, the applicant shall notify the Permit Services Unit of the requested transfer. Such notification shall be in writing and shall identify the single entity to receive the entire remaining balance of SDC credit from a qualified project. The Permit Services Unit will acknowledge the credit transfer and forward the written request for inclusion in the qualified project's MOU or SEP as an amendment. Thereafter, all qualified property SDC credits or reimbursements will be issued to the last designated entity in the MOU or SEP as amended.

(w) Notwithstanding any other provision of this chapter, SDC credit or reimbursements for costs identified in subsection (d) of this section are limited to SDC transactions for qualified properties served by the qualified project within a 20-year period, or until the sum of credits and reimbursements equals the total approved SDC credit. The 20-year period will commence for SEP, MOU, or eligible funding projects on the day of release for service. At the conclusion of the 20-year period, the Permit Services Unit will close the SDC reimbursement ledger and will provide written notification of exhaustion or termination of the SDC credit to the last designated recipient.

5.95.040 Procedures for wet weather projects.

(a) Notwithstanding any other provision of this chapter, for wet weather projects only, WSSC may issue SDC reimbursements to the applicant from SDC funds collected from the entire county in which the qualified project is located.

(b) Prior to the final audit, the developer may submit quarterly invoices for reimbursement (less any SDC vouchers for the developer's project) for up to 80 percent of the estimated total eligible costs agreed upon in the MOU or SEP. All invoices submitted shall be subject to review and approval by the Development Services Group Project Manager assigned to the project, or another staff member as designated by the Development Services Group Leader.

(c) WSSC shall reimburse the Developer for quarterly invoices submitted pursuant to subsection (b) of this section by first drawing from the eligible SDC receipts from properties served by the qualified project as set forth in WSSC 5.95.030(r) and (s). Should the SDC receipts from the qualified project become insufficient to cover the invoices, WSSC shall reimburse the developer from SDC funds from the entire county.

(d) Following the final audit conducted pursuant to WSSC 5.95.030(m), additional reimbursements and credits will be made by WSSC, up to maximum eligible costs as set forth in WSSC 5.95.030(i).

5.95.050 Authority.

The General Counsel certifies that the standard procedure codified in this chapter was adopted pursuant to the authority as set forth in the Public Utilities Article, §§ 17-403 and 25-405, Annotated Code of Maryland.

Title 6. Procurement

Subtitle I. General

Chapter 6.20. Purchase Card Program

6.20.060 Ethical responsibility and audit guidelines.

(a) Purpose. The ethical responsibility and audit guidelines (Code of Ethics, June 2003, WSSC Chapter 1.70) policy reaffirms the expected behavior of all WSSC granted the responsibility of managing a P-Card in support of daily operational business.

(b) Conflict of Interest. Employees are prohibited from doing business with a merchant/supplier with whom they have a personal interest. It is considered a breach of ethical standard for any employee of the Commission to participate directly or indirectly in the purchasing process when the employee knows that:

(1) He/she or any member of his/her immediate family will benefit from a Commission purchase transaction.

(2) A business or organization in which he/she, or any member of his/her family (spouse, children, parents, brothers and sisters) has a financial interest and will benefit from a Commission purchasing transaction.

(3) Any other person, business or organization with whom he/she or any member of his/her family is negotiating or has an arrangement for employment and will ultimately benefit from a Commission purchase transaction.

(4) For more information on our conflict of interest policy[, reference our ethics policy as follows: <http://wcmtranet/wps/wcm/connect/IAUDIT/iaudithome/Ethics/>] **SEE CHAPTER 1.70, CODE OF ETHICS OF THE WSSC CODE OF REGULATIONS.**

(c) Audit Process.

(1) The P-Card Leadership Team, which is comprised of the Chief Procurement Officer, Chief Finance Officer, [Internal Audit Manager], Accounts Payable Unit Coordinator, and the P-Card Specialist, is responsible for establishing and maintaining internal control to provide reasonable assurance that (a) the goals and objectives of the purchase card program are met and (b) safeguards against fraudulent, improper, and abusive purchases are adequate.

(2) Ongoing program reviews will be conducted to ensure compliance with policies and procedures. These reviews will be conducted on a random frequent and routine basis and will check for compliance up to and including the following areas:

(i) Cardholder security.

(ii) Cardholder misuse.

(iii) Adherence to policies and procedures.

(iv) Appropriate use of WSSC funds.

(v) Record maintenance.

(vi) Property validation.

(3) Important note. Cards never activated will have their credit limits reduced to \$1.00 after six months and then canceled after a period of one year. Cards activated and never used over a period of six months will have their credit limit reduced to \$1.00 and then canceled after one year.

Title 9. Human Resources Management

Subtitle I. Personnel Management

Chapter 9.85 Official Travel Expense Reimbursement

9.85.050. General provisions.

A. 1. Except as otherwise provided in this section, all travel shall be approved by a Division Manager or above.

2. Travelers are required to create and submit travel requests through the online booking tool for approval.

3. Designated approvers are required to log into the online booking tool and approve travelers' submissions.

B. The General Manager shall approve the travel requests of the Deputy General Managers, the General Counsel, the Chief of Staff, or any other direct report to the General Manager.

C. [The Internal Auditor shall approve the travel requests of the General Manager.

D.] **The Chair of the Commission shall approve the travel requests of the:**

1. Commissioners;

2. Corporate Secretary; [and]

3. [Internal Auditor] INSPECTOR GENERAL; AND

4. GENERAL MANAGER.

[E.] **D.** The Vice Chair of the Commission shall approve the Chair's travel request.

[F.] **E.** Division Managers or above shall be responsible for enforcing, within their areas of responsibility, these regulations.

[G.] **F.** The Treasurer/Chief Financial Officer, or the Chief Financial Officer's designee, is responsible for ensuring compliance with these regulations in the Commission and by WSSC approved consultants.

[H.] **G.** Exceptions to these regulations for a WSSC employee may be granted by a Deputy General Manager or above if the employee demonstrates, in writing when appropriate, that the application of the regulations results in:

1. Significant difficulty in traveling to or from the destination;
2. Failure to accommodate a traveler when the traveler requires specific accommodations such as handicapped accessible transportation and lodging; or
3. A hardship from the strict application of these regulations.

[I.] **H.** Exceptions to these regulations for a WSSC approved consultant may be granted by the Deputy General Manager or above that oversees the department that the WSSC approved consultant works with if the WSSC approved consultant demonstrates, in writing when appropriate, that the application of the regulations results in:

1. Significant difficulty in traveling to or from the destination;
2. Failure to accommodate a traveler when the traveler requires specific accommodations such as handicapped accessible transportation and lodging; or

3. A hardship from the strict application of these regulations.

[J.] I. 1. Exceptions to these regulations for Commissioners may be approved by the Chair of the Commission based on the standard in subsection H of this section.

2. Exceptions for the Chair may be approved by the Vice Chair of the Commission based on the standard in subsection H of this section.

[K.] J. International travel may be approved as an exception to the regulations if the approver under subsection H, I, or J of this section determines that the international travel is in the best interests of the Commission.

[L.] K. 1. An appointee may request travel approval in addition to a stipend provided to the appointee.

2. An appointee's travel request shall be approved by the Division Manager or above that oversees the activities of the board or commission.

Subtitle II. Recruitment and Hiring

Chapter 9.170 Background Investigations.

9.170.040. Policy.

A. WSSC conducts appropriate, thorough, and legally compliant background investigations on:

1. All Commission employees who receive a conditional offer of promotion;
2. Commission job applicants (including interns) who receive a conditional employment offer;
3. All WSSC contractors and/or vendors requiring access to either Commission facilities and/or infrastructure, or WSSC engineering plans, drawings, records or other information the Commission deems sensitive; and
4. All persons and organizations requesting access to WSSC engineering plans, drawings, records, or other information the Commission deems sensitive.

B. Employees who are promoted to jobs that require a more thorough level of background investigation compared to their most recent background investigation shall undergo the more thorough background investigation prior to starting the new assignment.

C. All employment background investigations will be conducted in compliance with all applicable federal, state and local laws or regulations. Additionally, all background investigations will be considered highly confidential; therefore, Commission employees will not disseminate information from a background investigation except when compelled by official Commission business or under due process of law.

D. Every offer of employment, including those made to interns, shall be conditioned on completion by WSSC of the level of background investigation appropriate for the subject offer. The background investigation's effect, if any, on the conditional offer of employment is governed by WSSC 9.170.050.

E. The employee or applicant shall execute an authorization and waiver for release of information which is consistent with the level of background investigation conducted in connection with the employee's (applicant's) application. This authorization and waiver is an eligibility requirement for an application for a new position or promotion.

F. Completed Human Resources Office (HRO) background investigations shall be maintained in a separate confidential file within the HRO and retained in accordance with the relevant records retention requirements. Completed PHSD background investigations will be maintained in a secured file within PHSD headquarters and retained in accordance with the relevant records retention requirements.

G. For background investigations conducted by HRO, a Team Chief, Office Director, equivalent or higher-level manager may request to modify the level of background investigation based on a determination that a higher level investigation is needed due to a position's unique duties and responsibilities (e.g., certain positions in Finance, Procurement and [Internal Audit] **OFFICE OF THE INSPECTOR GENERAL**). This request shall be made to the Human Resources Director who will decide the appropriate level of background investigation prior to initiating the recruitment for a vacant or new position.

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Title 9. Human Resources Management

Subtitle 1. Personnel Management

Chapter 9.30 Comprehensive Whistleblower Protection

9.30.010 Purpose.

The purpose of this chapter is to establish comprehensive Washington Suburban Sanitary Commission (WSSC) employee whistleblower protections and remedies.

9.30.020 Applicability.

This chapter applies to all WSSC employees who disclose wrongdoing occurring within the WSSC as defined in WSSC 9.30.050.

9.30.030 Effect of regulation.

A. *Effect on Legal Actions.* The regulation codified in this chapter does not preclude an action for defamation or invasion of privacy.

B. *Effect on Personnel Actions.* This chapter does not prohibit a personnel action that would have been taken, regardless of a disclosure of information.

9.30.040 Written notice of protections and remedies.

The Human Resources Director shall provide all WSSC employees with written notice of the protections and remedies provided by this whistleblower regulation.

9.30.050 Disclosure of information – Reprisal prohibited.

Subject to the limitations of WSSC 9.30.060, a WSSC manager or supervisor may not take or refuse to take any personnel action as a reprisal against an employee who:

- A. Discloses information that the employee reasonably believes evidences:
 - 1. An abuse of authority, gross mismanagement, or gross waste of money;
 - 2. A substantial and specific danger to public health and safety; or
 - 3. A violation of law; or
- B. Following a disclosure under subsection A of this section, seeks a remedy provided under this chapter or any other law governing the WSSC employee.

9.30.060 Protected disclosures.

WSSC 9.30.050 applies to a disclosure that is specifically prohibited by law only if that disclosure is made exclusively to the [Attorney General] **INSPECTOR GENERAL** in the manner set forth in WSSC 9.30.140.

9.30.070 Election of procedures.

An employee who seeks relief for a violation of WSSC 9.30.050 may elect to file either a complaint as discussed in WSSC 9.30.080 and 9.30.090, or a grievance as described in WSSC 9.30.100.

9.30.080 Representation, finality of decision, and resolution of complaints.

A. *Representation.*

- 1. An employee who files a complaint pursuant to WSSC 9.30.090(A) (the “complainant”) may be represented during the complaint process by any person the employee chooses.

2. Any party to the complaint process may be represented by counsel at the hearing described in WSSC 9.30.110(B).

B. *Finality of Decision.*

1. If a complainant fails to appeal a decision in accordance with WSSC 9.30.110, the complainant is considered to have accepted the decision.

2. A failure to decide a complaint in accordance with WSSC 9.30.090 is considered a denial of the complaint, which may be appealed.

C. *Resolution of Complaints.* Each party to a complaint shall make every effort to resolve the complaint prior to filing a written complaint pursuant to WSSC 9.30.090(A).

9.30.090 Procedure for filing [an internal] A complaint – Remedial actions.

A. *Who May File, Time Requirements, and Content of Complaint.*

1. The WSSC employee may file a written complaint with the [WSSC's General Manager/Chief Executive Officer (CEO) or designee.] **OFFICE OF THE INSPECTOR GENERAL.** The complaint shall be filed as soon as possible, but no later than six months after the complainant first knew of or reasonably should have known of the act that allegedly violated WSSC 9.30.050. The complaint shall include the following information:

- a. Name, telephone number, and home address of complainant;
- b. Name, and business address, if known, of the WSSC employee against whom the complaint is made;
- c. Date or dates of alleged unlawful personnel actions;
- d. A statement of the facts which are the basis for the complaint;
- e. A statement detailing the disclosure of information pursuant to WSSC 9.30.050(A), and when and to whom the disclosure was made;

- f. Signature of the complainant; and
- g. Date the complaint is filed.

2. If the complainant is an employee in [the General Manager/CEO's Office] **THE OFFICE OF THE INSPECTOR GENERAL OR IF THE COMPLAINT IS ABOUT THE OFFICE OF THE INSPECTOR GENERAL OR AN EMPLOYEE WITHIN THE OFFICE OF THE INSPECTOR**, the employee may file the complaint [with WSSC's Commissioners through the Corporate Secretary's Office] **WITH THE CHAIR AND THE CORPORATE SECRETARY IN ACCORDANCE WITH CHAPTER 2.60.070(C) OF THIS CODE CONCERNING COMPLAINTS ABOUT THE OFFICE OF THE INSPECTOR GENERAL.**

B. *Notice of Complaint and Response.* When a complaint is received, [the General Manager/CEO or designee] **THE OFFICE OF THE INSPECTOR GENERAL** shall promptly:

- 1. Send a copy of the complaint to the supervisor or manager of the employee named in the complaint; and
- 2. Advise the supervisor or manager to provide the [General Manager/CEO or designee] **OFFICE OF THE INSPECTOR GENERAL** with a written response to the complaint within 20 days after receiving the copy.

C. *Investigation, Action Upon Complaint, and Written Decision.* Within 60 days after a complaint is received, the [General Manager/CEO or designee] **OFFICE OF THE INSPECTOR GENERAL** shall investigate the complaint to determine whether a violation of WSSC 9.30.050 has occurred.

D. *Disposition by the [General Manager/CEO] INSPECTOR GENERAL.*

- 1. If the [General Manager/CEO or designee] **INSPECTOR GENERAL** determines that a violation of WSSC 9.30.050 has not occurred, the [General Manager/CEO or designee] **INSPECTOR GENERAL** shall:

A. [dismiss]**DISMISS** the complaint as soon as practical after making that determination;

B. NOTIFY THE COMPLAINANT OF THE DISMISSAL; AND

C. NOTIFY THE COMPLAINANT OF THE RIGHT TO APPEAL AS SET FORTH IN § 9.30.110 OF THIS REGULATION.

2. If the [General Manager/CEO or designee] **INSPECTOR GENERAL** determines that a violation of WSSC 9.30.050 has occurred, then the [General Manager/CEO or designee] **INSPECTOR GENERAL**, as soon as practical after making that determination, shall:

a. Issue to the complainant and the appropriate supervisor or manager a written final decision setting forth the basis for the [General Manager/CEO's or designee's] **INSPECTOR GENERAL'S** determination that WSSC 9.30.050 has been violated; and

b. **FORWARD A COPY OF THE WRITTEN DECISION TO THE GENERAL MANAGER/CEO TO TAKE** [Take] the appropriate remedial action stated in subsection E of this section.

E. *Permissible Remedial Actions.* As a remedial action for a violation of WSSC 9.30.050, the General Manager/CEO [or its designee] may:

1. Order the removal of any related detrimental information from the employee's record;
2. Hire, promote, or reinstate the employee or discontinue the employee's suspension from employment;
3. Award the complainant back pay to the day of the termination/suspension;
4. Grant the complainant leave or seniority;
5. Take appropriate disciplinary action against any WSSC employee who caused the violation; and

6. Take any other remedial action consistent with the purpose of this chapter.

9.30.100 Grievance proceeding (alternative to filing a written, internal complaint).

A. THE GRIEVANCE PROCEDURE SET FORTH IN THIS CHAPTER IS REQUIRED BY STATE LAW AND REPLACES THE GRIEVANCE PROCEDURE SET FORTH IN ANY COLLECTIVE BARGAINING AGREEMENT.

[A.] **B. *Informal Discussion.*** Before initiating a grievance procedure, a WSSC employee (the “grievant”) shall present the matter orally to the employee’s supervisor or manager for informal discussion and final resolution, if possible.

[B.] **C. *Step One: Initiation of Grievance Proceeding.***

1. *Initiation.* If the informal discussion in subsection A of this section fails, a grievant may initiate a grievance proceeding by filing a written grievance with the grievant’s supervisor or manager. The grievant may be represented during the grievance process by any person the employee chooses.

2. *Time Limitations.* The grievant must initiate a grievance procedure within 20 days after grievant first knew of or reasonably should have known of the act that allegedly violated WSSC 9.30.050.

3. *Conference.* Within 10 days after receiving a grievance, the supervisor or manager shall hold a conference with the grievant to attempt to resolve the grievance.

4. *Decision and Grant of Remedy.* Within 20 days after the conference, the supervisor or managers shall issue a written decision to the grievant and may grant any appropriate remedy under subsection E of this section.

[C.] **D. *Step Two: Appeal to [Team Chief.] DIRECTOR.***

1. *In General.*