

D.C. OFFICE OF RISK MANAGEMENT
ADMINISTRATIVE ISSUANCE SYSTEM

Administrative Order No. AO-11-02

Date: February 28, 2011

SUBJECT: Reminder of the District Government's Policy on Illegal or Unethical Conduct; and Dissemination of Public Notice on the *Whistleblower Protections and Obligations of Employees*

ORIGINATOR: Phillip A. Lattimore III, Acting Chief Risk Officer

DISTRIBUTION: All ORM Employees

EXPIRATION DATE: Retain Until Superseded

The purpose of this Administrative Order is to remind D.C. Office of Risk Management's employees of the zero tolerance policy concerning employee involvement in illegal or unethical conduct.

ORM employees are reminded that all District government employees are required to adhere to the following rules pertaining to their conduct, as specified in Chapter 18 of the D.C. personnel regulations, Employee Conduct:

At all times maintain a high level of ethical conduct in connection with the performance of their official duties; refrain from taking, ordering, or participating in any official action which would adversely affect the confidence of the public in the integrity of the District government; and maintain high standards of honesty, integrity, impartiality, etc.

See DPM §§ 1800.1 and 1800.2. Also note that by law District government employees have the right to disclose corruption, dishonesty, incompetence, or administrative failures, without fear of retaliation.

Attached for your reference is the subject Public Notice, which describes the *protections, rights, obligations, and responsibilities* of employees making disclosures under the District government's Whistleblower Protection Act.


Phillip A. Lattimore III 2/28/2011
Acting Chief Risk Officer

Attachments:

- Public Notice – Whistleblower Protections and Obligations of Employees
- Acknowledgment Form

PUBLIC NOTICE

WHISTLEBLOWER PROTECTIONS AND OBLIGATIONS OF EMPLOYEES

This notice informs District government employees of their protections and obligations under the District law covering whistleblowing (D.C. Official Code § 1-615.51 *et seq.*) (2001 Ed; 2006 Repl.). The provisions in this law apply to employees of all District government agencies, including but not limited to employees of subordinate agencies, independent agencies, and the D.C. Public Schools, Board of Trustees of the University of the District of Columbia, and District of Columbia Housing Authority. Pursuant to law, District government employees have the following rights or protections, and responsibilities or obligations:

PROTECTIONS AND RIGHTS

- Constitutional rights to first Amendment freedoms of expression, assembly, and individual privacy, including free expression of opinions on all public issues, including those related to the duties that they are assigned to perform. The right to assemble in public places for the free discussion of matters of interest to themselves and to the public and the right to notify, on their own time, fellow employees and the public of these meetings.
- The right to disclose corruption, dishonesty, incompetence, or administrative failures, without fear of retaliation. The disclosure may include unlawfully suppressed information concerning illegal or unethical conduct that threatens or is likely to threaten public health or safety; or information that involves the unlawful appropriation or use of public funds; or information that tends to impeach the testimony of employees of the District government before committees of the Council, or responses of employees to inquiries from members of the Council concerning the implementation of programs, including information that involves the use of public funds.
- The right to communicate with and to respond fully, freely, openly, and candidly to inquiries from Members and committees of the Council of the District of Columbia.
- The right to humane, dignified, and reasonable conditions of employment that allow for career development and job enrichment, and for the unhindered discharge of job responsibilities.
- Employee access to his or her own personnel file, medical report file, or any other file or document concerning his or her status or performance within his or her agency, except as otherwise provided in D.C. Official Code § 1-631.01 *et seq.* (2001 Ed.; 2006 Repl.).

OBLIGATIONS AND RESPONSIBILITIES

- Every employee of the District government is required to make protected disclosures as soon as the employee becomes aware of the violation or misuse of resources. **Protected**

disclosures are conveyed to a supervisor or public body, and must relate to fraud, waste, abuse of authority, or a substantial and specific danger to the public health and safety.

- **Public disclosures** include, but are not limited to information about violations of law, rule or regulation, procurement and contract issues that are not merely technical or minimal in nature; misuse of government resources, including gross mismanagement, gross misuse or waste of public resources or funds, and abuse of authority in connection with the administration of a public program or the execution of a public contract.
- Every District government supervisor shall make all protected disclosures involving any violation of law, rule, regulation, or contract as soon as the supervisor becomes aware of the violation. The failure of a supervisor to act upon a specific protected disclosure is a basis for administrative action, including termination.
- Upon receipt of an adjudicative finding that a protected activity was a contributing factor in an alleged prohibited personnel action, the agency head shall immediately institute disciplinary action against the offending supervisor.

PROHIBITION

A supervisor shall not threaten to take or take retaliatory or any other prohibited personnel action against an employee because of the employee's protected disclosure or because of an employee refuses to comply with an illegal order. Violation of this prohibition constitutes a complete affirmative defense for a whistleblower to a prohibited personnel action in an administrative review, challenge, or adjudication of that action.

ENFORCEMENT

An employee aggrieved by a prohibited personnel action or retaliatory action as a result of making a protected disclosure may bring a civil action in the Superior Court of the District of Columbia against the Government as well as any District employees having personal involvement, or challenge the supervisor's action in an administrative review, arbitration, or adjudication of that action. A civil action shall be filed within 1 year after a violation occurs or within 3 years after the employee first becomes aware of the violation, whichever occurs first. See D.C. Code 1-615.54 (Supp. 2010). Judicial relief and damages include, but are not limited to, injunction, reinstatement to the same position held before the prohibited personnel action or to an equivalent position, and reinstatement of the employee's seniority rights, restoration of lost benefits, back pay and interest on back pay, compensatory damages, reasonable costs and attorney fees.

ADDITIONAL INFORMATION

Employees and supervisors interested in learning more about their rights and responsibilities on this subject may refer to the full text of the District government whistleblower law in D.C. Official Code § 1-615.51 *et seq.* (2001 Ed.; 2006 Repl.), as amended; or contact the Office of the Inspector General at 1-800-521-1639.

**§1803.2, District Personnel Manual, Responsibilities of Employees (gifts)
available at: <http://dchr.dc.gov/dcop/cwp/view,a,1218,q,529420.asp>**

(a) Except as noted in section 1803.3 of this section, a District government employee shall not solicit or accept, either directly or through the intercession of others, any gift from a prohibited source.

(b) For the purposes of this section, the following terms shall have the meaning ascribed:

Gift - any gratuity, favor, loan, entertainment, or other like thing of value.

Prohibited source - any person or entity that:

(1) Has or is seeking to obtain contractual or other business or financial relations with the District government;

(2) Conducts operations or activities that are subject to regulation by the District government; or

(3) Has an interest that may be favorably affected by the performance or non-performance of the employee's official responsibilities.

(c) An employee who receives a gift that cannot be accepted under the provisions of this section shall:

(1) Return the gift to the donor or reimburse the donor the market value of the gift; or

(2) If the gift is perishable and it would not be practical to return it to the donor, donate the gift to charity, share it with the office staff, or destroy it.

1803.3 The restrictions outlined in section 1803.2 of this section do not apply to the following:

(a) Bona fide personal relationships such as those between an employee and his or her family or personal friends;

(b) The acceptance of food and refreshments of nominal value on infrequent occasions:

(1) In the ordinary course of a luncheon or dinner meeting, or while on an inspection tour where an employee may properly be in attendance; or

(2) In connection with an annual holiday party or event sponsored by an entity other than the District government, provided that the employee shall notify his or her supervisor in time sufficient for the supervisor to make a meaningful judgment to approve or disapprove the employee's attendance. When making the determination the supervisor may consider such factors as the agency's interests and any appearance of a conflict of interest. The supervisor shall disapprove the employee's attendance if there is an actual conflict of interest.

(c) The acceptance of loans from banks or other financial institutions on customary terms to finance proper and usual activities of employees such as the acquisition of a car, home, or appliance;

(d) The acceptance of unsolicited advertising or promotional material such as pens, pencils, note pads, calendars, and like items of nominal value; or

(e) The acceptance of a voluntary gift of nominal value or of a cash donation in a nominal amount which is presented on a special non-recurring occasion such as marriage, illness, or retirement, but excluding birthdays, or other annually-recurring events.

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
D.C. OFFICE OF RISK MANAGEMENT**



**Whistleblower Protections and
Obligations of Employees' Public Notice**

Acknowledgment Form

I acknowledge that I have received ORM Administrative Order No. 11-02, dated February 28, 2011, reminding ORM employees of the District government's policy on illegal or unethical conduct and disseminating the "*Whistleblower Protections and Obligations of Employees' Public Notice (Notice)*". I understand the administration's zero tolerance policy concerning employee involvement in illegal or unethical conduct. I further understand that pursuant to the Whistleblower Protection Act (Act), District government employees have a right to disclose corruption, dishonesty, incompetence, and administrative failures without fear of retaliation; and that the *Notice* describes the protections, rights, obligations, and responsibilities of employees making disclosures under the Act.

I understand that I should direct any questions regarding the Notice to Amy Mauro, Ethics Counselor for ORM; or to the Office of the Inspector General by calling 1-800-521-1639.

Employee's Printed Name

Employee's Signature

Date

Distribution: Copy to Employee; Copy to ORM HR Advisor