



# TEXAS DEPARTMENT OF SAVINGS & MORTGAGE LENDING

## **DEPARTMENTAL POLICY ON DETERRING, DETECTING, REPORTING, AND INVESTIGATING POTENTIAL OR ACTUAL FRAUD AND OTHER ILLEGAL ACTS**

On July 12, 2004, Governor Perry issued Executive Order RP 36 relating to deterring, detecting, reporting, and investigating potential or actual fraud and other illegal acts. In accordance with the directive of the Governor, the Texas Savings and Mortgage Lending Department (the "Department") amends and restates the previously issued policy directive and issues this policy directive relating to the Governor's fraud initiative.

The potential for, or occurrence of, fraud and other illegal acts is a significant and sensitive management concern in any organization. Although the process and responsibilities for deterring, detecting, investigating and reporting known, alleged or suspected fraud or other illegal acts at the Department are in place in many of our existing policies and procedures, this policy formalizes the process, and assigns the responsibility of coordinating all efforts of compliance with this policy to the Chief Fiscal Officer and the General Counsel.

The purpose of this policy is to:

- (1) minimize the impact of all potential or actual fraudulent or illegal acts at the Department by deterring such activity or detecting it as early as possible;
- (2) alert all Department employees that fraud or other illegal acts will not be tolerated and that there is a mechanism by which such activities can be reported and investigated; and
- (3) ensure fair, objective and thorough investigation and reporting of all such activities while safeguarding individual rights and maintaining confidentiality in accordance with applicable law.

This policy relates to all potential or actual fraudulent and other illegal activities: (1) within the Department involving its employees in the conduct of their employment responsibilities, which includes, but is not limited to, theft, malfeasance, falsifying time or travel reports, abuse of power, authority or information, kickbacks and embezzlement; or (2) that involve the loss, misappropriation or theft of any assets belonging to the Department or for which the Department is responsible, including, but not limited to, cash, checks, securities, intellectual property, property and equipment, information and other data.

This policy should not be perceived as a substitute for management's responsibility to be alert to and to deter fraud or other illegal acts in its daily activities.

## **Fraud Environmental Infrastructure**

The General Counsel is hereby designated as the agency manager responsible for the Fraud Environmental Infrastructure and shall be the Department's liaison to the Governor's Task Force on Fraud.

## **Detecting, Reporting and Investigating Actual Fraud or Other Illegal Acts**

The following process will be followed for reporting and investigating any known, alleged or suspected fraud or other illegal activities at the Department:

- (1) A person who wishes to report alleged or suspected fraud or other illegal activities may contact either of the Designated Officers ("DO"): the Chief Fiscal Officer or the General Counsel. Contact may be verbal or written, and may be made by anyone having knowledge of the activity.
- (2) The DO will make a preliminary determination as to the necessity for proceeding with an investigation of the reported fraud or illegal activity.
- (3) After determining to proceed with an investigation, the DO will advise the Commissioner of all facts known regarding the reported fraud or illegal activity.
- (4) The DO may contact the internal auditor to arrange an investigation if deemed necessary.
- (5) The DO and/or internal auditor has complete authority to interview personnel, and examine, copy and/or take possession of any files, data, records and equipment without prior knowledge or consent of any individual to conduct any investigative measures deemed necessary to determine the occurrence of, and extent of, any fraudulent or other illegal act. All documents related to an investigation are considered audit work papers.
- (6) Upon completion of the investigation, the DO will prepare a report of findings for review by the Commissioner. The Commissioner will discuss the report with the Chief Fiscal Officer and/or General Counsel and other agency staff, as appropriate.
- (7) The DO is designated as the person responsible for maintaining documentation of incidents and will store such documentation in a secure location, accessible only to appropriate personnel.
- (8) If the Commissioner determines that fraud or other illegal activity has been committed, the employee who committed such act will be subject to disciplinary action, including termination if warranted.
- (9) If the Commissioner determines that fraud or other illegal activity has been committed, the findings will be presented to the Finance Commission during the executive session of the next regularly scheduled meeting.

(10) If the Commissioner determines that: (a) the findings warrant referral to outside enforcement and/or prosecutorial agencies, or (b) money or other property may have been lost, misappropriated, or misused, or that other fraudulent or unlawful conduct has occurred in relation to the operations of the Department, then the Commissioner, where appropriate, will contact such agencies, including the State Auditor's Office, and fully cooperate with any outside investigations.

(11) The Commissioner or DO, with the assistance of the General Counsel and Attorney General, will pursue any reasonable means of recovering identified losses.

Throughout all of the above proceedings, every effort will be made to maintain the anonymity and protect the rights of all individuals who reported or who may be investigated in connection with the alleged fraud or illegal activity.

## **Reporting Suspected Fraud, Waste and Abuse to the State Auditor's Office**

The State Auditor's Office is authorized to investigate allegations of impropriety and illegal acts affecting state resources. Any suspected fraud, waste, and abuse should be reported to the State Auditor's Office telephone hotline (1-800-TX-AUDIT) or online at the State Auditor's Office website for fraud reporting (<http://sao.fraud.state.tx.us>).

## **Deterring Actual Fraud and Other Illegal Acts**

(1) All new employees will receive training in the Department's conflict of interest rules and code of conduct at the time of their initial orientation.

(2) Not less than annually, the Department will deliver to each employee a copy of the current conflict of interest rules and code of conduct. Delivery may be made by email.