



*Tennessee Department of Transportation  
Office of Internal Audit*

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*Government Accountability Professionals*

**TDOT Internal Audit  
Investigation Standards and Procedures  
Guide**

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James K. Polk Building, Suite 1800  
Nashville, TN 37243  
Phone: 615.741.1651  
Fax: 615.532.6760

*The mission of the Office of Internal Audit is to provide objective analysis and information critical to better decision making and enhancing the overall governance capability within the Tennessee Department of Transportation.*

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## 1 GENERAL INFORMATION

### 1.1 Introduction

The standards and principles outlined in this document are intended to serve as a guideline for conducting efficient, effective, and high quality investigations. Recognizing that each investigation has varied characteristics, the procedures and standards included herein are comprehensive, relevant, and sufficiently broad and thereby applicable to any type of administrative investigations (as well as potential civil and criminal investigations, if needed).

The procedures and standards delineated here address both the General and Qualitative. General Standards are applicable to an individual TDOT auditor/investigator and TDOT Internal Audit's organizational environment. These standards address the "need for" criteria such as qualifications, independence, and due professional care and apply to all investigative activities from complaint processing, to gathering and analyzing evidence, to the reporting structure.

Qualitative Standards address the "how to" criteria and focus on investigative planning, execution, conducting interviews, information management, and reporting investigative results.

Although not designed as an intensive, detailed, investigative manual, the procedures and standards outlined herein nevertheless provides a systematic framework from which all investigative work completed by TDOT Internal Audit must comply with.

The documentation of policies and procedures such as this *Investigative Standards and Procedures Guide* facilitate the enactment of due professional care. The written investigative policies and procedures herein will be periodically reviewed and revised according to evolving laws, regulations, and policies.

### 1.2 Additional Investigative Development Tools

The Office of Internal Audit lists additional reference materials that can help the audit staff in learning general and specific investigative skills and techniques. Suggested reference reading includes:

- Anatomy of a Fraud Investigation: From Detection to Prosecution
- Benford's Law: Applications for Forensic Accounting, Auditing, and Fraud Detection
- Investigations in the Workplace, 2nd Ed.

- Expert Fraud Investigation
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## 2 GENERAL STANDARDS

### 2.1 Overview - Quality Control Environment

The Tennessee Department of Transportation (TDOT) Office of Internal Audit is committed to providing the highest quality of service to management and the governance structure within TDOT. Quality control planning begins with a foundation of organizational and personal independence, competent staff, continued development of staff, appropriate policies, and procedures for efficient implementation of policies. Monitoring is needed to ensure adherence to the plans set in place. Periodic reviews and updates are necessary to evaluate the success of the quality control plan.

### 2.2 Ethics

The Commissioner, the citizens of Tennessee and the management structure within TDOT are entitled to have confidence in the integrity of the oversight function as they pertain to TDOT's financial and operational affairs and those who conduct them. Members of TDOT's Office of Internal Audit must earn and honor that trust through their integrity and conduct in all official and personal actions. It is therefore critical that each member possess and maintain the highest standards of conduct and ethics, including unimpeachable honesty and integrity.

### 2.3 Staff Competency

Investigations vary in purpose and scope and may involve alleged violations of administrative requirements, as well as criminal or civil laws. The focus of an investigation can include the integrity of TDOT programs and operations, as well as TDOT field personnel, contractors, and vendors. Activities such as procurement and grant fraud schemes; environment, safety, and health violations; benefits fraud are also a focus of investigations. Some of these investigations address administrative misconduct issues and both civil and criminal acts, ranging in significance from misdemeanors to felonies. They often require the use of specialized investigative techniques; examination of complex financial transactions, contracts, grants, and business operations; and interviewing government and corporate officials. A wide variety of skills and extensive knowledge are necessary to perform the broad range of activities required by these diverse investigations.

The first general standard for an investigative organization is:

***Individuals assigned to conduct the investigative activities must collectively possess professional proficiency for the tasks required.***

This standard places upon the TDOT Internal Audit the responsibility for ensuring that investigations are conducted by personnel who collectively possess the knowledge and skills required to perform the investigative activities. For this purpose, Management of the Internal Audit function will ensure the competency of the assigned staff and each investigative engagement will be evaluated under its own merit. The ultimate fitness and competence of individual staff assigned to a particular investigation engagement will depend on the nature and complexity of the investigative assignment.

Due to the critical and sensitive nature of the investigator's work, TDOT Internal Audit should ensure that all members, once selected, possess the requisite knowledge, skills, and abilities summarized below to fulfill their responsibilities.

Skills required to conduct an investigation are:

- Proficiency at obtaining information from people;
- Ability to analyze and understand the hierarchy of evidence;
- Understanding of witnesses and the accused rights, confidentiality, and “whistleblower” concepts;
- Understanding of internal controls and cost/benefit considerations;
- Ability to analyze and evaluate facts; make sound objective assessments and observations; and, where appropriate, make constructive recommendations;
- Ability to effectively use computer equipment, software and related systems in support of the investigative process;
- Ability to deliver clear, concise, accurate, and factual summaries of results of investigations, both orally and in writing;
- Ability to prepare and obtain signed, sworn statements; and
- Ability to utilize appropriate and authorized specialized investigative techniques.

## 2.4 Organizational and Staff Independence

***In all matters relating to investigative work, the investigative organization must be free, both in fact and appearance, from impairments to independence; must be organizationally independent; and must maintain an independent attitude.***

Independence of the TDOT office of Internal Audit is established by meeting the Government Accountability Office’s (GAO) independence requirement. Specifically because, the Director of Internal Audit:

- is accountable to the head or the deputy head of the government entity charged with governance;



- reports the audit results both to the head or the deputy head of the government entity and to those charged with governance;
- is located organizationally outside the staff or line management function of the unit under audit;
- has access to those charged with governance;
- is sufficiently removed from political pressures to conduct audits and report findings, opinions, and conclusions without fear of political reprisals

TDOT Policy 140.01 – empowers the Office of Internal Audit to conduct audits and investigations of TDOT employees, contractors, and vendors as they relate to potential fraud, waste, and abuse.

All individual members should be free both in fact and appearance from personal, external, and organizational impairment to independence. Auditor/investigator independence will be documented for each engagement by the Project In-Charge, Assisting members, Audit Principal, and Internal Audit Director. This will be accomplished by using the Independence Procedure Step within the case management file. The In-Charge is responsible for ensuring the independence documentation has been completed by everyone assigned to assist and review the project.

## 2.5 Impairments to Independence

### *Personal Impairments*

Specific situations may transpire wherein a member may experience some difficulty in achieving impartiality because of their views and/or personal situations and relationships. These impairments may include the following:

- Financial interest in an individual, an entity, or a program being investigated.
- Biases, including those induced by political or social convictions that result from employment in, or loyalty to, a particular group or organization.
- Official, professional, personal, or financial relationships that might affect the extent of the inquiry, limit disclosure of information, or weaken the investigative work in any way.
- Preconceived opinions of individuals, groups, organizations or objectives of a particular program that could bias the investigation.
- Previous involvement in a decision making or management capacity that would affect current operations of the entity or program being investigated.

### *External Impairments*

Factors external to the investigative organization may restrict its ability to conduct an independent and objective investigation and issue reports of investigation. Such factors include:

- Interference in the assignment of cases or investigative personnel;
- Restriction on funds or other resources dedicated to the investigation or to investigative organizations;
- Influence on the extent and thoroughness of the investigative scope, the way in which the investigation is conducted, the individual(s) who should be interviewed, the evidence that should be obtained, and the content of the investigative report; and
- Denial of access to sources of information, including documents and records.

If circumstances arise that might be construed as impairment to independence, the member must appraise the Principal Auditor or Audit Director as soon as possible after the situation first becomes known.

## 2.6 Due Professional Care

***Due professional care must be used in conducting investigations and in preparing related reports.***

This overarching standard requires a constant effort, on behalf of the Office of Internal Audit and its audit/investigative staff, to achieve quality and professional performance. Conducting the investigation in a systematic and thorough manner ensures that a high quality effort will produce a high quality report. However, it does not imply infallibility or provide absolute assurances that an investigation will reveal the truth of a matter.

In this regard, TDOT's Office of Internal Audit will endeavor to espouse these characteristics in the conduct of an investigation:

### ***Legal Requirements***

Internal Audit investigations will be initiated, conducted, and reported in accordance with (a) all applicable laws, rules, and regulations; (b) guidelines from law enforcement and prosecuting authorities; and (c) TDOT policies and procedures.

***Investigations should be conducted with due respect for the rights and privacy of those involved.***

### ***Thoroughness***

Internal Audit investigations must be conducted in a diligent and complete manner. Reasonable steps will be taken to ensure that pertinent issues, specifically the initial allegations, are sufficiently resolved and all

appropriate remedies (criminal, civil, contractual, or administrative) are considered.

***Appropriateness***

Internal Audit investigations must be conducted using specific methods and techniques appropriate for the circumstances and objectives.

***Objectivity and Impartiality***

Internal Audit investigations must be conducted to ensure that evidence is gathered and reported in an unbiased and independent manner. Objectivity is essential in determining the validity of an allegation or the resolution an issue.

Evidence evaluation will include all inculpatory and exculpatory information. In addition, Internal Audit investigations must be conducted in a fair and equitable manner, with the perseverance necessary to determine the facts.

***Timeliness***

Internal Audit investigations must be conducted and reported in a timely manner. Timeliness is critical given the impact investigations have on the lives of individuals and TDOT's operational activities.

The effectiveness of an investigation depends, in part, on the promptness of the member(s) completed work products, analyses, observations, memorialized witness interviews, and other documentation.

***Accurate and Complete Documentation***

Internal Audit investigations must report observations, findings, and accomplishments (indictments, convictions, remunerations or recoveries, etc.) supported by adequate documentation (investigative notes and documentation, court orders, and commitment, suspension or debarment notices, settlement agreements, etc.) and appropriately maintained in the case file.

**2.7 Record Retention**

***Investigative Work Papers***

Case Files and reports associated with **substantiated allegations** will be maintained in perpetuity. When office storage space becomes unavailable, they will be transferred to the State Records Center. Electronic work papers will also be maintained in perpetuity in cooperation with TDOT's Information Technology Service Division. Unsubstantiated allegations will be kept on file for a period of seven (7) years.

## 2.8 Internal Audit - Internal Quality Control

Investigative work paper sign-off of the preparer signifies the completion of the document attachment, investigation step, or project. Evidence of quality assurance review includes the Audit Director, Principal Auditor, or In-Charge's review comments recorded in the Investigation Project Binder. If a document is subsequently changed after review, the document will be flagged and will require additional approval by a designated reviewer.

The reviewer's sign-off of an investigative step documents that the objective was met and that sufficient and appropriate evidence exists to support the conclusions and observations of the preparer.

The final sign-off of the Principal Auditor or the Audit Director in the Project Binder indicates the review of the documentation related to planning, execution, and reporting of the investigative engagement. It also documents approval of the overall assessment of the collective evidence used to support observations and conclusions in the investigative report. After the final sign-off, the project will be frozen from additional documentation revisions through use of specific document security controls.

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### **3 PROJECT MANAGEMENT**

This chapter describes the general procedures to be followed when initiating a new investigation.

#### **3.1 Project Numbering Convention**

Investigations will be prefixed by a four character project code, followed by four digit audit fiscal year, followed by a dash, followed by a three digit sequence number.

For example the initial 2013 investigation project would have the following project number; CASE 2013-001, and the second project would be CASE 2013-002.

#### **3.2 Investigation Procedure Step Numbering Convention**

Investigation Procedure steps use an alpha-numeric numbering convention. A standard template has been created for Sections A-H and is included in section 3.6 of this document. The first step in Section A will be labeled, “A.1.” The second step will be numbered “A.2.”.

#### **3.3 Work Paper Numbering Convention**

Working papers will follow the numbering convention used for the investigative procedure step, plus a numeric extension. For example, the first supporting attachment or exhibit for procedure step A.1 will be A.1.1; the second work paper will be labeled A.1.2 and so on. The pattern continues consistently with the numbering system. Thus, the working paper binder will accept one document as B.11, which is a specific procedure step and allow another as B.1.1 a specific work paper related to procedure step B.1.

#### **3.4 Project Administration and Initiation**

The Director of Audit or the Principal Auditor will initiate the project administration of new investigations. A Project in-Charge will be assigned by the Audit Director or Principal Auditor. The Project in-Charge will be responsible for:

- Opening and closing the project in the binder as well as the Internal Audit drive
- Completion of the Project Budget Request
- Completion of the Independence Statements

- Directing staff assignments
- Composing the Case Investigation Plan
- Ensuring documentation of work in the electronic working paper database
- Meeting milestone dates and time budgets
- Composing the investigative draft report
- Assisting the Principal Auditor and the Audit Director with staff performance evaluations

### **3.5 Project Budget Request**

In order to complete assigned tasks on each engagement in an efficient and effective manner, preliminary time budgets and milestone dates are completed by the Project in-charge, submitted to the Principal Auditor, then forwarded to the Audit Director for final approval. Time is allocated as aggregated by total hours. Milestone dates should be developed using an assumption of a maximum of 30 hours per week per member.

If time extension is necessary, the Project in-charge should include a revised time budget and estimated milestone dates in the Case Investigation Plan. Significant revisions (greater than 10 percent of the initial budget request) required after the approval of the Case Investigation Plan should be approved by the Audit Director using a Revised Project Budget Request form.

### **3.6 Investigation Programs**

Investigation programs encompass all activities pertinent to the case and begin includes the evaluation phase, case/project management, and engagement specific steps.

Note that although the OIA responds to all valid allegations, not all complaints/allegations result in a case being opened. Meritless allegations are terminated using the standard memorandum format.

The following are elements of TDOT OIA's Investigation Program:

#### **Evaluation Phase**

- A.1 Origin of the Allegations
- A.2 Specific Allegations
- A.3 Information Gathering and Data Analysis
- A.4 Preliminary Evaluation

#### **Case Management**

- B.1 Project Independence Statement
- B.2 Initial Project Budget Request
  - B.2.1 Revised Project Budget Request

B.3 Assembling the Team

**Planning and Execution**

C.1 Develop a Fraud Theory

C.2 Nature of the Investigation

C.2.1 Defining the Scope of the Investigation

C.3 Case Investigation Plan

C.4. Interviews and Statements

C.4.1 Interviews- Third Party Witnesses

C.4.2 Interviews-Corroborating Witnesses

C.4.3 Interviews-Admission Seeking Interviews

C.5 Other Investigative Techniques (if applicable)

C.6 Additional Data Analytics (if applicable)

C.7 Coordination with External Agencies (if applicable)

C.8 Root Cause and Internal Control Analysis

**Reporting and Post Investigation Activities**

D.1 Internal and Final Report

D.2 Remediation

For further references refer to the Investigations Template in the production Library folder/tab. This will have each individual step broken down.

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## 4 QUALITATIVE STANDARDS

Qualitative Standards address the criteria and focus on investigative planning, execution, conducting interviews, information management, and reporting the results of investigative activities.

### 4.1 Overview -Planning

*Qualitative standards require that TDOT Internal Audit establish both the organizational and case specific priorities and develop objectives to ensure that individual case tasks are performed efficiently and effectively.*

Planning priorities and objectives apply to both organizational and case specific areas and are essential for efficient use of investigative resources, these include:

- The types and numbers of investigations conducted
- Proper allocation and application of resources,
- Minimal case opening thresholds,

Planning priorities and objectives also apply to specific investigative tasks, these include:

- Who to interview
- What records to analyze
- Time budgets for completing tasks

Qualitative planning standards are best achieved through the preparation of organizational and case specific plans and strategies.

### 4.2 Organizational Planning

This Investigations Standards and Procedures Guide were devised for a goal-oriented operational plan that is consistent with TDOT Office of Internal Audit's mission and oversight function. On an annual basis, beginning each fiscal year, the Director of Internal Audit will prepare a basic, single-source planning document that presents Internal Audit's goals and objectives, allocation of resources, budget guidance and performance measures. The plans will include a projected allocation of resources, identification of priorities, description of investigative programs included in the Annual Audit Plan.

The Annual Audit Plan will be flexible enough to accommodate TDOT's needs and shifting of investigative emphasis and staff resources as circumstances dictate. This flexibility should provide a basis for the professional



management of investigative resources and workload during the planning year.

#### 4.3 Initial Evaluation Phase

The receipt of a complaint from anyone of the available avenues of fraud reporting initiates a preliminary evaluation phase. During this time, consideration is given to the nature of the complaint, the apparent validity of the complaint, the circumstances surrounding the complaint, and a determination of whether the nature of the complaint is fraud, waste, or abuse. The initial evaluation or assessment should include, but will not be limited to, the following considerations:

- Is the complaint related to fraud, waste, or abuse of TDOT or state funds?
- Does the complaint involve gross employee misconduct?
- What are the possible violations indicated by the complaint?
- Are there sufficient objective facts to warrant further consideration?
- Based on the information available after the evaluation phase, do we have sufficient basis to open a formal investigation?

#### 4.4 Individual Case Planning

After the initial evaluation phase, each complaint must be evaluated against the strength of the evidence and circumstances as they exist, TDOT Internal Audit's priorities, and guidelines for one of three decisions:

- Initiate a full investigation (assign a case number),
- Refer the matter to another appropriate authority, or
- Take no further specific investigative action.

If the decision is to initiate an investigation, TDOT Internal Audit will begin any necessary immediate actions and establish an investigative plan of action that includes the following steps:

- Ascertaining the primary nature of the allegations (criminal, civil, and/or administrative).
- Determination of the planned focus and objectives of the investigation.
- Identification of possible violation(s) of law, rule, or regulation and understand the corresponding elements of proof or standards.
- Coordination with internal and external entities as needed.
- Identification and prioritization of the investigative steps necessary to meet investigative objectives. This includes identifying the best approach to take during the investigation in order to resolve the allegations(s) or issue(s).

- Determining the resources necessary to meet investigative requirements.
- Establishing a time-phased approach (budget) that ensures individual leads are pursued on a timely basis and periodic evaluations of progress occur. **This would include an affirmative decision to continue or terminate the investigation.**
- Ensure that investigative steps include the identification of any causative factors that can be reported as weaknesses or internal control issues requiring corrective action by agency management.
- Coordination with appropriate agency or other Government officials if notable security or public health and safety issues are raised.

#### 4.5 Consideration of Previous, Related, or Similar Investigations

Members must give consideration to the results of previous investigations and review engagements that could affect the current investigative objectives.

#### 4.6 Case Investigation Plan

The Case Investigation Plan should document essential investigative objectives and scope and will provide a pathway for meeting the objectives of the investigation.

Investigative plans help investigators identify and organize what is needed to complete an investigation. The plans can be simple or lengthy, depending upon the complexity of the work being undertaken. In the simplest form, the plan should include the following elements:

- Objectives of the investigation
- Potential sources of information
- Investigative resources needed
- Document list
- Analytical procedures to be employed
- Interview list
- Chronology of events
- Estimated timeline for completing the work

The member must be aware that an investigative plan is a fluid lists that may change as the nature investigation evolves (as in the case of uncovering emergent matters) and prospective sources may prove to be unproductive.

The investigative plan guides the member to ensure that all credible sources of information are mined for the investigative information needed.

The member must be aware that the more complex the investigation, the greater the need for a plan to obtain the necessary investigative resources.

This is especially true when working in tandem with other investigative entities; to prevent waste of resources and duplication of efforts.

**When investigative plans are modified, it is the responsibility of the in-charge to track every revision by keeping a dated copy of each version of the investigative plan.**

#### 4.7 Directing Staff Assignment

*Audit supervisors or those designated to supervise must properly supervise investigative staff.*

The Project in-charge will provide first level supervision for all investigative staff assigned to the project.

The Principal Auditor will supervise and direct the Project in-charge and as well as unassigned members.

The Audit Director is ultimately responsible for all investigative staff and the success of each engagement and will provide such direction as required to enable accomplishment of TDOT Internal Audit investigative objectives.

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## 5 INVESTIGATIVE FIELDWORK

### 5.1 Overview - Execution of the Investigation

*Investigations must be conducted in a timely, efficient, thorough, and objective manner.*

The member is a fact-gatherer and should not allow speculation, opinion that is unsubstantiated, biases or personal feelings, and conjectures or conclusions to affect the nature of the investigative work. The member has a duty to be receptive to evidence that is incriminating, as well as exculpatory. The member should collect and analyze evidence through a number of techniques, including, but not limited to:

- Reviews of Records (personnel file, contract or grant files, financial and banking records, etc.) and Data Analysis
- Interviews of Primary Complainants (if possible),
- Interviews of Neutral Third Party Witnesses,
- Interviews of Victims or Corroborative Witnesses
- Interviews of Potential Accomplices
- Interviews of the Subject of the Allegations or Admission Seeking Interviews
- Additional Analytical Procedures (Tracing, Vouching, Ratio Analysis)
- Collection of Physical or Forensic Evidence
- Surveillance and consensual monitoring
- Utilizing computer tools and technology (link analysis, databases, spreadsheets, cyber forensics, data mining, etc.).

The following guidelines should be considered with the caveat and understanding that investigations are often unpredictable, fluid, and can be volatile:

#### ***Conducting Interviews***

A review of known information should precede a planned interview. The member should identify himself/herself to the interviewee and state the purpose of the interview, if appropriate. When conducting an interview, the interviewer should endeavor to:

- Provide appropriate warnings to those individuals suspected of violating law or regulation. (Witnesses generally do not require rights advisement.)
- **Do not attempt to hold the respondent against their will** – at the onset of the interview, remind the interviewee that he or she is free to leave at any point during the interview.

- Pay particular attention to obtaining the interviewee's observations and knowledge of incidents and actions or statements of other persons connected with the event.
- Ask interviewees to provide, or identify the location of, relevant documents.
- **Remember that all interviews are subject to inclusion in reports.**
- Remember that any contemporaneous interview notes that are prepared in a **criminal investigation** should be retained as required by law or agency policy.
- ***Never negotiate with the interviewee*** – as an investigator, you are not empowered to promise anything in exchange for information.
- Ensure that two investigators be present when conducting interviews in situations that are potentially hazardous or compromising.
- Ensure witness requests for confidentiality be considered and properly documented but ***do not promise confidentiality***.
- Properly document all interviews.

#### ***Evidence Collection and Chain of Custody***

Evidence should be collected in such a way as to ensure that all known or obviously relevant material is obtained, the chain of custody is preserved, and the evidence is admissible in any subsequent proceeding. When collecting evidence, the member should endeavor to:

- Establish the validity of information and evidence obtained during an investigation. Evidence should be verified by as many sources as are necessary and reasonable to establish the validity of such information.
- When utilizing specialists or subject matter experts (SMEs):
  - Assess the specialist's ability to perform and report on the work in an impartial manner ( e.g., criminal laboratory examiners, computer forensic examiners, and financial experts)
  - Understand the scope and objective required of the specialist.
  - Consider the specialist's professional certification, experience, and relevant standards.
  - The disposal and destruction of physical evidence must be followed and verified.

#### ***Documenting Activities***

The results of investigative activities should be accurately and completely documented in the case file. TDOT's Office of Internal Audit's General Standards specifically and clearly address due diligence and timeliness of the documentation.

#### ***Compliance with Legal Requirements***

Interviews, evidence collection, and other activities must be initiated, conducted, and reported in accordance with all applicable laws, rules, and regulations. All investigative activities should be conducted with due respect for the rights and privacy of those involved.

## 5.2 Data Analysis

Analyzing available data, more often than not, is a critical initial process in determining whether to proceed with an investigation. Analysis of objective information, from both internal and external sources, can provide insight into anomalous events, transactions, or behavior. If possible, always perform initial analytical procedures before initiating other investigative procedures.

## 5.3 Developing a Fraud Theory

The Fraud Theory approach to complex investigations is not unlike the scientific method of experimentation, and involves the following steps:

- Analyze the available data
- Based on the analysis of available data, create a hypothesis
- Test the hypothesis against the available facts;
- If the initial hypothesis is refuted, refine and amend it until reasonably certain conclusions can be drawn.

The approach begins with an educated supposition or deduction, based on the available evidence, of what the investigator thinks may have happened. This educated supposition is then used to generate an investigative plan to test that will either prove or disprove the assumption. (See Appendix for an example)

## 5.4 Predication

Adequate predication is the guiding principle and the primary qualitative factor necessary to move forth with any investigative effort. This means having a factual foundation, reasonable basis, or probable cause to execute an investigation. It usually develops in stages wherein the first review or analysis provides sufficient predication to discreetly check internal records, which can then provide predication for more in-depth inquiries, and so on.

Members must understand common business rules pertaining to cost-benefit considerations and efficient use of limited resources. Additionally, TDOT Internal Audit has little regard for fishing expeditions or following “bunny trails”. Therefore it is imperative that all TDOT investigations be performed on solid legal basis before initiation. At **every** point of the investigation, the member **must** ask the question, “Do I (we) have sufficient basis to move forward?” additionally, it is imperative that before proceeding, the member should be able to answer **YES** to the question, “Based on all the available information and circumstances, taken as a whole, would a reasonable, prudent, knowledgeable person, determine that a fraud has, is currently, or,

will occur?” If the answer is **NO**, then the member must cease all investigative activity.

A member should not investigate beyond the available predication. If the member can't articulate a factual basis or good reason for an investigation, or the next investigative step, the member should not do it, as the investigation will be punitive and without foundation. Investigating beyond the available predication is unproductive and inefficient and goes against the value proposition of the Internal Audit function.

## **5.5 Case Chronology**

Members involved in investigative engagements benefit from arranging case facts in some timeline or chronological sequence. Putting the facts in the order they occurred is beneficial especially in instances where the member needs to testify in court regarding the subject's knowledge and intent (what the subject knew and when).

In a Word document or an Excel spreadsheet, create a table to record pertinent information such as the dates pertaining to the event or document(s), and the source of information. Include important meetings, places travelled, telephone call logs, email communications, key documents and other important, potentially relevant evidence. Review and update the table regularly, adding new information that the continuing investigation shows to be relevant and excluding what is shown to be irrelevant.

## **5.6 Conducting Investigative Progress Reviews**

Supervisory reviews of case activities should occur periodically to ensure that the case is progressing in an efficient, effective, thorough, and objective manner.

## **5.7 Documenting Work Papers**

Members must prepare investigative documentation related to planning, executing, and reporting. Members should prepare documentation in sufficient detail to enable an experienced auditor or investigator, having no previous connection to the investigation, to understand from the investigative documentation the nature, timing, extent, and results of the investigative procedures performed. The evidence obtained and its source and the conclusions reached, including evidence that supports the members' significant judgments and conclusions.

Work papers should be complete but concise and usable as a record of work performed. Members should include in their work papers only what is essential and they should ensure that each document included serves a purpose that relates to an objective.

Each work paper prepared by the member should include:

- Investigative project number
- Work paper title and work paper number
- Prepared by
- Prepared date
- Data source

Furthermore, documentation should include the objective, source, scope, criteria, work performed, results, and conclusion of the investigative procedure as follows:

**PURPOSE:**

This should consist of a “brief” description of the purpose for the particular working paper. This can best be accomplished by explaining what is expected to be accomplished and why.

**WORK PERFORMED:**

This is a full explanation of the work done to accomplish the objective. It should include a description or a narrative of the work that was conducted.

**REFERENCE SOURCES:**

This should include a listing of all reference sources (e.g. name, position, phone number, email address, etc.) interviewed or consulted in conjunction with the procedures section below. It should also include any computer application, web site references, regulations, procedures, or other documents/references that are relevant.

**RESULTS and CONCLUSIONS:**

Results provide a description of any analytical procedures performed and the corresponding outcome associated with the procedures performed.

Conclusions should consist of a “brief” statement delineating objective determination relating to the results of the work performed as it pertains to the investigative goals.

## 5.8 Emergent Issues

During the planning and execution phases, potential investigative issues may arise that may or may not be significant in the context of the investigation in



progress. The primary task of the investigator, at the point of uncovering the emergent issue, is to discuss these matters with the Principal Auditor and the Audit Director.

After discussion with Audit Management, and on the basis of adequate predication, the emergent issues will either be addressed in one of three ways:

- Expand the current investigation to include the emergent issue
- Open a new investigation
- Refer the emergent matter to the appropriate party.

When an emergent issue is included in the current investigation, the case investigation plan should be updated to reflect the changing circumstances and care should be taken to adequately develop additional procedures that will address, both, the original allegations and the emergent issue.

## 5.9 Observations

Members should report investigative observations by providing credible, sufficient, competent, and relevant evidence that relates to the allegations. They also should be presented in a manner to promote adequate understanding of the matters reported and to provide convincing but fair presentations in proper perspective. The finding should provide selective background information to provide the context for the overall message and to help the reader understand the finding and significance of the issues discussed.

## 5.10 Work Paper Review

Work papers should be reviewed as soon as they are prepared to provide timely feedback to the preparer.

Prior to the beginning of the fieldwork phase, all documentation pertinent to the administrative and planning phases should have been entered into the work papers binder and database and reviewed.

All work papers will have a minimum of one level of review. The Project in-charge should review all documentation prepared by the investigative team. The Principal Auditor will review documentation prepared by the Project in-charge. Work papers prepared by the Principal Auditor will be reviewed by the Audit Director. This will ensure accurate and sufficient information for planning and performing the investigation.

While content is more important than format, the reviewer **will verify**:

- All planned objectives and supporting investigative procedures were completed or justification provided for exclusion
- Work papers and supporting documentations are sufficient, accurate and reliable
- The conclusions reached were reasonable, logical, and valid
- The working papers were prepared in accordance with Internal Audit Investigation Standards and Procedures Guide.

Any work saved to the hard drive of a computer while in the field should be transferred to a network drive at the earliest possible occasion. Daily back-ups should be created until the work papers can be transferred to Office of Internal Audit's shared network drive. Sensitive or confidential information should not be saved on the member's laptop hard drive.

### 5.11 Investigative In-Process Reviews

Near the end of the execution (90% of budget field work hours complete) the In-Charge will prepare documentation and meet with the Principal Auditor and Audit Director to discuss the progress of the investigation. The documentation will:

- Provide an answer to each allegation
- List the work conducted thus far and observations noted
- Provide a root cause analysis of how the fraud occurred
- Provide recommendations to address internal control issues
- Validate member and calendar days to complete draft report

Upon review of the investigative activity, the Principal Auditor or Audit Director will make a determination whether additional work needs to be performed or whether the investigative procedures should be suspended. Whether the allegations are substantiated, unsubstantiated, or partially substantiated, a draft report will be initiated to complete the investigation. If criminal activity has been observed, the Audit Director will report the irregularity to the Commissioner or the Chief Financial Officer, the TDOT Legal Counsel, or the Tennessee Comptroller of the Treasury, or the District Attorney for further action.



## 6 CASE AND INFORMATION MANAGEMENT

### 6.1 Overview –Information Management

*Investigative data must be stored in a manner that allows effective retrieval, reference, and analysis, while ensuring the protection of sensitive data (i.e., personally identifiable, confidential, proprietary, or privileged information or materials.).*

An essential mark of an efficient, professional investigative organization is the ability to store, secure, and retrieve information and data that it has generated and collected. Effective information management creates and sustains organizational memory and enhances the entire organization's ability to conduct pattern and trend analyses. In other words, it improves Internal Audit's ability to fulfill the mandate of detecting, identifying, and preventing fraud, waste, and abuse.

A residual benefit of a sustainable information management system is that it assists in the process of making informed judgments relative to resource allocation, training needs, investigative program development, and prevention and implementation of the investigative process.

The Office of Internal Audit will maintain the following workload data and include them in the annual report to the TDOT Commissioner and the Chief Financial Officer:

- Number of complaints handled
- Cases opened
- Cases closed
- Cases pending (active as of report date)
- Referrals to program managers, other investigative agencies, and outcomes from such referrals
- Amount of direct labor hours expended on each case and on annual investigative activity.
- Quantified dollar losses (where appropriate)
- Quantified recoveries and remunerations (where appropriate)

### 6.2 Complaint Handling Activities

TDOT Internal Audit's investigative process often begins with information received in the form of a complaint from an individual or a group. The initial complaint will rarely provide the agency with all the necessary information and may be the first indication of a serious fraud, waste, abuse, or even a violation of the law. The primary means of complaints will be received through the TDOT Internal Audit Hotline.

### 6.3 The TDOT Hotline

#### ***Purpose Statement***

The Fraud, Waste, and Abuse Hotline is a mechanism designed to allow the reporting suspected cases of fraud, waste, or abuse of TDOT funds by employees, contractors, or vendors. The Fraud, Waste, and Abuse Hotline are not a substitute for employment-related grievances or appeals; the TDOT Human Resources Division and the Tennessee Department of Human Resources have specific policies and procedures that provide a pathway for resolving of these types of issues.

#### ***Confidentiality and Limitations***

The Office of Internal Audit will endeavor to maintain the confidentiality of all complaints, associated reports, working papers, and other documentations related to any investigation. However, because of the nature of certain complaints, Internal Audit does not and cannot provide **absolute** confidentiality.

#### ***Whistleblower Protection***

Under the **Tennessee Code Annotated § 50-1-304** an employer may not take any act of reprisal against an employee who advises the employer that the business is in violation of a law and the employee either discloses, threatens to disclose, or testifies about the violation of law, or the employee objects to or refuses to participate in an employment act in violation of law.

TDOT will not retaliate, nor will it tolerate retaliation on employees who, in good faith, report suspected cases of fraud, waste, and abuse violations or who participate in an investigation of suspected ethics violations. Any act of retaliation should be reported immediately to the Director of Internal Audit.

#### ***Required Information***

The Office of Internal Audit requires a minimum amount of information to follow-up on a complaint. When contacting Internal Audit, you are reporting fraud, waste, abuse that involves a TDOT employee, a contractor or a vendor doing business with TDOT - please have the following information:

- Who the suspect(s) involved are.
- The nature of the alleged incident.
- How the alleged incident was committed.
- Where the alleged incident occurred.
- When (or approximately when) the alleged incident occurred.
- If possible, include video graphic, photographic, documentary, or other physical evidence related to the complaint.

The Office of Internal Audit will investigate complaints received related to fraud, waste, and abuse.

### ***Other Complaints***

In most cases, immaterial quasi-fraud related complaints, which are in reality supervisory purviews, will be referred to the appropriate management structure for further review and investigation. The Director of Internal Audit will send the affected Department Director or Manager a confidential referral memorandum notifying him or her of the complaint and requesting a timely response in resolving the complaint.

Functional Directors and/or Managers have the responsibility to provide a reply that addresses the following:

- A reactive plan of action to address the alleged issues or concerns
- A description of how the issues or concerns were resolved
- A preventive plan of action to preclude the issues or concerns from recurring

### ***Reporting and Resolution***

An investigative memorandum addressed to the Chief Financial Officer will result after every initiated investigation. If a hotline complaint is substantiated, the following enforcement consequences may happen for those found to be at fault:

- Enforcement actions are implemented through the TDOT's management structure.
- Disciplinary actions by management and TDOT's Human Resource may include oral or written counseling, oral warning, written reprimand, suspension, demotion, or termination.
- Actions may include management intervention, discipline, or referral to an outside law enforcement agency.

## **6.4 Case Initiation**

The Audit Director or the Principal Auditor will be the sole approving authority within Internal Audit to make a determination to initiate an investigation or to pursue another course of action. Case assignments will be based on resource considerations, level of experience of personnel, and current workloads. A decision not to investigate (refer to another entity or take no action) should be documented.

Once a decision to open a case has been determined, the approving authority will provide a memorandum, in the standard OIA format, addressed to the Chief Financial Officer and copying the Comptroller of the Treasury, TDOT's Chief Legal Counsel, Bureau Chief of the affected division, and the Division Director where the allegation originated. The memorandum will provide a summary outlining the nature of the allegation, the manner it was received, and the justification and basis for opening the case.

Referrals to the appropriate parties when a case is not formally opened will be initiated using the standard OIA memorandum format that delineates the nature of the allegation, the manner it was received, and the basis for referring the matter addressed to the same parties as above with the exception of the Comptroller of the Treasury.

## 6.5 Custody of Investigative Documentation

Investigative work papers are the property of TDOT. They should remain under the control of the TDOT Internal Audit and should be accessible only to authorized personnel. Investigative working papers are considered sensitive and appropriate care should be taken to **prevent disclosure** to individuals making an official public records request.

TDOT Management and other members of the organization may request access to investigative work papers. Such access may be necessary to substantiate or explain investigative observations or to utilize documentation for other business purposes. Sharing of work papers, such as member generated analyses, which do not contain confidential information, is encouraged as long as precautionary procedures are observed. If there is any question regarding access to work papers, consult and seek the approval of the Audit Director or Principal Auditor before taking any action.

## 6.6 Work Papers with Confidential or Sensitive Information

The member **shall not** publicly disclose any information received during an investigation that is considered proprietary in nature by any local, state or federal law or regulation. Sensitive observations or any information likely to result in increased attention should be safeguarded and only discussed with TDOT Internal Audit **assigned to the project** or appropriate personnel within the investigated entity. Care must be taken to ensure specific case information is not discussed within hearing range of others (such as in hallways, elevators, restaurants or outside.) When in doubt whether information should be safeguarded, consult with the Principal Auditor or the Audit Director.

When confidential information (such as individuals' names linked with their social security numbers, health related conditions linked to personally identifiable data, juvenile court records, bank account information) must be included in investigative working papers, minimize the volume of information retained. Whenever possible, you should redact all personally identifiable information in the work papers. All documents or electronic files containing confidential information should be labeled and secured at all times.

Confidential electronic files should never be stored on portable storage devices (flash drives), compact disks/DVD media, or transmitted by e-mail.

### **6.7 Security of Investigative Work Papers**

While an investigation is in progress, the work papers must be safeguarded to ensure that they are not misplaced, stolen, altered, or obtained by unauthorized personnel. After the audit is completed, work papers are to be maintained electronically in the work papers database or in a secured location.

Extraneous documents and electronic files should be disposed of after the project is finalized and the report is released to the Commissioner and Chief Financial Officer. If the hard copy documents contain personally identifiable, confidential, or sensitive information should be shredded.

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## 7 REPORTING

### 7.1 Overview

*OIA members must issue reports that communicate the results of each completed investigative work.*

*Investigative reports (both oral and written) must thoroughly address all relevant aspects of the investigation and be accurate, clear, complete, concise, logically organized, timely and objective.*

After every engagement, an investigative report (or other form of communication) is completed by the investigative team or the investigator in-charge and reviewed and finalized by the Principal Auditor. The final report is devised as an internal memorandum format and presented to the Director of Internal Audit at the conclusion of the investigative engagement. While the reporting format is standardized, some variation exists based on the type of engagement.

The investigative report must be accurate, and clearly, as well as concisely, reflect the relevant results of the investigative efforts. It should be presented in straightforward, grammatically correct language; avoiding the use of unnecessary, vague, and obfuscating verbiage. Graphics should be well prepared, clearly relevant to the investigation, and supportive of the presentation.

Internal Audit's investigative reports state the facts to facilitate reader comprehension. The report should include a clear and concise statement of the applicable law, rule, or regulation that was allegedly violated or that formed the basis for an investigation.

The investigative report will be logically organized, accurate, complete, concise, impartial, clear, and issued in a timely manner.

- Reports must contain exculpatory evidence (in administrative, civil, or criminal investigations) and relevant mitigating information when discovered.
- Evidence included in the investigative report must be supported by documentation in the investigative case file,
- The investigative report must contain an accurate recitation of facts.
- The investigative report should clearly record or reference all pertinent interviews, contacts, or other investigative activities.
- The investigative report or case files should reflect what the investigation accomplished. This would include fines, savings, recoveries, indictments, convictions, management recommendations, etc.



- The investigative report should be organized in an orderly, logical manner to identify the issues and evidence quickly.
- The investigative report should be no longer than necessary without sacrificing clarity, completeness, and accuracy to communicate the relevant investigative findings. Reports should neither raise unanswered questions nor leave matters open to misinterpretation.
- In some cases, the investigative report may include specific allegations that were not investigated to ensure decision-makers can take further action as they deem appropriate.
- The investigative report should not contain personal opinions, views, or subjective interpretation of the evidence. All assessments, conclusions and observations must be based on available facts.
- The investigative report should address systemic internal control weaknesses or management problems and include recommendations that will help address those matters.

## 7.2 Investigative Reports

The Project in-charge will provide a cross-referenced draft of the investigative report to the Principal Auditor, who will be responsible for reviewing supporting working papers and refining the draft report and creating a final report. All significant information should be cross referenced to the appropriate work paper of reference document. The Principal Auditor will provide the final report to the Director of Internal Audit.

The investigative report should utilize the investigations draft template which contains the following sections: Investigation Initiation, Purpose of the Investigation, Standards, Executive Summary, Background, Procedures Summary, Procedure Results, Discussion and Analysis, and Recommendation(s).

The Project in-charge should obtain the current TDOT Internal Audit report template from the Principal Auditor or the Director of Audit. The report should use the “Century” font with size “11”, justified, and should contain only one blank space after a period. The following below are elements of the investigative report and an expanded description.

The Director of Internal Audit will then issue a confidential memorandum summarizing the contents of the report to the report distribution list which include: the Chief Financial Officer, the Bureau Chief of the affected Division, the Division Director, TDOT Legal, and the Comptroller of the Treasury’s Fraud Division. In certain cases, the report may also include the Commissioner (if applicable) and the Director of Human Resources.

***Investigation Initiation*** – This section contains a brief discussion of Internal Audit’s mandate to investigate and provides information regarding the manner in which the complaint was received, when it was received, and when OIA initiated the investigation.

***Assigned Investigators*** – Acknowledges the audit staff involved in the investigative assignment

***Purpose of the Investigation*** – Delineates the primary reason for initiating the investigation and a discussion of the reporting structure

***Standards*** – This section describes the professional standards followed by the investigative team and their credentials.

***Executive Summary***– This section provides a summation of the work conducted and any outcomes or conclusions from the work conducted. This section explicitly states whether allegations were substantiated or not.

***Background*** – This section provides information regarding the function investigated and the specifics of how the allegations came to light as well as an enumeration of the specific allegations and the names of the individuals involved.

***Procedures Summary***– This section provides a description of the various work conducted and a synopsis of the relevant work done to ascertain whether the allegations had factual merit.

***Procedure Results*** – This section provides an objective statement of the results of the work conducted. This section includes all evidentiary matters (incriminating or exculpatory), and results of internally generated analytical procedures.

***Discussion and Analysis*** – This section provides a discussion of the results of the work and analysis conducted (determinations and conclusions), specific rules, policies, or applicable laws that were violated as well as the critical Root Cause Analysis.

***Recommendations*** – This section provides the client with sound recommendations designed to enhance the internal control structure or help prevent the future recurrence of the incident/event in question.

### 7.3 Final Report Distribution List

The final external memorandum report originating from the OIA will be distributed to the following:

- The Chief Financial Officer
- The Bureau Chief of the function investigated
- The Director of the function investigated
- Chief Legal Counsel
- The Comptroller of the Treasury
- Others parties within TDOT, as needed

## APPENDICES

### 7.4 APPENDIX A– Professional Standards

#### **American Institute of Certified Public Accountants (AICPA)**

##### *Statement for Consulting Services No.1*

- **Professional competence** - Undertake only those professional services that the member or the member's firm can reasonably expect to be completed with professional competence.
- **Due professional care** - Exercise due professional care in the performance of professional services
- **Planning and supervision** - Adequately plan and supervise the performance of professional services.
- **Sufficient relevant data** - Obtain sufficient relevant data to afford a reasonable basis for conclusions or recommendations in relation to any professional services performed.
- **Client Interest** - Serve the client interest by seeking to accomplish the objectives established by the understanding with the client while maintaining integrity and objectivity.
- **Understanding with Client** -Establish with the client a written or oral understanding about the responsibilities of the parties and the nature, scope, and limitations of services to be performed, and modify the understanding if circumstances require a significant change during the engagement.
- **Communication with Client** -Inform the client of (a) conflicts of interest that may occur pursuant to interpretations of Rule 102 of the Code of Professional Conduct, 2 3 (b) significant reservations concerning the scope or benefits of the engagement, and (c) significant engagement findings or events.

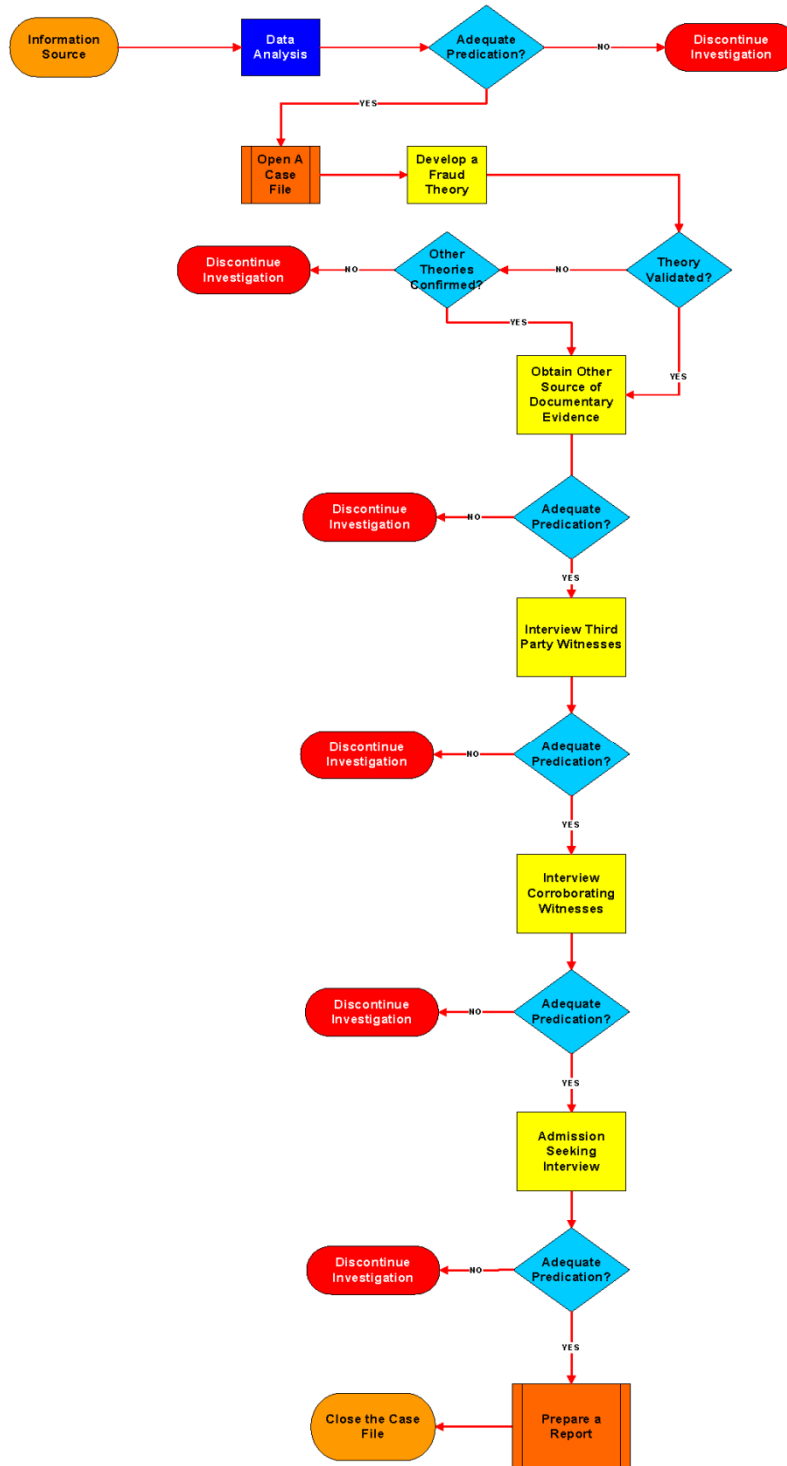
#### **Association of Certified Fraud Examiners (ACFE)**

##### *Professional Standards for Certified Fraud Examiners (Paraphrased and Summarized)*

- Conduct the engagement with integrity.
- Disclose potential conflicts of interest.
- Maintain objectivity during the engagement.
- Conduct yourself in the best interest and reputation of the profession.
- Never knowingly make false statements, especially when testifying
- Comply with lawful orders of the court
- Never commit illegal or criminal acts, or induce others to do so.
- Be competent in the engagements accepted.
- Comply with continuing education requirements of the organization
- Exercise due professional care in performance of the engagement
- Adequately plan the engagement
- Adequately supervise assistants

- Make conclusions that are supported by sufficient, relevant, and competent evidence.
  - Reach an agreement with the client regarding the scope of the engagement.
  - Communicate significant finding.
  - Do not disclose confidential or privileged information without assent from the client.
  - Conduct fraud examinations in a legal, professional, and thorough manner to obtain complete, reliable, and relevant evidence.
  - Establish a predication and scope priorities and be efficient in the execution of the work.
  - Consider the bias of the witness, as well as exculpatory and incriminating evidence.
  - Gather documentation in accordance to the needs and objectives of the client.
  - Provide a report that is not misleading and contains objective opinions based on sufficient relevant data.
  - **Never give an opinion on the legal guilt or innocence of any person or entity.**
-

7.5 APPENDIX B– Predicative Investigation Process



Source: Adapted from the work of Dr. Joseph T. Wells, 2003

## 7.6 APPENDIX C— Example: Fraud Theory Development

***Hypothetical Case:*** An anonymous tip was received by Internal Audit alleging preferential treatment or corruption in the selection and awarding of government contracts by a named TDOT official was occurring.

***Member One:*** Pursues the case without devising an investigative plan. Member One begins by asking a dozen witnesses if they have any knowledge of payoffs; none do (this is not unusual). Member One requisitions the contract files and whatever else he can think of; indexes their contents, but finds no smoking gun (this is even less unusual). He confronts the suspect, who denies it. Member One does not know what else to do. Member One has assembled a thick file and an impressive command of the facts, but cannot substantiate anything.

***Member Two:*** pursues the same case, using the fraud theory method: Member Two analyzes the available data and the details of the allegations. Investigator Two formulates a hypothesis:

Member Two postulates that Contractor A is paying kickbacks to the TDOT official to gain the contracts.

Member Two then makes key assumptions which can be used to test the theory. Member Two postulates that if the allegations are true the following will be shown:

- TDOT official would be expected to favor Contractor A in buying decisions,
- Bend or break the rules, or
- Approve higher prices, for Contractor A
- Additionally, with the added income, the TDOT official will display sudden new wealth or have unexplained income.

Member Two then uses the theory to organize the investigation and looks for indicators and evidence to verify or rebut the assumptions.

The case theory approach generates the investigative plan to ascertain whether 1, 2, 3, or 4 has occurred and if the theory is correct, evidence of one of the choices will be seen and therefore hint at possible substantiation of the allegation. If not, the investigator may conclude that Contractor A is not paying off TDOT official.

This approach also enables the member to prove, to a certain degree that a suspected act did not occur. Member One, after interviewing a dozen witnesses, did not know if bribes had been paid or not, only that it could not be substantiated. Member Two, however, can have some assurance that the

alleged acts did not take place, if no evidence appears in support of the test assumptions.

The case theory approach is simply an investigative tool to generate a hypothesis that can help organize and direct an investigation, based on the information available at the time. ***It should not be treated as evidence itself.*** Members need to be mindful not be too committed to any particular theory and always be ready to amend or abandon it as necessary.

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7.7 APPENDIX D– Example: Investigative Memorandum Report



OFFICE  
OF INTERNAL AUDIT

Tennessee Department of  
Transportation

James K. Polk Building  
Suite 1800, 505 Deaderick St.  
Nashville, TN 37243  
Telephone: 615.741.1651  
FAX: 615.532.6760

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**CONFIDENTIAL MEMORANDUM**

**Date:** January 18, 2013  
**To:** Mel Marcella, Director of Internal Audit  
**From:** G. Grant Gouveia, Principal Auditor  
Danny Hall, Investigator  
**Subject:** CASE 2014-0XX – [REDACTED] (Title)

**Investigation Initiation**

Per TDOT Policy 140-01, the Office of Internal Audit is tasked with reviewing and investigating instances of employee fraud, waste, and abuse. The Office of Internal Audit received the complaint through a telephone call on January 8, 2013. Internal Audit initiated an examination on January 9, 2013 to ascertain whether the allegations had factual basis.

**Investigators Assigned**

Danny Hall, CFE  
G. Grant Gouveia, CFE (Quality Assurance)

**Purpose of the Investigation**

The purpose of this investigation was to determine the facts concerning allegations alluding to falsification of time sheets and general time abuse at the [REDACTED] Maintenance facility. The allegations primarily centered on complaints that the Floating Maintenance Unit was allowed to go home at 1:30 pm on December 21, 2012 but was paid for a full day's work (7.5 hours). These allegations amount to falsification of timesheets and theft of time.

Any findings or observations of fraud and other criminal acts would be referred to the District Attorney, Police Department, or other appropriate law enforcement agencies. Any findings related to employee misconduct, waste, abuse; as well as process inefficiencies and deficient internal controls would be forwarded to the management of the Floating Maintenance Unit, as well as other responsible parties within TDOT for corrective action.

**Standards**

We conducted the examination and created the report using the professional standards set forth by the Association of Certified Fraud Examiners. Those standards require that our examination be conducted in a legal, professional, and thorough manner and that we obtain



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evidence and information that is complete, reliable, and relevant. The assigned investigators are Certified Fraud Examiners.

### **Executive Summary**

The Office of Internal Audit conducted several procedures to determine whether any of the allegations contained sufficient foundation and supported by objective evidence. To that end, we conducted personnel interviews and performed document reviews, as well as performing analytical procedures. Interviews as well as corroborating evidence from submitted timesheets for this unit provide sufficient evidence that objectively ***substantiates the allegation*** of theft of time on December 21, 2012.

### **Background**

The Floating Maintenance Unit is responsible for in-place asphalt, asphalt patching, snow and ice removal, and other maintenance function within TDOT. On January 8, 2013, a floating maintenance worker contacted Internal Audit and provided information stating the occurrence of the following:

- Time abuse on December 21, 2012
- Theft of TDOT pallets
- Theft of contents of a 55 gallon container of industrial soap
- Theft of a metal toolbox

The allegations indicated that one [REDACTED], a supervisor in charge of the section, purportedly committed the violations.

### **Procedures Summary**

As part of the evaluative process, the Office of Internal Audit obtained a listing of unit personnel and relevant timesheets for period. Once it was determined that members of the unit (with the exception of four people; one entered their own time for six (6) hours and the other three (3) were out on sick leave) submitted the full complement of 7.5 hours for the day, the Office proceeded with scheduling interviews with the unit staff.

The office of Internal Audit interviewed members of the unit, including the complainant, and several witnesses. Through the interview process, it was verified that on the day of December 21, 2012, shortly after the holiday party (at approximately 1:30 P.M.), the entire staff was sent home by [REDACTED] and subsequently paid for the entire day. Internal Audit interviewed five individuals working in the unit who independently verified that the events occurred as described.

Additionally, the office also conducted an interview with [REDACTED] stated that on the day of December 21, after consulting and seeking the approval of [REDACTED], he instructed his three supervisors to allow the staff to leave after the luncheon, "as long as they have 37.5 hours for the week." Because of this directive, the entire staff left shortly after 1:30 P.M.

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Internal audit subsequently conducted additional analytical procedures to provide a baseline quantification of the hours submitted but not earned by the staff.

**Procedure Results**

The results of the interviews substantiated the alleged inappropriate activity as they pertain to the alleged time abuse but the other contentions pertaining to theft of TDOT property were inconclusive.

The chart below provides a result of the analytical procedures conducted by Internal Audit and reflects a summary of activity for the week ending December 21, 2012. The analysis showed that unearned hours exceed reported overtime indicating that TDOT paid for overtime that some employees did not earn. The complete listing can be seen in Appendix A.

**Exhibit A – Summary Analysis of Payroll Data**

Summary of Activity	
Staff Count on 12/21/2012	21
Total of Unearned Hours	58.0
Total Overtime Hours Submitted	50.5

*Source: Internal Audit Analysis*

**Discussion and Analysis**

The interviews conducted indicated some apparent flaws in timekeeping procedures as well as the possibility of miscommunication. The initial flaw in the process is the apparent lack of supervisory review by [REDACTED] when timesheets are presented for approval. Time for the staff is entered by their respective supervisor but is not diligently checked by [REDACTED] prior to approval. Therefore he did not catch the fact that some of his employees should not have been paid for a full day. Mr. Milam stated in his interview he only checked to see if the supervisors have entered the time into Edison but did not independently verify its correctness.

In addition, miscommunication could have resulted when [REDACTED] instructed his supervisors to let the staff go home, “as long as they have 37.5 hours for the week” could be reasonably misconstrued to mean, “ensure that each member receives at least 37.5 hours for the week.”

**Recommendations**

To promote better internal controls, prevent future recurrence, as well as ensure accurate timekeeping, Internal Audit recommends the following:

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- Supervisors should be instructed on the proper documentation of time into Edison
  - Desist from crediting employees 7.5 hours they did not earn.
  - ██████████ should be instructed as to his responsibilities in reviewing and approving employee time in Edison.
  - Install a camera that overlooks the Floating Maintenance lot to deter future thefts or provide video graphic evidence when a theft occurs.
-

Investigations Standard and Procedures Guide

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**APPENDIX A**

**Exhibit A – Analysis of Payroll Data**

Employee Last Name	Total Hours for the week ending 12/21/2012	Time Reported for December 21, 2012	Overtime for the week ending 12/21/2012	Unearned Hours	Audited Hours
██████	38.5	7.5	1.0	2.5	36.0
██████	44.5	8.5	7.0	2.5	42.0
██████	38.5	7.5	1.0	2.5	36.0
██████	39.5	7.5 Sick Leave	2.0		39.5
██████	37.5	7.5	0.0	2.5	35.0
██████	40.5	7.5	3.0	2.5	38.0
██████	38.5	7.5	1.0	2.5	36.0
██████	38.5	7.5	1.0	2.5	36.0
██████	39.5	7.5	2.0	2.5	37.0
██████	37.5	7.5 Sick Leave	0.0		37.5
██████	39.5	7.5	2.0	2.5	37.0
██████	43.5	8.5	6.0	3.5	40.0
██████	39.5	7.5	2.0	2.5	37.0
██████	39.5	7.5	2.0	2.5	37.0
██████	37.5	7.5 Sick Leave	0.0		37.5
██████	38.5	7.5	1.0	2.5	36.0
██████	38.5	7.5	1.0	2.5	36.0
██████	39.5	7.5	2.0	2.5	37.0
██████	39.5	7.5	2.0	2.5	37.0
██████	38.5	7.5	1.0	2.5	36.0
██████	44.5	8.5	7.0	3.5	41.0
██████	39.5	6.0	2.0	1.0	38.5
██████	39.5	7.5	2.0	2.5	37.0
██████	40.0	7.5	2.5	2.5	37.5
<b>Totals</b>	<b>950.5</b>	<b>159.0</b>	<b>50.5</b>	<b>53.0</b>	<b>897.5</b>

*Source: Internal Audit Analysis of Payroll Data*

**Note:**

Employees highlighted in yellow have supervisory roles and audited hours highlighted in green indicate individuals who validly earned overtime pay.

## 7.8 APPENDIX E– TDOT Fraud, Waste, and Abuse Reporting Protocols

### ***Purpose:***

The Tennessee Department of Transportation’s Internal Audit Office wants to ensure that the general public and state employees have an avenue to voice concerns regarding the suspicious activities of state employees, contractors and vendors in the areas of fraud, waste and abuse. These protocols are to set out the basic framework that the IA Office will use to accept, log and investigate/monitor these incoming complaints.

### ***Reporting Activity:***

There are multiple means in which the public or state employees can report suspicious or fraudulent activity to TDOT’s Office of Internal Audit:

- By mail: in a written complaint addressed to the Internal Audit Office, 505 Deaderick Street, Suite 1800, Nashville, TN 37243
- By email: the complaint to the Internal Audit Office at our suspicious activity/fraud inbox at [TDOT.Fraud@tn.gov](mailto:TDOT.Fraud@tn.gov).
- By telephone: call the toll-free Integrity Hotline at 1-855-801-0137 or locally at (615) 253-5305. A secure voicemail inbox will allow a confidential message to be recorded describing the suspicious/fraudulent activity.
- Through the internet at: <http://www>.
- Through the Comptroller of the Treasury’s Hotline at 1-800-232-5454

### ***Reporting Requirements:***

To prevent the waste of IA employee time and resources, each complaint shall contain a minimum amount of information to facilitate a reliable basis for investigation or referral. Each complaint (by mail, hotline or email) must contain:

- The nature of the alleged incident.
- Who are the alleged suspect(s) or people involved
- How the alleged incident was committed
- Where the alleged incident occurred
- When (or approximately when) the alleged incident occurred
- Any other specific or unique identifying information which will assist the investigation in identifying those involved (Ex: tag # of state vehicle, type of state vehicle, etc.)
- If possible, include video graphic, photographic, documentary, or other physical evidence related to the complaint.

### ***Logging in Complaints:***

Upon receipt of the complaint, the Principal Auditor or the Hotline Manager shall review the complaint and input all appropriate data into the Hotline Notification Form. The complaint at this time will also be assigned a tracking number for managerial and statistical purposes. The number will

always be prefixed with the letters HN, followed by the four digits of the year received, and a 3 digit numerical reference. For example the first complaint received in 2013 would be assigned the tracking number HN 2013-001, then HN 2013-002, etc.

Using the information contained within the Notification Form, an administrative update will also be performed on the Hotline Monthly Report. This report shall list all of the Hotline Notifications (of any origin) and be the managerial clearinghouse of these complaints and their current status.

***Complaints Reviewed***

After completion of the Notification Form and the updating of the Monthly Report, the Notification Form and any other gathered evidence regarding the complaint will be turned over by the Hotline Manager to the Director. The Director at this time will review this information to determine the appropriateness of an Internal Audit investigation/audit or if the complaint will be turned over to the Hotline Committee for managerial assessment and follow-up. It could also be determined by the Director that the information gathered is inconclusive, vague, incomplete or determined unsuitable for follow-up by the Internal Audit Office or the Hotline Committee. These Notification Forms will be marked accordingly and the information removed from the Monthly Status Report, unless requested otherwise by the Director.

***Investigation/Audit Performed***

All investigations/audits commenced by the Internal Audit Office from information gathered through the Hotline are to be performed in accordance with the Office of Internal Audit Investigation Standards and Procedures Guide.

***Referral to Hotline Committee***

Whereas the Director determines that an incoming complaint is not suitable for Internal Audit follow-up, but still requires managerial review, the complaint will be referred to the Hotline Committee. Members of the committee are one representative from the following TDOT Divisions:

- Internal Audit
- Legal
- Civil Rights
- Human Resources

The Hotline Committee is to be a mechanism where Internal Audit can refer **non-fraud, waste, and abuse complaints** to the appropriate managerial hierarchy while also requiring accountability with written conclusions and findings from the appropriate parties. This committee is to meet once on an ad-hoc basis based upon the number of complaints being received. Actions taken (assignment, updates to previously referred cases) are to be tracked and updated in the Hotline Report published and distributed semi-annually.

***Referral Confidentiality***

When complaints are referred to proper management or through the Hotline Committee, all measures will be taken to assure the confidentiality of the complaint's source. This is to ensure that no retaliation will come against any informant who assists Internal Audit in the performance of its duties.

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