

Audit Report

Office of Internal Audit

Louisville Metro Government

Ethics Program

August 2008



Louisville Metro Government

Ethics Program

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Transmittal Letter

August 25, 2008

The Honorable Jerry E. Abramson
Mayor of Louisville Metro
Louisville Metro Hall
Louisville, KY 40202

Subject: Audit of Louisville Metro's Ethics Program

Introduction

An audit of Louisville Metro's Ethics Program was performed. For this review, the Ethics Program was defined as all the efforts and methods used to convey acceptable ethical behavior in the workplace. The objective was assessing the effectiveness of the Ethics Program. Ethics is an integral component of any effective governance structure. Therefore, it is important to obtain assurance that the risks are adequately mitigated through the internal control structure.

The audit was conducted in accordance with Government Auditing Standards issued by the Comptroller General of the United States and with the International Standards for the Professional Practice of Internal Auditing issued by the Institute of Internal Auditors.

As a part of the review, the internal control structure was evaluated. The objective of internal control is to provide reasonable, but not absolute, assurance regarding the achievement of objectives in the following categories:

- Achievement of business objectives and goals
- Effectiveness and efficiency of operations
- Reliability of financial reporting

- Compliance with applicable laws and regulations
- Safeguarding of assets

There are inherent limitations in any system of internal control. Errors may result from misunderstanding of instructions, mistakes of judgment, carelessness, or other personnel factors. Some controls may be circumvented by collusion. Similarly, management may circumvent control procedures by administrative oversight.

Scope

The audit methodology used to review Louisville Metro Government's Ethics Program was based on industry best practices. The review consisted of two distinct, but complementary, parts.

- 1. Federal Sentencing Guidelines for Organizations (§8B2.1).** Louisville Metro Government's Ethics Program was benchmarked against Federal Sentencing Guidelines for Organizations. The Federal Sentencing Guidelines contain specific requirements for assessing the effectiveness of Ethics Programs. To supplement the requirements, industry best practices were identified for use in the assessment. The various components that comprise Louisville Metro's Ethics Program were reviewed. This included personnel policies, procurement contract language, training curriculum, and collective bargaining agreements. Interviews were conducted with key Louisville Metro Human Resources personnel in order to substantiate the assessment.
- 2. Employee Survey.** A survey of a random sample of employees was performed to assist in the assessment of the effectiveness of the Ethics Program. The focus was the message actually received by employees and their perceptions of the Ethics Program. The survey was developed using the COSO Internal Control Framework for Control Environments (Integrity and Ethical Values component). The sample of employees was selected from all full-time, regular employees and was primarily web-based.

The details of the scope and methodology of the review will be addressed in the Observations and Recommendations section of this report. The audit would not identify all issues because it was based on selective review of procedures and data.

Opinion

It is our opinion that the internal control structure of Louisville Metro's Ethics Program needs improvement. The internal control rating is on page 5 of this report. This rating quantifies the opinion regarding the internal controls. Louisville Metro's Ethics Program does not meet all of the requirements of an effective ethics program. Specific results include the following.

- **Comprehensive Ethics Program.** Louisville Metro does not have a comprehensive Ethics Program. The current program is comprised of various policies and authoritative documents only.
- **Ethics Officer.** Louisville Metro does not have a high-level person designated as the Ethics Officer. This position is responsible for the overall program, and has direct reporting access to executive management.
- **Training.** Ethics training is not a requirement for Louisville Metro employees, and there are no courses offered. Louisville Metro officials covered by the Code of Ethics are required to receive training every two years. This training is focused only on the Code; it is not a comprehensive ethical behavior training program.
- **Reporting.** Louisville Metro does not have a centralized tool for employees to report unethical behavior, or to obtain guidance for potential issues. The methods currently in place vary by department, and do not necessarily offer confidential or anonymous features.

Corrective Action Plan

The Department of Human Resources was asked to provide a corrective action plan. However, it is important to note that an effective Ethics Program requires the participation, cooperation, and support of all Metro departments and employees. Representatives from Human Resources have reviewed the results and are committed to addressing the issues noted. Human Resource's corrective action plans are included in this report. We will continue to work with Human Resources to ensure the actions taken are effective to address the issues noted.

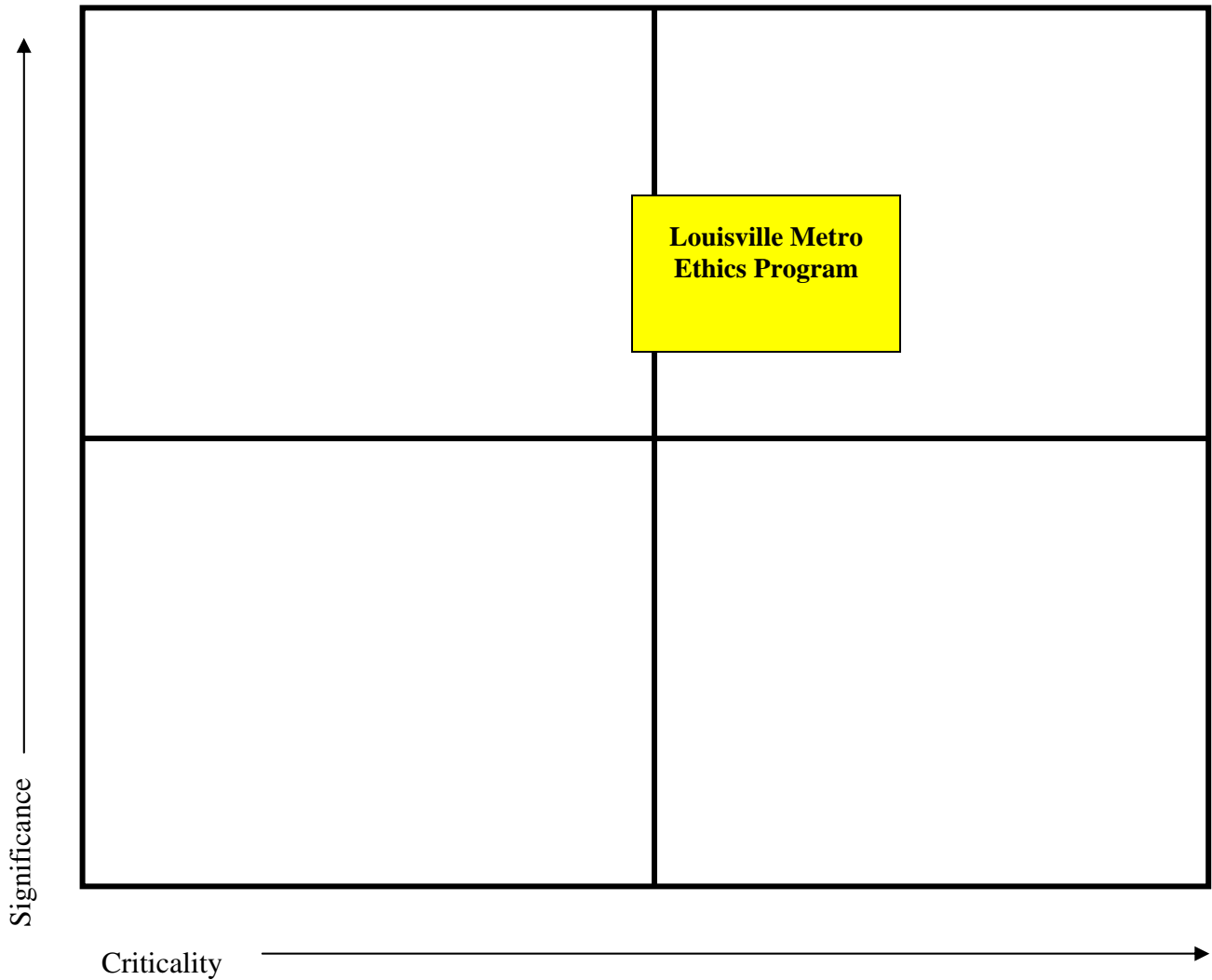
Sincerely,



Michael S. Norman, CIA, CFE, CGAP
Chief Audit Executive

cc: Louisville Metro Council Government Accountability and Audit Committee
Director of Human Resources
Louisville Metro External Auditors

Internal Control Rating



<u>Legend</u>			
<u>Criteria</u>	<u>Satisfactory</u>	<u>Needs Improvement</u>	<u>Inadequate</u>
<i>Issues</i>	Not likely to impact operations.	Impact on operations likely contained.	Impact on operations likely widespread or compounding.
<i>Controls</i>	Effective.	Opportunity exists to improve effectiveness.	Do not exist or are not reliable.
<i>Policy Compliance</i>	Non-compliance issues are minor.	Non-compliance issues may be systemic.	Non-compliance issues are pervasive, significant, or have severe consequences.
<i>Image</i>	No, or low, level of risk.	Potential for damage.	Severe risk of damage.
<i>Corrective Action</i>	May be necessary.	Prompt.	Immediate.

Background

The scope and methodology of ethics program audits performed by internal audit professionals was researched. The purpose was to identify a best practice approach for reviewing Ethics Programs. It was determined that benchmarking with Federal Sentencing Guidelines for Organizations was a best practice approach, one that is commonly used to assess ethics programs.

The Federal Sentencing Guidelines are included in the United States Sentencing Commission Guidelines Manual, and are intended for use by Federal judges in determining sentences. Section §8B2.1 - Effective Compliance and Ethics Program provides for reductions in sentences if organizations are determined to have an effective ethics program. This section contains eight requirements for assessing an organization's ethics program.

Federal Sentencing Guidelines Chapter 8 applies to the sentencing of all organizations for felony and Class A misdemeanor offenses. The term organization is defined as "corporations, partnerships, associations, joint-stock companies, unions, trusts, pension funds, unincorporated organizations, governments and political subdivisions thereof, and non-profit organizations". Therefore, it is applicable to Louisville Metro Government.

This was a scheduled audit.

Summary of Audit Results

I. Current Audit Results

See Observations and Recommendations section of this report.

II. Prior Audit Issues

The Office of Internal Audit has not performed any previous reviews of the Louisville Metro Ethics Program.

III. Statement of Auditing Standards

The audit was performed in accordance with Government Auditing Standards issued by the Comptroller General of the United States and with the International Standards for the Professional Practice of Internal Auditing issued by the Institute of Internal Auditors.

IV. Statement of Internal Control

An understanding of the internal control structure was obtained in order to support the final opinion.

V. Statement of Irregularities, Illegal Acts, and Other Noncompliance

The review did not disclose any instances of irregularities, any indications of illegal acts, and nothing was detected during the review that would indicate evidence of such. Any significant instances of noncompliance with laws and regulations are reported in the Observations and Recommendations section of this report.

VI. Views of Responsible Officials / Action Plan

A preliminary draft report was issued to Louisville Metro Human Resources on June 18, 2008. An exit conference was held at Human Resources on July 21, 2008. Attending were Bill Hornig representing Human Resources; and Mike Norman representing Internal Audit. Final audit results were discussed. A final draft report was issued to Louisville Metro Human Resources on July 22, 2008.

The views of Human Resources officials were received on August 22, 2008 and are included as corrective action plans in the Observations and Recommendations section of the report. The plans indicate a commitment to addressing the issues noted.

LMCO §30.36(B) requires Louisville Metro Agencies to respond to draft audit reports in a timely manner. It specifically states that

“The response must be forwarded to the Office of Internal Audit within 15 days of the exit conference, or no longer than 30 days of receipt of the draft report.”

Human Resources response was provided within this required timeframe.

Observations and Recommendations

#1 - Federal Sentencing Guidelines Benchmark

Scope and Methodology

The Federal Sentencing Guidelines (§8B2.1) include eight minimum requirements for an effective compliance and ethics program. These eight requirements were used to benchmark Louisville Metro's Ethics Program in order to assess the overall effectiveness of the program. To supplement the requirements, industry best practices were identified for use in the assessment.

A review of the Federal Sentencing Guidelines requirements, and associated components of Louisville Metro's Ethics Program, was performed. Policy and other authoritative documents were reviewed. These included personnel policies, procurement contract templates, and collective bargaining agreements. Interviews were conducted with key Louisville Metro Human Resources officials.

The assessment of Louisville Metro's Ethics Program was then rated using the internal control rating scale on page 5 of this report.

Results

Louisville Metro's Ethics Program does not meet all of the requirements of an effective ethics program. Therefore, it needs improvement. Several opportunities were noted to enhance the effectiveness of Louisville Metro's Ethics Program. Detailed results begin on the following page. The order corresponds to the Federal Sentencing Guidelines (FSG) requirements. Observations and recommendations for each of the following requirements are noted.

- (1) Standards and Procedures
- (2) High-Level Responsibility for Ethics Program
- (3) Management Background – Propensity for Illegal Activities
- (4) Communication and Training
- (5) Assessments of Effectiveness
- (6) Incentives and Penalties
- (7) Modifications after Criminal Conduct Detected
- (8) Risk Assessments

(1) Standards and Procedures	
FSG Language	§8B2.1(b)(1) The organization shall establish standards and procedures to prevent and detect criminal conduct.
Assessment Rating	Needs Improvement

Observations

- There is not a comprehensive Ethics Program for all Louisville Metro Government employees. Rather, the program consists of various policies, both enterprise-wide and departmental specific.
 - The policies are not necessarily focused on criminal conduct. Instead, the policies require employees to uphold laws.
 - Some employees are required to take a sworn oath to uphold laws. This includes peace officers such as police.

Recommendations

- ✓ There should be one comprehensive Ethics Program for Louisville Metro Government. This program should include expectations regarding workplace ethical behavior standards. The comprehensive program could start with current Louisville Metro policies and authoritative documents, with gaps addressed as needed.
- ✓ A comprehensive Ethics Program includes one code of ethics for all employees. This is a formal statement of what an organization expects in the way of ethical behavior (what behaviors are acceptable or unacceptable), and reflects organizational values, rules, and policies.
- ✓ A comprehensive code of ethics should address the following:
 - Business practices including dealings with employees, suppliers, customers, and other stakeholders
 - Conflicts of interest
 - Illegal or other improper payments
 - Appropriate use of resources
 - Political activities
 - Acceptance of gifts
 - Compliance incentives as well as disciplinary measures
 - Requirements for reporting (without delay) offenses to the appropriate authorities

- ✓ Each employee should receive a personal copy of the applicable code of ethics. The codes should be periodically acknowledged by all employees, including documented signatures.
- ✓ The code of ethics should be reasonably accessible via print as well as electronic media.
- ✓ The feasibility of requiring all Louisville Metro suppliers to have a Code of Business Ethics should be determined. This requirement could be modeled after the U.S. Government's Federal Acquisition Regulation, Subpart 3.10. This may require legislative action to fully implement, but is not unprecedented. For example, suppliers are already required to have an affirmative action policy in order to conduct business with Louisville Metro.

(2) High-Level Responsibility for Ethics Program	
FSG Language	<p>§8B2.1(b)(2)(A) The organization’s governing authority shall be knowledgeable about the content and operation of the compliance and ethics program and shall exercise reasonable oversight with respect to the implementation and effectiveness of the compliance and ethics program. Application note 1 defines “governing authority” as the (A) Board of Directors, or (B) if the organization does not have a Board of Directors, the highest-level governing body of the organization.</p> <p>§8B2.1(b)(2)(B) High-level personnel of the organization shall ensure that the organization has an effective compliance and ethics program, as described in this guideline. Specific individual(s) within high-level personnel shall be assigned overall responsibility for the compliance and ethics program.</p> <p>§8B2.1(b)(2)(C) Specific individual(s) within the organization shall be delegated day-to-day operational responsibility for the compliance and ethics program. Individual(s) with operational responsibility shall report periodically to high-level personnel and, as appropriate, to the governing authority, or an appropriate subgroup of the governing authority, on the effectiveness of the compliance and ethics program. To carry out such operational responsibility, such individual(s) shall be given adequate resources, appropriate authority, and direct access to the governing authority or an appropriate subgroup of the governing authority.</p>
Assessment Rating	Inadequate

Observations

- The overall responsibility for Metro’s Ethics Program has not been assigned to one high-level individual. There is not an “Ethics Officer” designated for the enterprise.
- A specific individual has not been delegated day-to-day operational responsibility for the various components that comprise Metro’s Ethics Program. Human Resources provide support for the Ethics Commission, as well as staff dedicated to Compliance. Compliance staff does not specifically focus on ethical workplace behavior issues.

Recommendations

- ✓ The responsibility for the Ethics Program should be assigned to an Ethics Officer who has oversight and program accountability responsibilities. The role of an Ethics Officer includes the following:
 - Administer the program, including coordination with executive management
 - Develop, revise, and disseminate the code of ethics
 - Develop ethics training tools
 - Establish audit and control systems
 - Develop enforcement techniques
 - Revise the Program as needed
- ✓ The Ethics Officer should have direct and independent access to the executive level (e.g., Mayor).
- ✓ Resources, including necessary operational staff, should be designated to support the Ethics Program function.

(3) Management Background – Propensity for Illegal Activities	
FSG Language	§8B2.1(b)(3) The organization shall use reasonable efforts not to include within the substantial authority personnel of the organization any individual whom the organization knew, or should have known through the exercise of due diligence, has engaged in illegal activities or other conduct inconsistent with an effective compliance and ethics program.
Assessment Rating	Satisfactory

Observations

- The extent of due diligence for substantial authority employees varies depending on the position. For example, the Mayor and Council must meet State eligibility requirements to hold elected office. Sworn peace officers must also meet State eligibility requirements. These requirements include that individuals cannot have been convicted of felonies.

All other individuals must undergo a background check prior to being hired. This precludes individuals with felony convictions within the prior five years from being hired. However, this applies to new hires only. It does not apply to internal promotions.

Recommendations

- ✓ Louisville Metro should ensure its screening employment procedures are effective in identifying individuals who have participated in illegal activities. This includes prescreening for new hires as well as screening for internal promotions for all substantial authority positions.

(4) Communication and Training	
FSG Language	<p>§8B2.1(b)(4)(A) The organization shall take reasonable steps to communicate periodically and in a practical manner its standards and procedures, and other aspects of the compliance and ethics program, to the individuals referred to in subdivision (B) by conducting effective training programs and otherwise disseminating information appropriate to such individuals' respective roles and responsibilities.</p> <p>§8B2.1(b)(4)(B) The individuals referred to in subdivision (A) are the members of the governing authority, high-level personnel, substantial authority personnel, the organization's employees, and, as appropriate, the organization's agents.</p>
Assessment Rating	Inadequate

Observations

- Louisville Metro does not offer or require training for ethical behavior. Therefore, managers may not be equipped with the necessary skills to promote an ethical climate.
 - While Honesty and Integrity are core values in the Mayor's Strategic Plan, employee training was primarily dependent on departmental level efforts only. Office of Strategic Planning provides some information, but it is more focused on the overall plan, not ethical workplace behavior.
- Some employees are covered by Louisville Metro's Code of Ethics (MCO §21.01). This primarily includes elected officials and directors. Employees covered by the Code of Ethics are required to receive periodic training (once every 24 months). This training is focused on the Code of Ethics only; it is not a comprehensive ethical behavior training program.

Recommendations

- ✓ Louisville Metro should have a formal ethics training program. Effective ethics training has two components:
 - (1) Educating all employees about expectations and requirements
 - (2) Motivating all employees to comply

The training should provide an understanding of what behavior is acceptable or unacceptable, and what to do if improper behavior is encountered. This could include examples where the behavior is demonstrated. Information appropriate to the individuals' roles and responsibilities should be included.

- ✓ Ethics training should be required for all Louisville Metro employees and agents.
- ✓ Ethics training should be an ongoing effort. Employees should continuously be informed of the Ethics Program features and expectations. Departmental program representatives can be used to reinforce ethical messages and identify additional training needs.
- ✓ In order to demonstrate commitment to the Ethics Program, Louisville Metro should be able to document the training provided, attendees, and how effectiveness of the training was determined.
- ✓ Commitment to ethical workplace behavior should be effectively communicated throughout the enterprise, both in words and deeds. This starts with the “tone at the top”, i.e., ethical values are established at the top and communicated throughout.
- ✓ Departmental management should foster and encourage a culture that emphasizes the importance of the Ethics Program. A consistent “tone at the top” message should be conveyed regarding acceptable ethical workplace behavior. There are various ways management can support Ethics Programs. These include the following.
 - Communicate directly with employees
 - Use their own “phraseology”
 - Tout successes and condemn failures
 - Use one standard for all employees (regardless of level)
 - Acknowledge and promote “ethically aware” managers
 - Survey employees about the program

(5) (A) (B) Assessments of Effectiveness - Monitoring	
FSG Language	<p>§8B2.1(b)(5)(A) The organization shall take reasonable steps to ensure that the organization’s compliance and ethics program is followed, including monitoring and auditing to detect criminal conduct.</p> <p>§8B2.1(b)(5)(B) The organization shall take reasonable steps to evaluate periodically the effectiveness of the organization’s compliance and ethics program.</p>
Assessment Rating	Inadequate

Observations

- Without a comprehensive Ethics Program, monitoring for compliance is specific to the various policies and authoritative directives. Audits are conducted, by internal and external auditors, which may detect criminal conduct or ethical behavior issues. These are not routinely performed with detection as the primary objective. The current review is the first evaluation of Louisville Metro’s Ethics Program.
 - Louisville Metro’s Office of Internal Audit includes proactive fraud auditing techniques in its audits. Resource constraints impact the extent of techniques used.
 - Louisville Metro’s external financial auditors are required to include some fraud auditing in their work. This is focused primarily on financial statement issues.

Recommendations

- ✓ Louisville Metro’s Ethics Program should include monitoring and auditing components. High quality ethics programs incorporate the following.
 - An established compliance auditing and monitoring program
 - Auditors that are independent from the areas being reviewed
 - A written plan addressing the subject, method, and frequency of reviews
 - Use of proactive fraud auditing techniques
 - Audits planned in consideration of the history of misconduct
 - Notice to senior management of major audit findings
 - Production and implementation of corrective action plans in response to adverse findings
- ✓ Evaluations of Louisville Metro’s Ethics Program should include assessments of the following indicators of an effective Ethics Program.

- Everyday dealings with customers, suppliers, employees and other parties are based on honesty and integrity (e.g., customer’s overpayment or a supplier’s underbilling are not ignored; employee’s legitimate claims for benefits are not rejected; and reports to lenders are complete, accurate and not misleading).
- Financial, budgetary, and operational / programmatic reports are proper, accurate, and not intentionally misleading.
- Management cooperates with auditors and other evaluators, discloses known problems to them, and values their comments and recommendations.
- Survey responses from citizens, suppliers, and other stakeholders asking “How ethical is Metro in conducting business?”

(5) (C) Assessments of Effectiveness - Reporting	
FSG Language	§8B2.1(b)(5)(C) The organization shall take reasonable steps to have and publicize a system, which may include mechanisms that allow for anonymity or confidentiality, whereby the organization's employees and agents may report or seek guidance regarding potential or actual criminal conduct without fear of retaliation.
Assessment Rating	Inadequate

Observations

- Louisville Metro does not have a comprehensive system for reporting criminal conduct or possible ethical violations. Channels exist for general reporting of activities. This includes contacting MetroCall, the Public Integrity Unit of the Louisville Metro Police Department, Human Resources, and the Office of Internal Audit. However, anonymity or confidentiality is not included in these channels.

- Complaints to MetroCall are sent to applicable departments, with a copy to Human Resources. This provides some assurance that complaints are properly acted upon.
- The Police Department has a tipline (574-LMPD) that offers anonymity, but it is not specifically publicized for use in reporting ethical violations.

It is important to note that some Louisville Metro employees (e.g., police officers) may be statutorily protected from anonymous allegations involving non-criminal actions. This may impair the effectiveness of an anonymous tipline.

- Louisville Metro does not have a formal process specifically designed for ethical behavior questions. Policy issues can be addressed through normal channels.
- Louisville Metro does not have an enterprise-wide policy regarding reporting offenses to authorities.

Recommendations

- ✓ An effective Ethics Program contains a mechanism and process for raising questions, getting management action, and reporting possible ethical violations.
 - Employee inquiries and allegations should be treated in confidence and responded to promptly.
 - Employees should be free to report possible violations without fear of retribution.
- ✓ Effective Ethics Programs include a reporting system that facilitates anonymous reporting, and provides 24/7 coverage (24 hours per day, seven days per week). The

lack of confidentiality and fear of retribution are major inhibitors to reporting and impair the effectiveness of Ethics Programs.

- The ability to accommodate an anonymous feature may be impaired by the statutory protection for some employees.
 - There is potential for abuse by individuals retaliating against managers. This includes unwarranted allegations against managers. An effective anonymous reporting systems needs to include provisions to prevent this type of abuse, and to take punitive actions against individuals who misuse the system.
- ✓ The Ethics Officer should ensure that retribution is not taken against anyone reporting, in good faith, possible ethical violations. Appropriate action should be taken if retribution occurs.
 - ✓ Ethics Programs should include uniform investigatory practices, documentation, case closures, and outcome reporting for allegations of possible ethical violations.

(6) Incentives and Penalties	
FSG Language	§8B2.1(b)(6) The organization’s compliance and ethics program shall be promoted and enforced consistently throughout the organization through (A) appropriate incentives to perform in accordance with the compliance and ethics program; and (B) appropriate disciplinary measures for engaging in criminal conduct and for failing to take reasonable steps to prevent or detect criminal conduct.
Assessment Rating	Needs Improvement

Observations

- Various Louisville Metro policies address performance expectations as well as disciplinary measures. Formal incentives are not provided for ethics compliance.

Recommendations

- ✓ The Ethics Program should address both incentives and penalties related to ethical workplace behavior. The incentives and disciplinary actions should be widely communicated throughout Louisville Metro.
- ✓ Louisville Metro management should take appropriate action when there are ethical workplace violations. High-ranking personnel should be designated to coordinate, review, and approve all significant disciplinary actions.
- ✓ The Ethics Officer should provide regular operational reports to the Mayor and senior management, including the type and number of incentives and penalties for the reporting period.

(7) Modifications after Criminal Conduct Detected	
FSG Language	§8B2.1(b)(7) After criminal conduct has been detected, the organization shall take reasonable steps to respond appropriately to the criminal conduct and to prevent further similar criminal conduct, including making any necessary modifications to the organization's compliance and ethics program.
Assessment Rating	Satisfactory

Observations

- The language in Louisville Metro's personnel policies is broad enough to encompass all criminal conduct. Therefore, modifications after detection of criminal conduct are usually not necessary. Departmental level policies may be modified in reaction to specific instances where internal controls were ineffective.

Recommendations

- ✓ Louisville Metro's Ethics Program should be adjusted as necessary in response to the detection of criminal conduct.

(8) Risk Assessments	
FSG Language	§8B2.1(c) In implementing subsection (b), the organization shall periodically assess the risk of criminal conduct and shall take appropriate steps to design, implement, or modify each requirement set forth in subsection (b) to reduce the risk of criminal conduct identified through this process.
Assessment Rating	Inadequate

Observations

- Louisville Metro does not have a risk management function that is responsible for ethical program risk assessments. An enterprise risk management policy has not been implemented. Various departments, including the Office of Internal Audit, may perform periodic risk assessments, but these are for internal departmental use only.

Recommendations

- ✓ Louisville Metro’s Ethics Program should incorporate a formal risk assessment, with particular focus on criminal conduct risks. As part of the risk assessment, employees’ perception of peer pressure for appropriate ethical behavior should be considered.
- ✓ Louisville Metro’s Ethics Program should be adjusted as necessary to address emerging risks.
- ✓ The implementation of an enterprise risk management policy or framework would help ensure that all business risks are addressed, not just those related to criminal conduct.

#2 – Employee Survey

Scope and Methodology

An employee survey was conducted. The purpose was to assess the effectiveness of Louisville Metro's Ethics Program. The focus was the message actually received by employees and their perceptions of the Ethics Program. The survey methodology was as follows.

- *Survey Instrument.* The survey instrument consisted of 15 statements. It was based on the Honesty and Integrity component of the COSO Internal Control Framework. This framework is the model used in the internal audit profession for evaluating internal controls. The participants responded to each statement using a 5 point scale.
- *Population.* The population of employees from which the sample was selected was based on all full time, regular employees as of May 6, 2008. Adjustments were made as needed to eliminate certain job titles (e.g., Director), constitutional offices (e.g., Coroner), and agencies in which there is a fiscal agent relationship only (e.g., Board of Elections). After adjustments, the population consisted of 5,472 employees.
- *Sample.* The sample of employees was randomly selected from the adjusted population. The sample size consisted of 109 employees, which was approximately 2% of the adjusted population. The sample was chosen to be representative of Louisville Metro departments, with adjustments made as needed to ensure adequate coverage.
- *Survey Process.* The survey was primarily conducted using a web-based program. This provided for anonymity for the employees participating in the survey. For those employees without a Louisville Metro email address, the survey was sent via United States Postal Service with a postage paid return envelope. The survey was distributed and completed in May 2008.
- *Response.* The response rate was approximately 39%, with 43 of 109 responding.
- *Rating Scale.* The survey responses were assigned a point value using a 1 to 5 scale, with 1 assigned to Strongly Agree and 5 assigned to Strongly Disagree. The average for each statement, as well as the COSO subcategory, was calculated using this point scale. A rating scale was then calculated to correspond to the internal control rating on page 5 of this report. The ranges for the ratings are as follows:
 - Satisfactory - 1.0 to 2.3 points
 - Needs Improvement - 2.4 to 3.6 points
 - Inadequate - 3.7 to 5.0 points

Results

The results of the employee survey indicate that Louisville Metro's Ethics Program needs improvement. The overall survey rating was 2.6. The results are grouped into the following.

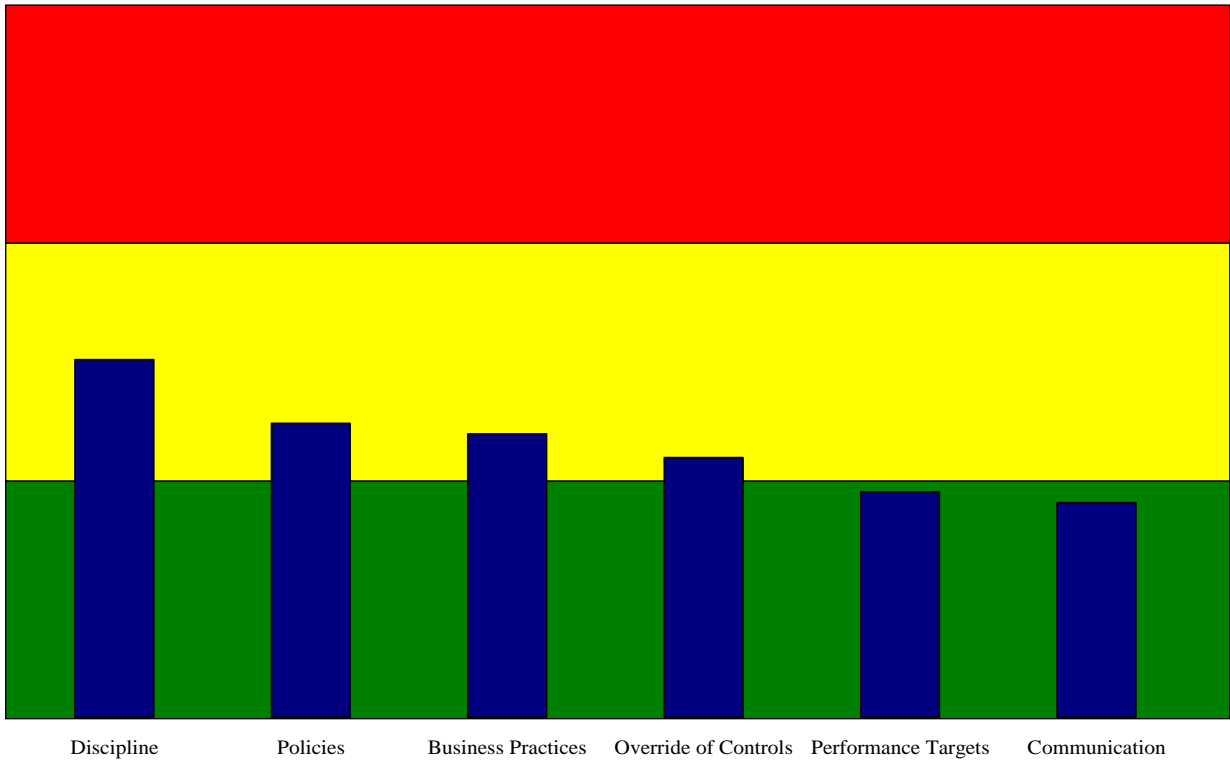
(1) COSO Subcategory

(2) Survey Statement

Details begin on the following page.

(1) COSO Subcategory

The survey statements were grouped by subcategories of the Honesty and Integrity component of the COSO Internal Control Framework. An average was calculated for each subcategory. There were a total of six groups used for the survey. Of the groups, four were ranked as Needs Improvement. The other two were ranked as Satisfactory. The following is a graphical representation of these results.



Legend *
Satisfactory
Needs Improvement
Inadequate
<i>* See page 5 for rating criteria</i>

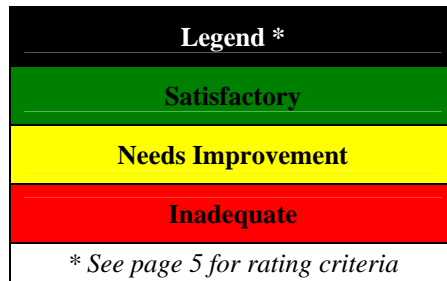
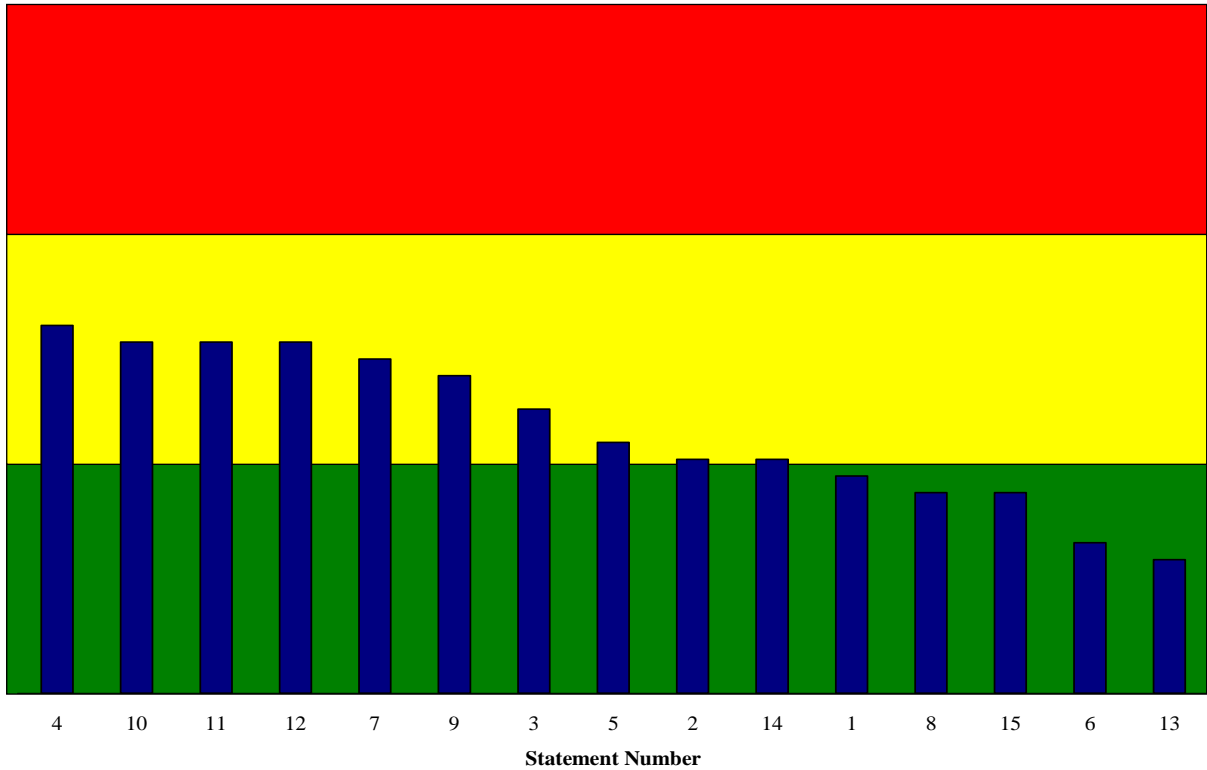
Details of the subcategories and associated rankings follows.

Needs Improvement		
Subcategory	Description	Ranking
Discipline	Appropriateness of remedial action taken in response to departures from approved policies and procedures. Extent to which remedial action is communicated or otherwise becomes known throughout the entity.	3.0
Policies	Existence and implementation of codes of conduct and other policies regarding acceptable business practice, conflicts of interest, or expected standards of ethical and moral behavior.	2.7
Business Practices	Dealings with employees, suppliers, customers, investors, creditors, insurers, competitors, auditors, etc. (e.g., whether management conducts business on a high ethical plane, and insists that others do so, or pays little attention to ethical issues).	2.6
Override of Controls	Management's attitude toward intervention or overriding established controls.	2.5

Satisfactory		
Subcategory	Description	Ranking
Performance Targets	Pressure to meet unrealistic performance targets — particularly for short-term results — and extent to which compensation is based on achieving those performance targets.	2.3
Communication	Establishment of “tone at the top” — including explicit moral guidance about what is right and wrong — and extent of communication throughout the organization.	2.2

(2) Survey Statements

The responses to the survey statements were ranked. There were a total of fifteen statements in the survey. Of the statements, ten were ranked as Needs Improvement and five were ranked as Satisfactory. The following is a graphical representation of these results.



Details of the statements and associated rankings follows.

COSO Subcategory	Statement Number	Statement Description	Ranking
Needs Improvement			
Policies	4	I have participated in Ethics Program training as a Louisville Metro employee.	3.2
Discipline	10	Employees in my department can report unethical behavior without fear of repercussions to themselves.	3.1
Discipline	11	If a Louisville Metro employee participated in unethical behavior, it would probably be detected and punished.	3.1
Override of Controls	12	Exceptions to policies and procedures are rarely made.	3.1
Business Practices	7	The executive level management of Louisville Metro behaves ethically in the performance of their jobs.	3.0
Discipline	9	I know how to report unethical activities.	2.9
Policies	3	I am able to obtain advice from Louisville Metro's Ethics Program on how to deal with unethical behavior in the workplace.	2.7
Communication	5	The executive level management of Louisville Metro places a lot of emphasis on doing the right thing.	2.5
Policies	2	I am familiar with Louisville Metro's Ethics Program (e.g., Personnel policies, Code of Ethics).	2.4
Performance Targets	14	I have never been asked to make an exception to policies or procedures to meet departmental performance targets.	2.4
Satisfactory			
Policies	1	Louisville Metro provides adequate guidance for me to determine what behaviors are appropriate in performing my job.	2.3
Business Practices	8	My immediate supervisor behaves ethically in the performance of his / her job.	2.2
Performance Targets	15	I have never felt pressure to participate in unethical behavior while performing my job.	2.2

COSO Subcategory	Statement Number	Statement Description	Ranking
Communication	6	My immediate supervisor places a lot of emphasis on doing the right thing.	1.9
Override of Controls	13	I am expected to strictly adhere to policies and procedures in the performance of my job.	1.8

Observations

The intent of the employee survey was to assist with the effectiveness assessment of Louisville Metro's Ethics Program. Since this type of survey had not been previously conducted, it was expected that the results would substantiate the Federal Sentencing Guidelines (FSG) benchmark assessment. The results can also be used as a baseline for evaluating future actions. Some general observations can be inferred from the survey results. Several of these observations were noted in the FSG benchmark section of this report, and are not repeated here.

- Perceptions of disciplinary actions are easily influenced by “grapevine” communication. In some cases, it may be necessary to protect all facts of a disciplinary matter in order to respect employees’ rights. This necessity can increase the misperception of the disciplinary actions taken.
- Individuals may not understand the underlying risks that controls are intended to mitigate. Therefore, they may be more willing to override the controls.
- Due to the size of Louisville Metro’s workforce, and the public nature in which it operates, presenting a consistent “tone at the top” is more difficult. Perception may be easily influenced by misperceptions and uninformed opinions.
- Employees are more familiar with the daily activities of their immediate managers. They are more influenced by their managers’ actions regarding ethical behavior than by executive level management. This impacts the effectiveness of “tone at the top” messages and actions.
- Funding constraints coupled with no corresponding reduction in services can result in pressure (real or perceived) to meet performance targets.

Recommendations

An effective Ethics Program requires the participation, cooperation, and support of all Louisville Metro departments and employees. The recommendations are directed to the Department of Human Resources. Several recommendations in the Federal Sentencing Guidelines benchmark section of this report are applicable but are not repeated. They should be considered in conjunction with the following specific recommendations.

- ✓ Consistency in disciplinary actions can help prevent misperceptions from developing. This still ensures employees’ privacy rights, but conveys a consistent message for the Ethics Program.
- ✓ Managers should understand the risks that policies and procedures are designed to mitigate. They should be able to communicate the risks to all employees. This

understanding provides incentive for adhering to policies and procedures without exceptions and overrides.

- ✓ All Louisville Metro Government managers should lead by example and promote acceptable workplace ethical behavior. Accountability for actions is critical in ensuring this is consistent across the enterprise.
- ✓ Departmental executive management should establish and clearly communicate realistic performance measures for the services provided. The results of periodic monitoring should be provided to departmental staff, and changes made as necessary to adjust for the environment and conditions.

Corrective Action Plan

The Department of Human Resources was asked to provide a corrective action plan. However, it is important to note that an effective Ethics Program requires the participation, cooperation, and support of all Metro departments and employees. The plan is as follows.

Human Resources' Response

The Ethics Program Audit Report was carefully and thoughtfully reviewed by the Director of Human Resources. In turn, a committee of Human Resources Personnel was established for the purpose of developing a Comprehensive Ethics Program for Louisville Metro Government.

The committee members have been directed to research what other major municipalities have done in the area of developing a comprehensive ethics program which would be considered "best practices". Once the research is completed a draft of a comprehensive program will be developed and presented to the Mayor's office.

It is anticipated that the Comprehensive Ethics Program developed will encompass and address most if not all of the Federal Sentencing Guidelines cited in the Audit Report. Anticipated completion of the draft report is second quarter 2009.