


City of Calistoga

Staff Report

TO: Honorable Mayor and City Council
FROM: David W. Spilman, Administrative Services Director/City Treasurer
DATE: October 21, 2008
SUBJECT: Identity Theft Prevention Program

APPROVAL FOR FORWARDING:


James C. McCann, City Manager

1 **ISSUE:** To consider a Resolution establishing an Identity Theft Prevention
2 Program in compliance with the Federal Fair and Accurate Credit Transaction
3 (FACT) Act of 2003 and the Federal Trade Commission (FTC) final rules and
4 guidelines.
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6 **RECOMMENDATION:** To adopt the Resolution
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8 **BACKGROUND / DISCUSSION:**
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10 The Federal Trade Commission (FTC) has issued regulations requiring financial
11 institutions and creditors to develop and implement written identity theft
12 prevention programs, as part of the Fair and Accurate Credit Transactions
13 (FACT) Act of 2003. The programs must be in place by November 1, 2008, and
14 must provide for the identification, detection, and response to patterns, practices,
15 or specific activities that could indicate identity theft. These activities have been
16 referred to as "Red Flags" and guidelines are commonly referred to as "Red Flag
17 Rules".
18

19 The FTC regulations apply to cities in cases where cities are "creditors" with
20 "covered accounts." The FTC considers a government entity to be a creditor
21 where it defers payment for goods or services by its customers, the most
22 common example being public utilities, such as water and wastewater. A
23 "covered account" is defined as;
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- 25 • an account that is used primarily for family, personal, or household
26 purposes and involves or is designed for multiple payments or
27 transactions, such as credit card accounts, utility accounts, and checking
28 or savings accounts; or
- 29 • any other account that involves a foreseeable risk of identity theft.

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31 Non compliance with the Federal regulations may subject the City to an
32 administrative fine of up to \$2,500, as well as possible exposure to liability in civil
33 actions from identity theft victims.

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35 The policies and procedures of the Identity Theft Prevention Program must
36 include the following four basic elements:

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- 38 1. Identify relevant warning signs, including patterns, practices, or specific
39 activities, that are indicative of identity theft, i.e. "red flags;"
- 40 2. Detect the red flags that have been incorporated into the program;
- 41 3. Provide for appropriate responses to such red flags in order to prevent or
42 mitigate identity theft with respect to the covered account; and
- 43 4. Detail a plan to periodically update the program.

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45 The FTC regulations also require the City to manage the program, and provide
46 for appropriate staff training for and oversight of the program. The regulations
47 allow for flexibility that the City may tailor the program in accordance with the
48 size, complexity, and nature of their operations.

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50 There are many levels of identity theft and the time duration could extent for a
51 long period. Evidence of a utility bill is a low level way to establish or confirm an
52 identity. As such, it is appropriate for the City to establish a program.

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54 Attached is an Identity Theft Prevention Program that was developed from other
55 cities programs to comply with the Federal regulations and has been modified to
56 fit the City of Calistoga operations.

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58 **FISCAL IMPACT:** No direct costs are anticipated, other than follow-up with
59 credit agencies if identity theft is suspected. There will be staff time to train and
60 implement the program. Implementation may add time to the opening of a utility
61 account or changing customer information on the account. Customers may be
62 inconvenienced or have an issue with providing information required under the
63 program.

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65 **ATTACHMENTS:**

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- 67 1. Resolution
- 68 2. Exhibit A to Resolution - Identity Theft Prevention Program

