

Whistleblower Policy and Procedures

Purpose

It is the policy of this Batavia Development Corporation (BDC) to afford certain protections to individuals who in good faith report violations of the BDC's Code of Ethics or other instances of potential wrongdoing within the BDC. The Whistleblower Policy and Procedures set forth below are intended to encourage and enable employees to raise concerns in good faith within the BDC and without fear of retaliation or adverse employment action.

Definitions

- A. Good Faith – Information concerning potential wrongdoing is disclosed in “good faith” when the individual making the disclosure reasonably believes such information to be true and reasonably believes that it constitutes potential wrongdoing.
- B. BDC Employee – All board members, and officers and staff employed at this BDC whether full-time, part-time, employed pursuant to contract, employees on probation and temporary employees.
- C. Whistleblower – Any BDC Employee (as defined herein) who in good faith discloses information concerning wrongdoing by another BDC employee, or concerning the business of the BDC itself.
- D. Wrongdoing – Any alleged corruption, fraud, criminal or unethical activity, misconduct, waste, conflict of interest, intentional reporting of false or misleading information, or abuse of authority engaged in by a BDC Employee (as defined herein) that relates to the BDC.
- E. Personnel action – Any action affecting compensation, appointment, promotion, transfer, assignment, reassignment, reinstatement or evaluation of performance.

Section I: Reporting Wrongdoing

All BDC employees who discover or have knowledge of potential wrongdoing concerning board members, officers, or employees of this BDC; or a person having business dealings with this BDC; or concerning the BDC itself, shall report such activity in accordance with the following procedures:

- a. The BDC Employee shall disclose any information concerning wrongdoing either orally or in a written report to his or her supervisor, or to the BDC's ethics officer, general counsel or human resources representative.
- b. All BDC Employees who discover or have knowledge of wrongdoing shall report such wrongdoing in a prompt and timely manner.
- c. The identity of the whistleblower and the substance of his or her allegations will be kept confidential to the best extent possible.

- d. The individual to whom the potential wrongdoing is reported shall investigate and handle the claim in a timely and reasonable manner, which may include referring such information to the Authorities Budget Office or an appropriate law enforcement agency where applicable.

Should a BDC Employee believe in good faith that disclosing information within the BDC pursuant to Section I(a) above would likely subject him or her to adverse personnel action or be wholly ineffective, the BDC employee may instead disclose the information to the Authorities Budget Office or an appropriate law enforcement agency, if applicable. The Authorities Budget Office's toll free number (1-800-560-1770) should be used in such circumstances.

Section II: No Retaliation or Interference

No BDC employee shall retaliate against any whistleblower for the disclosure of potential wrongdoing, whether through threat, coercion, or abuse of authority; and, no BDC employee shall interfere with the right of any other BDC employee by any improper means aimed at deterring disclosure of potential wrongdoing. Any attempts at retaliation or interference are strictly prohibited and:

- a) No BDC employee who in good faith discloses potential violations of this BDC's Code of Ethics or other instances of potential wrongdoing, shall suffer harassment, retaliation or adverse personnel action.
- b) All allegations of retaliation against a Whistleblower or interference with an individual seeking to disclose potential wrongdoing will be thoroughly investigated by this BDC.
- c) Any BDC employee who retaliates against or had attempted to interfere with any individual for having in good faith disclosed potential violations of this BDC's Code of Ethics or other instances of potential wrongdoing is subject to discipline, which may include termination of employment.
- d) Any allegation of retaliation or interference will be taken and treated seriously and irrespective of the outcome of the initial complaint, will be treated as a separate matter.

Section III: Other Legal Rights Not Impaired

The Whistleblower Policy and Procedures set forth herein are not intended to limit, diminish or impair any other rights or remedies that an individual may have under the law with respect to disclosing potential wrongdoing free from retaliation or adverse personnel action.

- a) Specifically, these Whistleblower Policy and Procedures are not intended to limit any rights or remedies that an individual may have under the laws of the State of New York, including but not limited to the following provisions: Civil Service Law § 75-b, Labor Law § 740, State Finance Law § 191 (commonly known as the "False Claims Act"), and Executive Law § 55(1).
- b) With respect to any rights or remedies that an individual may have pursuant to Civil Service Law § 75-b or Labor Law § 740, any employee who wishes to preserve such rights shall prior to disclosing information to a government body, have made a good faith effort to provide the appointing authority or his or her designee the information to be disclosed and shall provide the appointing authority or designee a reasonable time to take appropriate action unless there is imminent and serious danger to public health or safety. (See Civil Service Law § 75-b[2][b]; Labor Law § 740[3]).