

## Memorandum

To: Honorable Mayor Shetter and members of the Burlison City Council

From: Aaron Russell P.E., Public Works Director

Date: April 20, 2009

Subject: Resolution R-1151-09 adopting policies mandated by the Fair and Accurate Credit Transactions Act of 2008 (FACT Act).

---

### **Council Action Requested:**

Approve Resolution R-1151-09 adopting policies mandated by the Fair and Accurate Credit Transactions Act of 2008 (FACT Act).

### **Background Information:**

A ruling known as the Identity Theft Prevention Program was jointly issued by the Federal Trade Commission, Office of Thrift Supervision and several other governing agencies; implementing Section 114 of the Fair and Accurate Credit Transactions Act of 2003 (FACTA) and is effective on May 1, 2009.

The Identity Theft Prevention Program requires financial institutions to develop and implement a written identity theft program to detect, prevent and diminish identity theft in connection with opening of certain accounts or certain existing accounts.

Under the regulation, financial institutions that offer or maintain covered accounts must develop and implement a written program. A covered account is defined as (1) an account primarily used for personal, family, or household purposes that involves or is designed to permit multiple payments or transactions; and (2) any other account for which there is a reasonably foreseeable risk to customers or the safety and soundness of the financial institution or creditor from identity theft.

The issuing agencies of the regulation have identified accounts such as utility accounts as an example of accounts designed to permit multiple payments or transactions and also contain a reasonably foreseeable risk of identity theft.

Some protocols implemented as a part of the Identity Theft Prevention Program deviate from current policy. The biggest impact will be realized in the activation of new accounts. Current policy allows for applicants to fax an application, set-up an account online, or a spouse or relative to open an account in the absence of the actual resident. The new policy will continue to allow faxing, emailing, or mailing of applications for service. However, as required by the Act, the application will not be processed until identification of the applicant is verified in person. The option of a spouse or relative setting up an account is eliminated completely. In summary, no account will be initiated prior to the applicant visiting the Utility Customer Service Department for personal identification verification.

**Board/Citizen Input:**

N/A

**Financial Considerations:**

There is no expenditure of municipal funds associated with this item.

**Attachments:**

Resolution R-1151-09 with Identity Theft Prevention Policy

**Staff Contact:**

Aaron Russell P.E., Director of Public Works

817-447-5410 ext. 250

[arussell@BurlsonTx.com](mailto:arussell@BurlsonTx.com)

**RESOLUTION –R-1151-09**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BURLESON, TEXAS, ADOPTING A WRITTEN IDENTITY THEFT PROGRAM AND AUTHORIZING THE CITY MANAGER TO APPROVE CHANGES IN THE POLICY.**

**WHEREAS**, the Federal Trade Commission (FTC) recently adopted rules on identity theft “red flags”, or warning signs, pursuant to the Fair and Accurate Credit Transactions (FACT) Act of 2003; and

**WHEREAS**, the new rules require any business with a “covered account” to adopt and implement an identity theft program; and

**WHEREAS**, a “covered account” is one where an entity, such as a municipal water utility, provides a service or goods before the consumer pays for it; and

**WHEREAS**, a city with such accounts must adopt a program that “red flags” relevant identity theft, provides detection of the “red flags”, provides appropriate responses for any “red flags” detected, and ensures the program is updated periodically to address changing risks; and

**WHEREAS**, the City of Burleson services such water utility customers and, therefore, falls within this federal mandate; and

**WHEREAS**, the City Council of the City of Burleson wishes to be proactive and adopt an Identity Theft Program that will be in compliance with the criteria set forth by the FTC; and,

**WHEREAS**, upon full review and consideration of the City’s Identity Theft Prevention Program, and all matters related thereto, the City Council is of the opinion and finds that the Program should be adopted, and that the City Manager should be authorized to develop, implement, administer, and amend the Program on behalf of the City of Burleson, Texas;

April 20, 2009

11 - 4

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BURLESON** to adopt the Identity Theft Program that is in compliance with federal law and is attached to this resolution as Exhibit "A". This resolution shall be effective immediately upon its adoption on this 20<sup>th</sup> day of April, 2009.

Approved:

---

Ken Shetter, Mayor

Attest:

---

Amanda McCrory,  
City Secretary

**Exhibit A**



Public Works Department

## **Memorandum**

To: All Utility Customer Service Employees

From: David Smyth, Assistant Director of Public Works

Subject: Identity Theft Prevention Policy

Date: March 13, 2009

---

### **I. General Information**

A ruling known as the Identity Theft Prevention Program was jointly issued by the Federal Trade Commission, Office of Thrift Supervision and several other governing agencies; implementing Section 114 of the Fair and Accurate Credit Transactions Act of 2003 (FACTA) and is effective on May 1, 2009.

The Identity Theft Prevention Program requires financial institutions to develop and implement a written identity theft program to detect, prevent and diminish identity theft in connection with opening of certain accounts or certain existing accounts.

Under the regulation financial institutions that offer or maintain covered accounts must develop and implement a written program. A covered account is defined as (1) an account primarily used for personal, family, or household purposes that involves or is designed to permit multiple payments or transactions; and (2) any other account for which there is a reasonably foreseeable risk to customers or the safety and soundness of the financial institution or creditor from identity theft.

The issuing agencies of the regulation have identified accounts such as utility accounts as an example of accounts designed to permit multiple payments or transactions and also contain a reasonably foreseeable risk of identity theft.

### **II. Purpose**

To ensure the City of Burleson has a program in place to identify, detect, prevent, diminish, and respond to identity theft in connection with the opening of water accounts, and to establish written procedures for security and storing of personal information, pursuant to the Identity Theft Prevention Regulation implemented

pursuant to Section 114 of the Fair and Accurate Credit Transactions (FACT) Act of 2008, to be effective on May 1, 2009.

### **III. Application**

This policy applies to all City employees and service providers that have access to personal information for customers of the Utility Customer Service Department, regardless of medium.

### **IV. Definitions**

*Identity Theft:* A fraud committed using the identifying information of another person.

*Red Flags:* A pattern, practice, or specific activity that indicates the possible risk of identity theft.

*Identifying Information:* Any name or number that may be used alone or with any other information to identify a specific person (includes name, social security number, date of birth, alien registration number, government passport, and employer/tax identification number).

### **V. Policy**

#### **A. Red Flags Alerts**

When opening new accounts, staff needs to carefully scrutinize documents submitted for identification or proof of residency for red flags such as:

1. Documents provided for identification appear to be altered or forged.
2. The photograph or physical description on the identification is not consistent with the appearance of the customer requesting service.
3. Other information on the identification is not consistent with information provided by the person requesting service.
4. Other information is not consistent with information that is on file (i.e. previous application submitted with driver's license).
5. Lease or deed submitted for proof of residency appears to be altered or forged.
6. Personal information submitted is associated with known fraudulent activity.

7. The social security number submitted is the same as another customer's.
8. Notification of a chargeback received from the bank.
9. New account requested immediately after disconnection for non-payment.

B. New Account Activation

1. To ensure proper identification verification, effective May 1, 2009; all applications for new service must be completed in person. The name on the application must match the submitted identification and lease agreement/deed.
2. Applicants must show a government issued photo ID (or two forms of picture identification) in person to initiate service.
3. City of Burleson staff must:
  - a. Verify the customer's identity (for instance, review a driver's license or other identification card)
  - b. Review documentation showing the business entity
  - c. Independently contact the customer.
4. Applications may be submitted by fax, e-mail, or mail, but will not be processed until proper identification verification is completed in person.
5. The City reserves the right to refuse service in the event of inability to provide sufficient identification.

C. Existing Accounts

In order to detect any of the Red Flags identified above for an existing account, Utility Customer Service personnel will take the following steps to monitor transactions with an account:

1. Verify the identification of existing customers if they request information (in person, via telephone, via facsimile, via email);
2. Verify the validity of requests to change billing addresses; and
3. Verify changes in banking information given for billing and payment purposes.

D. Oversight of service provider arrangements

1. Service providers performing activities in connection with any City of Burleson covered account will incorporate policies that meet requirements set forth in the Fair and Accurate Credit Transactions Act of 2003.
2. Service providers are required to have policies and procedures in place to detect relevant Red Flags that may arise in the performance of services provided, and either notify the City of Burleson, or take appropriate steps to prevent and mitigate identity theft.

E. Credit Card Transactions

The City accepts credit card payments via service vendor Automated Merchant Services. Customers paying with a credit card in person must show valid identification that matches the name and/or address on the credit card.

F. Data Security and Storage

1. Employees are required to maintain a high level of confidentiality as it relates to utility customer's personal information. Release of information is limited to the account holder(s) or as permitted by law. Customers are given the opportunity to indicate if they wish their account information to be kept confidential.
2. Access into the billing system requires a user name assigned by the System Administrator. A password is also required, which is determined by the user and is CJIS (Criminal Justice Information Systems) compliant based upon the City's IT Security Policy that has been implemented. The system will permit three (3) sign on attempts and then will temporarily disable the password. Upon termination, employee passwords are immediately disabled.
3. Disclosure of personal information. Personal information is, or could be, used as a means of identification, for internal verification, or administration purposes, credit checks, and for debt collection purposes. Information submitted to the city's debt collection agency is on file in the Utility Customer Service office.
4. Data Storage. Hard copy information is stored in filing cabinets in the Utility Customer Service Office. The office is secured by one locked door. Cash receipt information is stored in the locked safe and the Finance Department storage area.

G. Data Retention/Access

Records are disposed of in accordance with state and federal law including the local records retention schedule issued by the Texas State Library and Archives Commission and City Code.

All City records are subject to the Texas Public Information Act. Requests for information that fall within confidentiality conditions are forwarded to the Attorney General's office for an official ruling for the information to be withheld.

#### H. Identity Theft Notification

A zero tolerance policy is in effect for all fraudulent transactions pertaining to the Utility Customer Service Department. Once written notification and verification is received of fraudulent activity from a customer, banking institution, and/or collection agency, the Utility Customer Service Department will (1) proceed with notating and taking corrective actions on the account, (2) gather all pertinent information that is available, and (3) immediately contact the City of Burleson Police Department to initiate a criminal investigation.

#### I. Prevent and Mitigate Identity Theft

In the event Utility Customer Service personnel detect any identified Red Flags, such personnel shall take one or more of the following steps, depending on the degree of risk posed by the Red Flag:

1. Continue to monitor an account for evidence of Identity Theft;
2. Contact the customer;
3. Change any passwords or other security devices that permit access to accounts;
4. Not open a new account;
5. Close an existing account;
6. Reopen an account with a new number;
7. Notify the Program Administrator for determination of the appropriate step(s) to take;
8. Notify law enforcement; or
9. Determine that no response is warranted under the particular circumstances.

J. Training

Training of all Utility Customer Service employees will be accomplished prior to May 1, 2009. The training will assist staff in recognizing Identity Theft Red Flags and will prepare them with the action steps to take, depending on the Red Flag finding. As staff is hired, training will occur for each employee as a part of their initial training.

K. Periodic Review and Reporting

The Public Works Director will serve as the Program Administrator for the Identity Theft Program and will conduct an annual review to determine staff compliance with the Identity Theft Program, staff effectiveness in addressing the risk of identity theft, address significant incidents involving identity theft and management's response. If it is determined that changes may be necessary the Program Administrator will detail any changes to the City Manager, who has the authority to approve any recommended changes in policy.