



COUNTY OF SAN MATEO
Inter-Departmental Correspondence

County Counsel

DATE: July 20, 2009
BOARD MEETING DATE: August 4, 2009
SPECIAL NOTICE/HEARING: No
VOTE REQUIRED: Majority

TO: Honorable Board of Supervisors
FROM: County Counsel
SUBJECT: County of San Mateo Identity Theft Program (ITPP)

RECOMMENDATION:

Adopt a Resolution Adopting and Implementing the County of San Mateo Identity Theft Prevention Program (ITPP)

BACKGROUND:

The Federal Trade Commission (FTC), the federal bank regulatory agencies, and the National Credit Union Administration (NCUA) have issued regulations ("Red Flags Rules") requiring financial institutions and creditors to develop and implement written identity theft prevention programs, as part of the Fair and Accurate Credit Transactions (FACT) Act of 2003. (16 CFR § 681.2). These identity theft prevention programs must provide for the identification, detection, and response to patterns, practices, or specific activities – known as "red flags" – that could indicate identity theft.

Under the regulations, a "creditor" includes government entities that defer payment for goods or services (i.e. payment for utilities or payment plans for parking tickets). Accounts covered by the regulations include:

- "(i) An account that a financial institution or creditor offers or maintains, primarily for personal, family, or household purposes, that involves or is designed to permit multiple payments or transactions, such as a credit card account, mortgage loan, automobile loan, margin account, cell phone account, utility account, checking account or savings account; and



- (ii) Any other account that the financial institution or creditor offers or maintains for which there is a reasonably foreseeable risk to customers or to the safety and soundness of the financial institution or creditor from identity theft, including financial, operational, compliance, reputation, or litigation risks.”

Both of these definitions include County departments that act as a creditor by deferring payments due for goods and services. Deferring payments refers to postponing payments to a future date and/or installment payments on fines or costs.

The regulations go into effect in August of 2009.

DISCUSSION:

County Counsel's Office conducted a survey of all Departments to determine which departments should be covered under the FACT Act. County Counsel's Office determined that the Department of Housing, Human Services Agency, San Mateo County Health System and the Tax Collector conduct transactions that are covered by the FACT Act. The survey also revealed that County Departments currently have adequate measures in place to protect against identity theft. The requirements of the FACT Act are regulatory in nature and bolster County Department's already strong protections of consumers.

Pursuant to the results of the survey, County Counsel has drafted an Identity Theft Prevention Program, which is attached, to comply with the requirements of the FACT Act. The County Manager will oversee the Program in close consultation with County Counsel. Oversight will primarily consist of ensuring that the training and reporting functions of the Program are carried out.

FISCAL IMPACT:

There is No Net County Cost associated with the implementation of this regulatory requirement.