

INVESTIGATIVE UNIT OPERATIONS PLAN

County: Onondaga

Contact Person: Mark Wierzbicki

Title: Coordinator of Eligibility Investigations

Phone #: (315) 435-2585 Ext. 7125

E-Mail Address: Mark.Wierzbicki@dfa.state.ny.us

1. What unit is responsible for the investigation of the client fraud allegations?

The Welfare Fraud Investigations Unit is responsible for investigating allegations of fraud. The Unit consists of a Coordinator of Eligibility Investigations, a Supervising Social Services Investigator, a Senior Investigator, seven Welfare Fraud Investigators, and five Income Maintenance Specialists.

Referrals are received from workers, the public, and outside agencies. Referrals are first reviewed by the Supervising Social Services Investigator. Referrals are then assigned to either a Welfare Fraud Investigator or an Income Maintenance Specialist depending upon what is needed, either a full investigation or a computation for unreported changes.

2. What unit is responsible for the prosecution of client fraud allegations?

Criminal: Name of unit *** District Attorney Office, Economic Crime Bureau, Sr. ADA Michael Kasmarek

Civil: Name of unit – see response to # 1

How Processed: Please refer to responses # 4, 5 & 6.

3. What unit is responsible for determining the overpayment amount, establishing the claim, and collection activities?

The Welfare Fraud Investigations Unit is responsible for determining overpayments associated with fraud cases in all program areas. The overpayments are calculated by the Income Maintenance Specialists in our Unit. When an overpayment has been confirmed, either through the client's voluntary admission, an ADH Decision, or criminal conviction, the Fraud Investigations Unit will notice the client only on SNAP fraud cases. The Unit will also establish the SNAP claim in CAMS for this case and, if appropriate, initiate a recoupment. For the Temporary Assistance overpayments (SN or FA), the Temporary Assistance Division establishes the claim and sends the notice to the client. Collection activities, other than recoupments and probation cases, are the responsibility of the Onondaga County Division of Fiscal Operations when the account falls into default. All claims are referred to the Division of Fiscal Operations at the time of establishment either by the Unit or by the Director's Office – Recovery Unit, depending on the program(s) affected.

4. What are the step by step procedures for the referral of fraud cases for administrative hearings, including the notices provided at the time of providing such notices?

Verified fraud cases are referred to the District Attorney's Office to review, for the purpose of criminal prosecution. The District Attorney's Office reviews the investigative report and the evidence, and then either accepts or declines a case for the purpose of prosecution. If the case is accepted for prosecution, the DA's Office can choose one of the following options: 1) immediately prepare and file an accusatory instrument; 2) present the case to a grand jury; 3) provide the client an opportunity to resolve the case with a civil settlement with DSS-ES. If notice of an offer of civil resolution is sent to the client by the District Attorney, included with the notice are: the Notice of Consequences, a Disqualification Consent Agreement, a Summary of Evidence, and copies of evidence. (See form letter from District Attorney attached).

If the client contacts the agency after receiving the notice, they are advised that we are unable to discuss the case for a period of ten days to allow them to review the documents sent to them by the DA's Office. They are further advised that after the ten days, and prior to the discussing the case, that they will be required to engage in a brief interview so that they can be advised again of their rights. They are further informed that they will be asked to confirm whether they have been advised of these rights by initialing each right, and by signing the interview form which lists those rights. Under certain circumstances, interviews are conducted by phone and the acknowledgments are recorded by the investigator. One the interview is conducted, the agency addresses all of the clients concerns, answering all questions and reviewing with them the evidence they had been provided with. If further investigation is warranted, or the agency determines to revise or revision of the finding from "fraud" to "inadvertent household error" or "agency error", those steps are taken, and the review/revision is conveyed to the DA's Office. If no longer considered a case involving fraud, the DA's Office returns the case to DSS-ES for administrative processing, and collection of overpayment if any.

If the client signs a DCA, the DA's Office is notified. In most cases the DA will decide to defer prosecution in anticipation that an adequate resolution has and will be reached, including full repayment of any overpayments involved. When the client decides not to resolve the matter with DSS-ES, and is not able to provide additional information or evidence that the agency's determination of fraud was incorrect, the DA's Office is advised that the matter has not been resolved and that further prosecution is requested. If the DA's Office declines to pursue further criminal prosecution at that point, for any reason other than the merits of the case, the case is returned to DSS-ES and is prepared for an ADH. In addition, if prosecution does not take place within the statutory time frames for criminal prosecution, the case is returned to DSS-ES and is prepared for an ADH. ADH preparation of packet sent to Office of Administrative Hearings, notice sent by Office of Administrative Hearings to client.

- 5. What are the step by step procedures for the referral of fraud cases to your District Attorney, including the notices provided and the timing of providing such notices?**

See Response # 4

- 6. What are your procedures for offering a Disqualification Consent Agreement (DCA)?**

See Response # 4

- 7. How is it proven that an individual has been advised on the court record of the Temporary Assistance disqualification penalties?**

The District Attorney's Office has been provided with the enclosed plea allocution form titled "Notice of Disqualification from Receipt of Public Assistance Benefits". The District Attorney's Office has been instructed to have all Assistant District Attorney's, at plea, have the defendant acknowledge this on the record and execute it prior to entering the plea to a Welfare Fraud charge, or any charge in which the substantive facts of the plea include an admission of fraud in one or more of the public benefit programs.



County of Onondaga

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Section 1:

Contract Number	ODA160001		
Contract Type	Intra County Contracts	Common Name	PA, Medicaid, SNAP, & Day Care Inten. Violations
Department	Department of Social Services - Economic Security	Program Name	None
Org Code	None		
Account Number	None	Account Name	None

This AGREEMENT is made by and between Onondaga County through the Onondaga County Department of Social Services - Economic Security , 421 Montgomery Street, Syracuse, New York, 13202, hereinafter called the "Department" and Onondaga County District Attorney, 505 South State St, Syracuse, NY, 13202, hereinafter called the "Contractor", "Agency" and/or "Provider".

WITNESSETH

Whereas, the Commissioner of the Onondaga County Department of Social Services - Economic Security, hereinafter Commissioner, is duly authorized by law to administer the services envisioned herein in the County of Onondaga; and

Whereas, the Department is authorized to enter into the agreement; and

Whereas, the Contractor has the authority and ability to provide the goods and services as set forth in the agreement; and

Whereas, the parties have determined that the terms and conditions of the agreement are fair and equitable;

Now, therefore the parties hereto do mutually agree as follows:

DURATION OF AGREEMENT

The Agreement shall commence on Friday, January 1, 2016 and shall terminate on Saturday, December 31, 2016.

The Contractor agrees to provide the following services:

A. Responsibilities of the Onondaga County DA:

1. The Onondaga County DA shall prosecute cases of Public Assistance ("PA"), Supplemental Nutrition Assistance Program ("SNAP"), Medical Assistance ("MA"), and Subsidized Child Care ("Child Care") (collectively referred to as "welfare fraud") or any other appropriate issue referred by the Agency, and shall accrue revenues thereby.
2. The DA shall assign staff to prosecute welfare fraud cases, as outlined in the approved Section 8 - Budget. The DA shall be reimbursed pursuant to this Agreement for only those service expenditures incurred in accordance with said Section 8 - Budget.
3. The DA shall maintain welfare fraud caseload statistics, with the assistance and support of the Agency, in accordance with Article 3 below.
4. The DA shall accept all welfare fraud referrals from the Department, for review as to the existence of probable cause and for the DA's determination as to the appropriateness of criminal prosecution. The DA retains the right to decline, after investigation, to prosecute any welfare fraud referral from the Agency. The DA shall assist the Agency in appropriately resolving or otherwise disposing of any case the DA has declined to prosecute.
5. The DA shall ensure that welfare fraud defendants who enter a plea of guilty or nolo contendere in cases referred under this Agreement:
 - a. Are advised on the record in court when the plea is taken of the disqualification provisions set forth in Section 145-c of the New York State Social Services Law and applicable regulations thereunder; and
 - b. Enter into Disqualification Consent Agreements ("DCAs") with the DA.
6. The DA shall timely notify the Agency of the disposition of each welfare fraud case that the Agency refers to the DA and shall provide the Agency's Fraud and Resource Recovery Unit with a report on a monthly basis that provides update status on each case referred to the DA by the Agency, including all cases which have resulted in Disqualification Consent Agreements through the DA's office.
7. For each year during the term of this Agreement and any renewals thereof, the DA shall prepare and shall submit to the Agency for forwarding to the NYS Office of Temporary and Disability Assistance ("OTDA"), by not later than thirty (30) days after the end of the calendar year, a report summarizing all of its welfare fraud case activity for that year.

B. Responsibilities of the Agency

1. The Agency shall assist the DA in the performance of the services required by this Agreement, as follows:
 - a. The Agency will review all welfare fraud cases prior to being referred for prosecution;
 - b. The Agency will determine whether the materials supporting the welfare fraud cases referred to the DA constitute reasonable grounds to believe that welfare fraud has been committed by the applicant, recipient, and/or other(s) involved;
 - c. In cases of suspected welfare fraud where the supporting materials do not constitute reasonable

grounds to believe that fraud was committed, but the suspicion of fraud nevertheless remains, the Agency will investigate further to determine if the evidence necessary to constitute fraud or erase suspicion of fraud can be produced; and

d. The Agency will review the existence of any mitigating facts or circumstances in each welfare fraud case, at a minimum prior to referral and again on each occasion that the Agency is called upon to provide evidence and/or testimony at Grand Jury, any hearings, the trial or any appeal of each case referred.

2. The Agency shall refer to the DA all appropriate cases of alleged welfare fraud by applicants or recipients.

3. The Agency shall provide the DA with all of the facts and evidence necessary to fully investigate the cases referred pursuant to this Agreement, including but not limited to, accurately computing any alleged overpayment of benefits to any recipient.

4. Whenever restitution, or arrangements for the restitution, of allegedly, fraudulently received welfare funds or benefits has been made or is being made by any applicant or recipient whose case has been referred hereunder, the Agency shall so advise the DA and shall inform the DA of the amount of any such restitution.

5. The Agency shall coordinate with the DA to the extent necessary to ensure that all allegations of welfare fraud referred to the DA from sources other than the Agency are incorporated into the Agency's referral process.

Section 3: Compensation

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The Department will pay the Contractor according to the following terms and conditions:

1. Subject to the annual appropriate and availability of funding therefore, the Agency agrees to pay and the DA agrees to accept as payment-in-full for the performance of services hereunder, an amount not to exceed \$120,000 for the term of this Agreement pursuant to the approved budget found in Section 8 - Budget, which is hereby made a part of the Agreement.

2. Payment shall be made on invoices or claims ("claims") which shall include but not be limited to the identification of the case type being claimed (PA, SNAP, MA or Child Care), including the Agency's case number and defendant(s) name(s), on official Contract Administration Management System ("CAMS") claim forms, together with adequate supporting documentation as from time to time requested by the Agency, with such frequency and in such a manner and other form as the Agency requires. Each such claim shall be submitted by the DA's chief fiscal officer or designee, and shall contain the following language:

"I hereby certify that this Claim is for services rendered on behalf of the County of Onondaga, that it is necessary for the proper transaction of the business of the Agency, that it was incurred solely for the benefit of the County of Onondaga and the social services programs it administers, that no portion of the amount claimed herein has been previously certified, and that such amount is solely for the operation of the contract referenced in this Claim."

All claims must be submitted no later than (date) following the fiscal year for which the DA wishes to be paid. Claims submitted after (date) in the following fiscal year will not be honored.

3. The DA may seek reimbursement only for the expenses it actually incurs in the prosecution of welfare fraud cases referred by the Agency, up to the amount of the approved budget. Expenditures incurred under this Agreement shall be allocated to the appropriate program expense according to case type to the respective case types referred (i.e, PA, SNAP, MA or Child Care programs).

4. As the period of performance contemplated by this contract involves performance by the DA in one or more subsequent County Fiscal Years, funding for each such County Fiscal Year shall be subject to the annual appropriation and availability of Federal, State and County funding therefore.

Section 4: Reports and Records

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The parties agree that the Department may review or be provided any reports, documents or records reasonably related to this agreement. Such report, document, or records shall include, but not be limited to, the following:

a. Annual Financial Report

If requested, the Contractor will submit a financial report to the Department within thirty (30) days after the end of the Agreement period covering the use of all funds received pursuant to this Agreement during the project and/or calendar year and for the Agreement period. The report must clearly and accurately verify the manner in which funds received from this Agreement were actually disbursed.

b. Documentation Requirements

The Contractor will maintain financial books, records, and other necessary supporting documents as required by the Department. The Contractor will use accounting procedures and practices which sufficiently and properly reflect all direct and indirect costs of the services provided under this Agreement. The Contractor agrees to collect statistical data of a fiscal nature on a regular basis and to make fiscal and statistical reports at times prescribed by and on forms furnished by the Department.

c. Retention

The DA agrees to retain all books, records, and other documents relevant to this Agreement for six (6) years after the date of final payment or the termination date of this Agreement, whichever occurs later. City, State and Federal auditors and any other person(s) duly authorized by the Agency shall have full access to and the right to examine any such materials during the said retention period, except as to those records governed under other confidentiality statutes or regulations applicable to prosecuting authorities, such as criminal or arrest histories.

d. Audit

All records must be available for a period of six (6) years and should be made available for audit by NYSDFA, NYS Audit and Control, and DHHS (and USDA if appropriate).

e. Document Provision

The Department (local DSS) will provide reports, documents and other information that will enable the other party to perform its duties under the agreement.

Section 5: Standard Terms and Conditions

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a. Arrears

The Contractor warrants that it is not in arrears to the County of Onondaga or the Department upon any debt or contract, and that it has not been in default and is not in default as surety, contractor or otherwise. If arrears are owed to the County of Onondaga or any other debtor in which a court of competent jurisdiction directs Onondaga County to pay any compensation under this agreement, then Contractor is agreeable to offset any payments that would have been paid to the Contractor.

b. Assignment

The Contractor shall not assign, transfer, or subcontract or otherwise dispose of the obligations under this agreement without the expressed written permission of the Department.

The local Commissioner of Social Services may have input into the assignment, retention, and reassignment of any staff working under the terms of the agreement, but that the ultimate authority for these staff remains with the appointing office.

c. Independent Contractor

The Contractor is an independent contractor and hereby covenants and agrees to act in accordance with that status, and the Contractor, the employees and agents of the Contractor shall neither hold themselves out as nor claim to be officers or employees of the Department and shall make no claim for, nor shall be entitled to, workers' compensation coverage, medical and unemployment benefits, social security or retirement membership benefits from the Department.

d. Confidentiality and HIV Disclosure Statement

All social services records are confidential. The Contractor agrees to observe applicable federal and state requirements relating to confidentiality of records and information including HIV and AIDS related information.

Any disclosure of confidential HIV- related information shall be accompanied by a written statement as follows: "This information has been disclosed to you from confidential records which are protected by State law. State law prohibits you from making any further disclosure of this information without the specific written consent of the person to whom it pertains, or as otherwise permitted by law. Any unauthorized further disclosure in violation of State law may result in a fine or jail sentence or both. A general authorization for the release of medical or other information is not sufficient authorization for further disclosure".

All information exchanged between agencies is confidential and will be used only for the intended purposes. Measures shall be taken to safeguard the confidentiality of such information to the extent required by applicable state and federal laws and regulations.

e. HIPAA Compliance

Contractor agrees that, to the extent Contractor is a covered entity as defined by the Health Insurance Portability and Accountability Act of 1996 (HIPAA), it will comply with all applicable requirements of HIPAA.

f. Licenses and Permits

- 1) Costs. The Contractor hereby agrees that it will obtain, at its own expense, all licenses or permits for the work performed under this contract, if any are necessary, prior to the commencement of work.
- 2) Full Force. The Contractor warrants that it and its service staff, when necessary, have all licenses, approvals, and certifications currently required by the laws of any applicable municipality. The Contractor further agrees to keep such required documents in full force and

effect during the term of the Agreement, or any extension, and to comply within the required time to secure any new license so required.

g. Suspension and Debarment

The signatory to this Agreement certifies that, except as noted, its company and any person associated therewith in the capacity of independent contractor, not-for-profit provider, for-profit provider, owner, partner, director, officer or major stockholder is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any federal agency; has not been suspended, debarred, voluntarily excluded, or determined ineligible by any federal agency within the past three years.

h. Clauses Required By Law

The parties hereto understand and agree that each and every provision of law and clause required by law to be inserted in this Agreement shall be deemed to have been inserted herein, and if through mistake or inadvertence such provision is not inserted, said clause shall be deemed to have been inserted and shall have the full force and effect of law.

i. Severability

If any term or provision of this Agreement shall be held invalid or unenforceable, the remainder of this Agreement shall not be affected thereby, and every other term and provision of this Agreement shall be valid and enforced to the fullest extent permitted by law.

j. Hold Harmless/Defense and Indemnification

The Contractor covenants and agrees to indemnify, defend and hold harmless, to the fullest extent permitted by law, the County of Onondaga, its officers, agents and employees and representatives in connection with this Agreement, from and against any and all loss or expense that may arise by reason of liability for damage, injury or death, or for invasion of personal or property rights, including but not limited to: (i) claims of property damage; (ii) claims of personal injury to Contractor if self employed, Contractor's employees, agents, or subcontractors; (iii) claims of personal injury to third parties; and (iv) reasonable attorneys' fees, whether incurred as the result of a third party claim or to enforce this contract: arising out of or resulting directly or indirectly from the performance of the work or the enforcement of this Hold Harmless provision; and whether casual or continuing trespass or nuisance, and any other claim for damages arising at law and equity alleged to have been caused or sustained in whole or in part by or because of misfeasance, omission of duty, negligence or wrongful act on the part of the Contractor.

k. Statutory Compliance

The Contractor covenants and certifies that it will comply in all respects with all federal, state, county or other municipal law which pertain hereto regarding work on municipal corporations including, but not limited to, matters of employment, hours of employment, wages, worker's compensation insurance, human rights and non-discrimination.

l. Conflict of Interest

1) Affidavit. At the time the Contractor submits a bid, or if no bid is submitted, prior to performing any services, the Contractor shall execute and serve upon the County of Onondaga the attached Affidavit Appendix A certifying that the Contractor has no interest and will not acquire any interest, direct or indirect, that would conflict in any manner or degree with the performance of services to the County. The Affidavit shall further state that the Contractor agrees that in the rendering of services to the County no persons having any such interest shall be employed by the Contractor. The Contractor assumes full responsibility for knowing whether its employees or agents have any such interest and in certifying the absence of such conflict to the County.

2) Duty to Disclose. During the course of performing services for the County, the Contractor agrees to disclose immediately to the County, by Affidavit, every known or apparent conflict of interest and every ostensible or potential conflict of interest of the Contractors, its employees and agents. The duty to disclose is a continuing duty. The Contractor agrees that disclosure is a material obligation of the contract and that failure to comply with these provisions affords the County the right to pursue any and all remedies for breach of contract. In the event of an apparent or actual conflict of interest during the course of performance, the Contractor agrees that the County or the County Board of Ethics shall suspend all work, services and payments pending final approval. If the conflict cannot be resolved to the satisfaction of the County, the County may terminate the contract by written notice. Nothing herein shall be construed as limiting or waiving the County's right to pursue damages or other remedies. A conflict of interest includes any circumstance which might influence or appear to influence the judgment of the Contractor, and the Contractor shall disclose the same. The Contractor shall disclose further the acceptance of compensation, monetary or otherwise, from more than one (1) payer or party for services on the same project or related project. The Contractor shall disclose further the direct or indirect solicitation or acceptance of financial or other consideration parties other than the County for work on the project to which this contract pertains. If applicable, the Contractor shall disclose further the direct or indirect acquisition of any interest in the real estate, which is the subject of the project, or in the immediate vicinity thereof. A conflict of interest on the part of the Contractor's employee or agents shall be deemed a conflict of interest on the part of the Contractor, giving rise to the same duty to disclose.

m. Allocation of Time

The Contractor certifies that said Contractor will fully comply with all existing applicable laws and regulations and further certifies that the weekly collective time or effort of any employee, staff member or contractor whose time or percentage of effort is allocated to said contract shall not exceed a normal week or 100 percent, as the case may be, for all such contracts to which such employee's, staff member's or contractor's time or effort may be allocated.

n. Contract Modifications

This Agreement represents the entire and integrated agreement between the Department and the Contractor and supersedes all prior negotiations, representations or agreements either written or oral. This Agreement may be amended only by written instrument signed by both the Department and the Contractor.

o. Termination

1) By Mutual Agreement. This Agreement may be terminated at any time upon mutual agreement of the parties. In the event of termination, the Contractor shall not incur new obligations for the terminated portion, and the Contractor shall cancel as many outstanding obligations as possible.

2) Without Cause. Either party may terminate this agreement by giving 30 days written notice to the other of its intent to terminate this contract. Written notice shall be by registered or certified mail, return receipt, or delivered by hand and receive receipt. During the 30-day period after such notice is sent, the parties shall continue to act toward each other in good faith. The contractor shall not incur new obligations beyond the 30-day period for the terminated portion, and the contractor shall cancel as many outstanding obligations as possible.

3) With Cause. Either party may terminate this agreement with reasonable cause effective by giving 10 days written notice of the termination for cause. The grounds for reasonable cause shall include failure to comply with the terms and conditions of this agreement, the filing of a petition in bankruptcy or insolvency by or against the contractor, federal and state funds for this agreement

become unavailable, failure to comply with any federal, state, or local health, safety or fire code regulations, licensing or certification requirement. In the event of termination for any reason, the contractor shall not incur new obligations for the terminated portion, and the contractor shall cancel as many outstanding obligations as possible. No additional compensable dollars will be permitted in the event federal or state appropriation authority is removed.

p. Americans With Disabilities Act/Section 504/LEP Compliance

Contractor/Provider shall be in compliance with the provisions of Title II of the Americans with Disabilities Act (ADA), Americans with Disabilities Act Amendments Act (ADAAA) and the Onondaga County Department of Social Services ADA Policy, as well as Executive Order 13166, "IMPROVING ACCESS TO SERVICES FOR PERSONS WITH LIMITED ENGLISH PROFICIENCY."

q. Civil Rights Act of 1964

The Contractor agrees to comply with the Civil Rights Act of 1964 as amended by Executive Order 11246, 41 CFR Part 60, Section 504 of the Rehabilitation Act of 1973 and 45 CFR Parts 84 and 85.

Section 6: Insurance

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Section 7: Performance Measures

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Contract Rates

Rate Label	Unit of Measure	Rate
Review Investigator's Report	Each	\$110.00
Review - DSS file, Affidavits & Preparation	Each	\$450.00
Prep & Filing Accusatory Instrument	Each	\$1,500.00

Section 9: Signatures

In Witness Whereof, the parties hereto have executed this Agreement the date and year hereinafter written.

Onondaga County Department of Social Services - Economic Security

By: Sarah Merrick
Sarah Merrick
Commissioner

Dated: 7/12/16

Contractor
By: William Fitzpatrick

Dated: 7/11/16

Onondaga County District Attorney

State of New York)
County of Onondaga) ss.:

On this 11 day of July, 2016 before me personally appeared William Fitzpatrick to me known and known to me to be the person described in and who executed the foregoing instrument, and he/she acknowledged to me that he/she executed the same.

Michele Robbins
Notary Public

Michele Robbins
Notary Public, State of New York
No: 01R06218343
Qualified in Onondaga County
Commission Expires March 1, 2018