

FALSE CLAIMS ACT AND WHISTLE BLOWER POLICY & PROCEDURE

JAN. 2010

PURPOSE AND APPLICATION

Oswego County Opportunities, Inc., (OCO, INC.), is committed to prompt, complete and accurate billing of all services provided to individuals. OCO, INC., and its employees, contractors and agents shall not make or submit any false or misleading entries on any claim forms. No employee, contractor or agent shall engage in any arrangement or participate in such arrangement at the direction of another person, including any supervisor or manager that result in the submission of a false or misleading entry on claims forms or documentation of services that result in the submission of a false claim.

POLICY

- OCO, INC. will disseminate this policy and procedure to all its employees, contractors and agents.
- OCO, INC. will perform billing activities in a manner consistent with the regulations and requirements of third party payors, including Medicaid and Medicare.
- OCO, INC. will conduct regular auditing and monitoring procedures as part of its efforts to assure compliance with applicable regulations.
- Any employee, contractor or agent who has any reason to believe that anyone is engaging in false billing practices or false documentation of services is expected to report the violation to OCO, Inc.'s Corporate Compliance Officer.
- Any form of retaliation against any employee who reports a perceived problem or concern in good faith is strictly prohibited.
- Any employee who commits or condones any form of retaliation will be subject to discipline up to, and including, termination.

OCO, INC. is committed to detecting and preventing fraud, waste and abuse in federal healthcare programs in accordance with the False Claims Act. This policy applies to all employees and all contractors and agents.

OCO will provide a means by which individuals can readily register complaints or express concerns regarding OCO's accounting, internal accounting controls, auditing matters, or any illegal, fraudulent or unethical behavior of employees, managers, officers, and directors of this agency. Reports may include, but are not limited to: waste, fraud, misconduct, abuse, unethical practices, and violations of local, state or federal laws.

The False Claims Act, 31 U.S.C. § 3729 *et seq.*, is a federal law designed to prevent and detect fraud, waste and abuse in federal health care programs, including Medicaid and Medicare. Under the False Claims Act, anyone who "knowingly" submits false claims to the government is liable for damages up to three times the amount of the erroneous payment plus mandatory penalties of \$5,500 to \$11,000 for each false claim submitted.

The definition of "knowingly" includes a person who:

- Has actual knowledge of falsity of information in the claim;
- Acts in deliberate ignorance of the truth or falsity of the information in the claim; and

- Acts in reckless disregard of the truth or falsity of the information in a claim.

False Claims suits can be brought against individuals and entities. The False Claims Act does not require proof of a specific intent to defraud the government. Providers can be prosecuted for a wide variety of conduct that leads to the submission of a false claim. Some examples include:

- knowingly making false statements
- Falsifying records
- Submitting claims for services never performed or items never furnished
- Double-billing for items or services
- Using false records or statements to avoid paying the government

Similar provisions are found in the NY False Claims Act (State Finance Law sections 187 -194). Other federal (including section 1902(a) (68)(A) of the Social Security Act) and state laws also cover making false claims and/or statements, falsifying business records, and insurance fraud.

WHISTLE BLOWER OR “QUI TAM” PROVISIONS

In order to encourage individuals to come forward and report misconduct involving false claims, the False Claims Act contains a “Qui Tam” or whistle blower provision.

The Government, or an individual citizen acting on behalf of the Government, can bring actions under the False Claims Act. An individual citizen, referred to as a whistle blower or “Relator,” who has actual knowledge of allegedly false claims may file a lawsuit on behalf of the U.S. government. If the lawsuit is successful, and provided certain legal requirements are met, the Whistle blower may receive an award ranging from 15% - 30% of the amount recovered. The False Claims Act, and New York State Labor Law §740, prohibit discrimination by OCO, INC., against any employee for taking lawful actions under the False Claims Act. Any employee who is discharged, demoted, harassed, or otherwise discriminated against because of lawful acts by the employee in False Claims actions is entitled to relief. Such relief may include reinstatement, double back pay, and compensation for any special damages.

DEFINITIONS

- **“Abuse”** is an activity that goes against sound business, monetary, or medical practices.
- **“Complaint”** means any adverse information provided to OCO, Inc., whether in the form of a concern, a demand for remedial action, or a report of a suspected violation of law or OCO policy, that relates to the agency’s accounting, internal accounting controls, auditing matters, waste, fraud, misconduct, or abuse.
- **“Confidential”** means authorized for access by only those persons who have a need to know. A need to know normally arises from an obligation to investigate or to take remedial or disciplinary action.
- **“Corporate Compliance Officer (CCO)”** is the agency’s Director of Information and Compliance.
- **“Fraud”** is the intentional use of false statements to cheat another person or company out of something of value. It includes any act that constitutes fraud under state and federal law. Misappropriation and other fiscal irregularities include, but are not limited to:
 - Any dishonest or fraudulent act
 - Forgery or alteration of any document or account belonging to the agency or agency clients

- Forgery or alteration of a check, bank draft, or other financial document
 - Misappropriation of funds, supplies, equipment, or other assets of the agency or agency clients
 - Impropriety in the handling or reporting of money or financial transactions
 - Disclosing confidential and/or proprietary information to outside parties
 - Accepting or seeking anything of material value from contractors, vendors, or persons providing goods or services to the agency
 - Destruction, removal or inappropriate use of records, furniture, fixtures, and equipment
- **“Misconduct”** is behavior that is not in accordance with accepted professional or moral standards, such as OCO’s Code of Conduct. Examples include:
 - Incompetence
 - Dishonest management practices
 - Delivering care to consumers while under the influence of alcohol or illegal drugs
 - Acting immorally or unprofessional towards staff/co-workers
 - Engaging in business for another employer during a scheduled shift at OCO
 - Asking/pressuring staff to engage in unethical activity
 - **“Prima Facie”** means at first sight, on the first appearance, on the face of it; so far as can be judged from first disclosure; a fact presumed to be true unless disproved by some evidence to the contrary.
 - **“Suspicious Activity”** is any activity that you think is fraudulent, wasteful, or abusive. Examples include:
 - Altering consumer case files or medical records
 - Billing for non-covered services as if they were covered
 - Billing for services that were not provided
 - Billing more than one payer for the same service
 - Use of unlicensed staff
 - **“Waste”** is any unnecessary cost that results from poor or inefficient practices.
 - **“Whistle Blower Hotline”** means a telephone number or e-mail address managed by the agency’s Corporate Compliance Officer and available for receiving anonymous complaints from any source. **OCO refers to this as the “Confidential Reporting Line”**. The toll-free access number and/or email address shall be posted on OCO’s external and internal websites, and at all agency worksites.

CONFIDENTIAL REPORTING LINE PROCEDURES

Oswego County Opportunities, Inc. has established procedures for receipt, retention and appropriate treatment of complaints against the agency regarding accounting, internal accounting controls, or auditing matters and for confidentially addressing submissions by employees or non-employees concerning questionable accounting or auditing matters. As a matter of sound corporate governance, these procedures are designed to provide a readily understood, prompt and effective means of addressing such complaints or concerns.

A. SUBMISSION AND RECEIPT OF COMPLAINTS

1. Notwithstanding the availability of the Confidential Reporting Line complaint procedures, employees are free to bring complaints to their supervisor, their department head, any member of senior management, or directly to the Corporate Compliance Officer. Any complaints so received shall be handled and documented, with a copy of the documentation submitted to the agency's Corporate Compliance Officer.
2. Anyone may submit complaints to the Confidential Reporting Line. The Confidential Reporting Line access number and/or e-mail address shall be posted on OCO's external and internal websites.
A printable form, "Waste, Fraud, Misconduct and Abuse Incident Reporting Form," (Attachment A) will be posted on the agency's H Drive in H:\Common\Forms\ for employee use.
3. All reporting methods are listed in Section I at the end of this policy.

B. RETENTION OF RECORDS

Records pertaining to a complaint are the property of OCO, Inc., and shall be retained:

1. In compliance with applicable laws and OCO's document retention policies;
2. Subject to safeguards that ensure the confidentiality and, when applicable, the anonymity of the complainant;
3. In such a manner as to maximize their usefulness to OCO's overall compliance or governance programs.

C. TREATMENT OF COMPLAINTS

1. All complaints shall be treated as confidential.
2. Any face-to-face oral complaints shall be documented immediately in writing, in the presence of the complainant.
3. Complaints received by the Confidential Reporting Line shall be initially analyzed and screened by the agency's Corporate Compliance Officer to identify matters that clearly do not fall within the intent of this policy (i.e. complaints not directly related to auditing, finance, fraud, ethics, abuse, or legal matters). Complaints that fall within the intent of this policy shall be reviewed and investigated by Corporate Compliance Officer and/or designee. Matters outside the scope of this policy may be directed to the appropriate OCO department or outside agency for handling.
4. The Corporate Compliance Officer shall provide a written report, on at least an annual basis, to the Board of Directors that lists Confidential Reporting Line activity. The Board has the right to review any investigation final reports.
5. The assessment, investigation, and evaluation of complaints shall be conducted by or at the direction of, the Corporate Compliance Officer, in cooperation with the Board of Directors and Senior Directors of departments as appropriate. The agency may engage independent advisors including legal counsel or auditors other than OCO's external auditor for the purpose of investigating or remediating any complaint. Disciplinary actions for violation of this policy shall be handled jointly by Human Resources and the agency's Corporate Compliance Office.
6. Following investigation and evaluation of a complaint, the Corporate Compliance Officer in cooperation with Executive Director, Human Resource Manager and/or Board

Chairman, any recommended disciplinary or remedial action shall be determined. Recommendations shall be brought to the appropriate Board of Directors or to the appropriate members of senior management for authorization and/or implementation. Any action taken to resolve a complaint will be included in the Corporate Compliance Officer's report to the Board of Directors.

7. The Corporate Compliance Officer will regard the making of any deliberately false or malicious allegations by an employee as a serious offense which may result in recommendations to the Board of Directors and/or to Executive Leadership of the agency for disciplinary action up to, and including, termination for cause.
8. Treatment of complaints shall include taking reasonable and necessary steps to prevent further similar violations.
9. Any effort to retaliate against any person making a complaint in good faith is strictly prohibited and shall be reported immediately to the Corporate Compliance Officer. Any allegations regarding such retaliation will be investigated and dealt with in accordance with this policy. The penalty for such action is termination.
10. No one employed by OCO, Inc., may demand information from the agency's Confidential Reporting Line.

D. INVESTIGATION PROCEDURE

Complaints shall be entered onto OCO's **Waste, Fraud, Misconduct and Abuse Complaint Intake Form (Attachment B)**. CCO shall classify the complaint and direct it to the appropriate process.

1. CCO checks reporting line once each business day (Mon-Fri)
2. CCO reviews complaint data and determines course of action, using Complaint Intake Form (Attachment B)
3. Whistle blower allegations are docketed for investigation
4. Other types of complaints may be handled administratively (does not fall under policy categories, for example; maybe it goes to Safety Team to address)
5. Complainant notified of status – whether or not investigation will take place
6. In the event that the CCO is out of the office (illness, vacation, etc.), a member of the agency's Corporate Compliance Committee will be designated to check the reporting line.
7. Investigation procedure will be followed:
 - a. Determine the complainant's allegations
 - b. Corroborate the allegations through witnesses and other evidence
 - c. Determine the respondent's answer to the allegations and defenses
 - d. Corroborate the respondent's response
 - e. When conducting interviews with potential witnesses (other than officials representing the respondent), the investigator will ask if the witnesses request confidentiality, and document their responses.
 - f. All contacts and contact attempts made in the course of the investigation will be documented on the **Investigation Contacts Log (Attachment D)** for each individual case.
 - g. The Investigator should interview all company officials who have known direct involvement in the case and attempt to identify other persons

(witnesses) who may have knowledge of the situation. Witnesses should be interviewed individually.

- h. If respondent opts to retain legal counsel, the CCO will notify OCO's Board Chairman and together will turn over investigation to agency's legal counsel/designee. The **Designation of Representative Form (Attachment C)** should be completed by counsel to document his/her involvement.
- i. In the absence of a signed Designation of Representative, the Investigator is not bound or limited to making contacts with the respondent through any one individual.
- j. If respondent requests that someone other than the CCO act as investigator, the request must be made in writing to the Executive Director and Board Chairman, who will then determine whether to continue process with CCO or designate another investigator. If case is transferred to another investigator, this action will be documented in the case file.
- k. Investigations will generally be scheduled in chronological order of the date filed. Exception: Complaints identifying immediate threats to health and safety of agency employees, consumers, business associates, contractors, or volunteers.

8. Final Report

- a. The Investigator will include in the CCO's report to the Board the results of the investigation by means of the **Investigation Final Report (Attachment E)**. The Board has the right to return the final report for further investigation or follow-up.
- b. If waste, fraud, misconduct or abuse is substantiated by the investigation, CCO and Senior Management/appropriate management staff will confer to determine what actions may be taken, including but not limited to:
 - 1. Demand for restitution (missing money/equipment)
 - 2. Termination
 - 3. Pursuit of criminal charges

E. ZERO TOLERANCE

- 1. This policy and procedure applies to any fraud or suspected fraud involving employees, officers or directors, as well as Board members, vendors, consultants, funding sources and/or other parties with a business relationship with Oswego County Opportunities, Inc. Any investigative activity required will be conducted without regard to the suspected wrongdoer's length of services, position/title, or relationship with the agency.
- 2. Fraudulent behavior and/or missing funds due to carelessness of staff will not be tolerated. Disciplinary action and restitution will be matched to the severity of the loss. After appropriate internal investigation, some incidents may be referred to law enforcement for possible criminal action.
- 3. Retaliation in any form, against any employee who files a complaint, will absolutely not be tolerated. The penalty is termination.

F. PUBLICATION OF POLICY

- 1. Publication of this policy to employees shall occur by including a copy of this policy with the Annual Employee Certification performed by all employees.

2. A copy of this policy shall be included on OCO's intranet and external based web page.
3. This policy shall be covered in annual management and supervisory education regarding Corporate Compliance.

G. PENALTIES

Disciplinary actions for violation of this policy by an employee shall be handled jointly by Human Resources and the Corporate Compliance Office. Violations of the policy provisions for confidentiality may constitute grounds for dismissal from employment with OCO. The employee would be solely responsible for any civil or criminal penalties brought forth as a result of legal action by the person whose anonymity was violated.

H. REVIEW SCHEDULE

This policy shall be reviewed annually. The Corporate Compliance Officer shall review and test all reporting methods monthly. Corporate Compliance Officer shall issue annual reports to the OCO Board of Directors and Corporate Compliance Committee on hotline/email activity and any/all actions taken by the agency.

I. CONFIDENTIAL REPORTING LINE METHODS:

- Toll-free call: 1-800-359-1171
- Local call: 592-0700
- Online go to OCO website, www.oco.org. Under "Contact Us" – click to open and fill out an online form
- E-mail address: report2oco@oco.org
- Printable PDF form, "Waste, Fraud and Abuse Printable Incident Reporting Form for Staff Use" located on OCO's H Drive: H:\Common\Forms\ and on www.oco.org, "Employees Link", "Forms".

Print, fill out and mail to: Corporate Compliance Office
Oswego County Opportunities, Inc.
239 Oneida St., Fulton, NY 13069

Mark the outside of the envelope "CONFIDENTIAL"

ATTACHMENT A
Oswego County Opportunities, Inc.
Waste, Fraud, Misconduct and Abuse Incident Reporting Form

Date(filing report)_____/_____/_____

Date incident occurred_____/_____/_____ Time of incident _____am/pm

Location: _____

Incident (please state facts) _____

Agency employee(s) involved _____

How do you have direct knowledge of this incident? _____

Do you want a personal response back?_____

How would you like this response?_____

Your requested response of this investigation will be returned within 14 business days. If investigation is not completed, you will receive a progress report within 14 days, and every 14 days thereafter until completion.

Your Name (optional) _____

Phone (optional) _____ e-mail (optional) _____

ATTACHMENT B
Oswego County Opportunities, Inc.
Waste, Fraud, Misconduct and Abuse Complaint Intake Form

Case I.D. #: _____ ACTIVE _____ INACTIVE _____

Classification: _____

Date(filing report)_____/_____/_____

Date incident occurred_____/_____/_____ Time of incident _____am/pm

Location: _____

Incident (please state facts) _____

Agency employee(s) involved _____

How does complainant direct knowledge of this incident? _____

Complainant wants personal response: ___ YES ___ NO Method: _____

Complainant Name (optional) _____

Phone (optional) _____ e-mail (optional) _____

What policy, statute, etc. has been violated, if any? _____

Has a complaint against OCO on this same subject– safety, health, environmental- been filed with any local, state or federal law enforcement/regulatory agency? ___ YES ___ NO ___ UNKNOWN

If YES, what agency: _____

Is Complaint a Prima Facie Allegation?

___ YES

___ NO

YES, Prepare for Investigation

OCO Board Chair notified: (date) _____

Legal Counsel Consulted: (date) _____

Result: _____
(attach separate sheet if necessary)

Independent Auditor Consulted: (date) _____

Result: _____
(attach separate sheet if necessary)

Case I.D.# Assigned: _____

Duplicate Case File Created: _____

Begin Investigation Procedure Outlined in Section D of OCO's False Claims Act and Whistleblower Provisions Policy and Procedure.

Investigation Completed: (date) _____ Findings of Investigation: Attach Report to Intake Form
Findings Reported to:

OCO Board of Directors: _____ Date: _____

OCO Corporate Compliance Committee _____ Date: _____

Other: _____ Date: _____

Case Closed: _____ Date: _____

Corporate Compliance Officer: _____
(print name)

(signature)

<p>Further Action Required? ___ YES ___ NO</p> <p>If YES, What Action: _____</p> <p>_____</p> <p>_____</p> <p>Complaint Turned Over to: _____</p> <p style="text-align: right;">Date: _____</p> <p>Outcome: _____</p> <p>_____</p> <p>_____</p> <p>Complainant Informed: (date) _____</p>
--

ATTACHMENT C
**OSWEGO COUNTY OPPORTUNITIES, INC.
WHISTLE BLOWER - WASTE, FRAUD, MISCONDUCT
AND ABUSE REPORTING**

DESIGNATION OF REPRESENTATIVE FORM

COMPLAINANT'S NAME: _____

v. Case Number: _____

RESPONDENT'S LEGAL NAME: _____

TO: (*Investigator's Name*) _____

Address: _____

City, State, Zip: _____

Telephone number: _____

The undersigned hereby enters his appearance as representative of:

in the above captioned matter:

Signature of Representative

Type or Print Name

Title

Date

Representative's Address and Zip Code:

Telephone Number: _____

E-mail address: _____

Further Action Required: ____ YES ____ NO

If YES, What Action: _____

Findings Reported to:

OCO Board of Directors: _____ Date: _____

OCO Corporate Compliance Committee _____ Date: _____

Other: _____ Date: _____

Case Closed: _____ Date: _____

Corporate Compliance Officer: _____
(print name)

(signature)