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Anti-Fraud Waste and Abuse Policy

North Carolina Department of Commerce
Division of Community Revitalization



**NC DEPARTMENT
of COMMERCE**
COMMUNITY REVITALIZATION

Revision History

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Policy Overview

Anti-Fraud, Waste and Abuse Policy Overview

The North Carolina Department of Commerce's Division of Community Revitalization (DCR) is the agency division of the State of North Carolina (State) that is responsible for oversight of \$1,428,120,000 of Community Development Block Grant-Disaster Recovery (CDBG-DR) grant funds from the United States Department of Housing and Urban Development (HUD). Responsibility includes managing, administering, and distributing federal funds. These funds are allocated to programs and projects benefiting eligible residents in the State of North Carolina, impacted by Hurricane Helene. Funds are distributed in a manner consistent with the local, State and Federal regulations, with a high level of transparency and accountability. This Anti-Fraud, Waste and Abuse policy is intended to aid in the detection and prevention of fraud, waste, and abuse (FWA) in DCR's federally funded programs, and applies to the general public, DCR employees and any other parties doing business with DCR.

DCR is responsible for the implementation of this policy. Any discovered, suspected, or reported FWA within a federally funded program will be documented and reviewed by DCR. If the allegation warrants further examination, DCR will refer the allegation to the proper investigators for further examination. DCR shall implement adequate measures to detect and prevent FWA in:

- The federally funded programs;
- The provision of services by vendors, contractors, subrecipients, and employees; and
- The provision of program benefits to applicants.

DCR employees, subrecipients, contractors and all other persons or agencies with a role in the implementation of federally funded programs, are responsible for the detection, prevention, and reporting of FWA, misappropriations, and other irregularities. DCR management performs continuous oversight and routinely assesses internal controls to prevent and detect FWA. These procedures are subject to updates as disaster recovery, mitigation and other federally funded programs are being implemented, and additional measures are needed to ensure effective management and oversight of funds.

Definitions and Examples

Fraud is the intentional (willful or purposeful) deception or misrepresentation made by a person and/or organization with the knowledge that the deception could result in some unauthorized benefit to him/herself or some other person. There are many forms of fraud.

Examples of fraud include, but are not limited to, misrepresentation of:

- Income (Unreported or under-reported);

- Household composition;
- Financial resources (transferred or hidden resources);
- Residency (non-resident of North Carolina);
- Citizenship status;
- Using another person's identification;
- Forging signatures or documents;
- Concealing access to duplication of funding;
- Misrepresenting a medical condition to obtain additional benefits;
- Misusing funds (diverting them for an unintended use);
- Providing fraudulent bills, work estimates, and collusion of beneficiaries with contractors.

Waste is carelessly, excessively, and/or haphazardly using grant-funded services, supplies, equipment, or incurring unnecessary costs through carelessness and inefficiency. Abuse is the excessive or improper use of or the intentional destruction, diversion, manipulation, misapplication, or misuse of resources; or extravagant or excessive use so as to abuse one's position or authority. *Note: For the purposes of this policy, this definition does not cover physical or emotional abuse of a person.

Examples of actions constituting FWA include, but are not limited to:

- Any fraudulent act;
- Misappropriation of funds, supplies or assets;
- Impropriety in handling or reporting money or financial transactions;
- Profiting as a result of insider knowledge;
- Unauthorized disclosure of confidential or private information;
- Accepting or seeking anything of material value from contractors, vendors or any person that seeks a beneficial decision, contract, or action;
- Accepting or seeking anything of material value from contractors, vendors or any person that is providing services for federally funded activities;
- Unnecessary cost or expenditures;
- Diversion of program resources.

Preventing Fraud, Waste and Abuse in DCR - Administered Programs

DCR staff (compliance and contracted staff) are required to develop, implement and train staff on program specific policies and procedures to detect, prevent and report FWA in the program(s) under their oversight. The Finance and Compliance Director and Legal staff will review and approve all FWA policies and

procedures. DCR staff overseeing federally funded programs that provide financial assistance to eligible individuals are required, but not limited to, take the following steps to prevent fraudulent activities:

- Require and review supporting documentation to determine eligibility.
- Determine the identity of the applicants and household income following the manual for each program. Applicant identities may be compared to other documentation provided to ensure consistency.
- In the Single-Family Homeowner Programs specifically, staff will review supporting documentation provided to determine household income and composition, or other income documentation as allowed by each program.
- In the Single-Family Homeowner Programs specifically, staff will perform analyses aimed at ensuring compliance with the Robert T. Stafford Disaster Relief and Emergency Assistance Act, (42 U.S.C. §§ 5121 - 5207) to ensure that no unnecessary, excess federal assistance is provided to an applicant, called a duplication of benefit (DOB). All forms of assistance will be verified (VOB) using third-party sources if possible. The CDBG-DR Program will incorporate the Duplication and Verification of Benefits Uniform Policies and Procedures into each program's SOP.
- Incorporate quality control functions for each program at specific intervals to ensure accuracy of analyses at each step.
- Include repayment/recapture and/or subrogation clauses in award letters and contracts with program participants.

For the CDBG-DR funded program and awards, the following language specifically will be included in the Subrogation and Assignment Agreement and in repayment/recapture clauses: "Warning: Any person who knowingly makes a false claim or statement to HUD may be subject to civil or criminal penalties under 18 U.S.C. section 287, 1001 and 31 U.S.C. section 3729."

DCR is required to adhere to 2 CFR 200 as well as program policies and procedures for procurement of contractors. DCR will take the following steps to prevent FWA by contractors, outlined in further detail in the Procurement Manual:

- Perform Independent Cost Estimates;
- Check contractor debarment/participation status on SAM.gov;
- Perform Cost Reasonableness Analysis;
- Provide training to contractors and subrecipients regarding FWA.

Each program has specific policies and procedures to prevent FWA in the program manual and Standard Operating Procedures. At various steps in each program, quality control reviews are performed to ensure that award amounts are calculated accurately and properly, and that awards do not exceed unmet needs. Program managers and staff are familiar with the type of improprieties that might occur within his or her area of responsibility and should continue to improve practices to identify and prevent instances of improprieties.

Subrecipient, Vendor, Contractor Compliance with FWA Policies

DCR requires recipients of federal funds, such as subrecipients, vendors, and contractors to certify their adoption of both Federal and DCR policies to ensure funds are used in accordance with all local, State and Federal laws.

Additionally, DCR will provide guidance to beneficiaries on the best practices regarding FWA with the intention to raise awareness of possible fraudulent activities (contractor fraud and other potentially fraudulent activity that can occur in communities recovering from a disaster), provide tips on prevention, and assist with understanding how to report any allegations received or identified, including who to report to. Guidance will be communicated in the individual award agreements and published on the DCR website. FWA can be reported as described in the “Allegations and Reporting Suspected FWA” subsection below. Program funds will not be distributed to homeowners directly, instead funds will be distributed to program-selected general contractors and used to pay for the cost of construction activities based on predetermined milestones.

Recipients of DCR funding must demonstrate and certify that they have policies in place that require due diligence in detecting FWA of Federal resources. The FWA policies adopted by subrecipients must subsequently be reviewed by DCR during routine monitoring.

Allegations and Reporting Suspected FWA

Any person may report any suspected FWA directly to DCR. Suspected FWA may also be reported to the following agencies:

- NC Department of Commerce Via Email: oiarequest@commerce.nc.gov; Via Phone: 984-236-5999; [Report Fraud, Waste, & Abuse | NC Commerce](#)
- NC Office of State Budget and Management Via Email: FWA@osbm.nc.gov; Via Internet form: [Report Fraud Waste Abuse | NC OSBM](#); Via Mail: C/O Office of Internal Audit 20320 Mail Service Center Raleigh, NC 27699-0320
- HUD Office of the Inspector General Via Phone: 1-800-347-3735; Via email: hotline@hudoig.gov; Via Internet form: <https://www.hudoig.gov/hotline/hotline-form>
- US Treasury Office of the Inspector General Via Internet form: [Report Fraud, Waste, and Abuse | Office of Inspector General](#)

DCR Employee Reporting Requirements

An employee should not attempt to investigate, gather information/facts, or discuss their suspicions with anyone but the appropriate reporting authorities. The reporting individual should be informed of the following:

- Do not contact the alleged fraudster to determine facts or demand restitution.
- Do not discuss facts, suspicions, or allegations with anyone unless specifically asked to do so by DCR. Once the employee has reported the alleged FWA, no information concerning the status of the investigation will be provided. The proper response to any inquiry is: "I am not at liberty to discuss the matter." Under no circumstances should any reference be made to "the allegation," "the crime," "the fraud," "the forgery," "the misappropriation," or any other specific reference.

Compliance Triage Team Review

All alleged incidents of FWA brought to the Internal Auditor will be presented to the Compliance Triage Team for review. The team is composed of DCR's Deputy Director of Operations, the Deputy Secretary, Legal, and one management level employee selected by the Director. Any member has the ability to designate a proxy if they're unable to attend a meeting. The Compliance Triage Team will review the allegation and confirm whether or not there is a basis to refer the allegation to investigators for further investigation. If the Compliance Triage Team determines there is a basis for further investigation, the Internal Auditor or their designee will complete an investigation referral form for the Deputy Secretary's signature.

The form is then routed by the Internal Auditor to the appropriate investigators. All employees should be aware that all allegations of impropriety must be reported under this policy and must be reviewed, regardless of the employee's length of service, position or title, or relationship with, or to, the program. In the event the allegation mentions, or is against, a member of the Compliance Triage Team, the General Counsel and Chief of Staff of the Department of Commerce will review the allegation as the alternate team member.

Investigations

If at the completion of the investigation the investigators substantiate the incidence of fraud, the Internal Auditor will review the outcome and determine where the allegation should be referred. For all instances of substantiated fraud with a loss, the Deputy Director of Operations or designee will share the outcome with the appropriate authorities.

Confidentiality

To the extent allowed by law and consistent with responsibilities under this policy, employees who make or receive a report or who have responsibilities for investigation or other actions shall at all times maintain the confidentiality of communications made.

Termination

If an investigation results in a recommendation to terminate an employee, the recommendation will be reviewed for approval by the Deputy Secretary and General Counsel of the Division of Community Revitalization and, if necessary, by outside counsel, before any action is taken.

Whistleblower Protection

All DCR employees are obligated to disclose and report any irregularities, possible violations of fiduciary responsibility or possible violations of state or federal statutes, rules or regulations, or serious wrongdoing and/or the gross or willful mismanagement of programs funds to a person with the authority to investigate, discover, or correct the possible violation or noncompliance. Whistleblower Protection applies to all DCR activities, across all programs, including subrecipients, contractors, vendors, or any actions associated with the funding awarded for eligible activities and administration costs.

Under the North Carolina False Claims Act, as added by Session Law 2009-554 and amended by Session Law 2010-96, allows whistleblowers to file “qui tam” lawsuits if they know of violations of that state law. The North Carolina False Claims Act imposes liability on persons who knowingly present false or fraudulent claims for payment to the state, misappropriate state property, or deceptively avoid binding obligations to pay the state, among other violations. The North Carolina General Statutes, Chapter 96 of the Department of Labor Regulations, Code Section 95-240 et seq provides Whistleblower Protection for employees, former employees, or members of an organization who report suspected misconduct to people or entities that have the power to take corrective action.

Organizational Safeguards to Prevent FWA: Internal Audit

DCR's FWA prevention activities are supported by the internal audit function which provides coverage for DCR by providing independent oversight of operations, including FWA training and investigations. DCR's compliance staff (including contract staff) coordinates with internal audit which has a role in detecting FWA generally for all DCR auditing efforts and specifically as part of the agency's administration of its federal funding. In addition, the State Auditor may investigate allegations of improper conduct by State agencies, local governments, nonprofits and employees within the statutory authority. Improper conduct includes alleged fraud, misappropriation, mismanagement, or waste of state resources. It also includes alleged violations of State or Federal law, rule, or regulation in administering State or Federal programs, and substantial and specific danger to the public health and safety. DCR will maintain an ongoing program of fraud, waste, and abuse awareness training periodically , to ensure all DCR employees understand this policy along with their respective roles and responsibilities in detecting and helping to deter fraud, waste, and abuse. DCR employees as well as all contractors and vendors will be required to participate and

complete classroom or online training. Information will be made available to DCR employees, contractors, and vendors regarding fraud, waste, and abuse prevention resources through multiple channels of communication. The Internal Auditor(s) for the disaster recovery program shall remain independent while designing and conducting audits in accordance with the Institute of Internal Auditors' standards. The focus of these audits is to detect FWA in all facets of federally funded undertakings. This includes administrative, financial, and operational reviews to ensure funds are spent in compliance with applicable laws and guidelines. The Internal Auditor(s) investigates reports of FWA and, if applicable, monitors the process until resolved. DCR reserves the right to procure an outside, third-party firm if necessary, depending on various funding availability.

Compliance Staff

DCR follows a comprehensive FWA program which includes integrity monitoring, internal controls assessments, and investigations to create a series of “checks and balances” to mitigate risks and ensure compliance with local, State, and Federal regulations. This program is directed and managed by DCR Compliance staff, Internal Audit, and DCR legal staff. DCR’s Compliance staff is structured to allow for coordination between and monitoring of all DCR programs and internal operations departments. The primary purpose of DCR’s Compliance staff is to ensure that all programs, vendors, departments, subcontractors, and subrecipients comply with applicable State and federal regulations, as well as prevent and minimize FWA, and effectively fulfill the goals set forth in State’s Action Plan. The Compliance and Internal Audit staff works in conjunction to:

- Determine the overall progress and effectiveness of project implementation;
- Serve as a management tool to identify issues that may affect program integrity, funding, and service delivery;
- Provide technical assistance and guidance to staff and subrecipients to ensure compliance with state and federal regulations;
- Work with program, operational and subrecipient staff to implement corrective action and resolutions;
- Provide information and input on how DCR’s programs can improve performance, efficiency and reduce the risk of FWA, and train staff in these policies and procedures; and
- Serve as oversight to mitigate potential risks, detect and investigate potential fraud, and identify areas to strengthen program capacity and the quality-of-service delivery.

Other Fraud, Waste and Abuse Efforts

Program and project-level monitoring is conducted throughout DCR’s programs. For subrecipients, other units of local government, and non-profit pass-through agencies, DCR conducts a risk assessment to determine and identify risks with those agencies in managing federal funding. Additionally, DCR provides

training, technical assistance, and capacity building to all staff, subrecipients and other recipients of federal funds that focus on both the identification and mitigation of FWA.

In an effort to maintain compliance with HUD OIG Anti-Fraud, Waste and Abuse statute, DCR in accordance with Federal Register Notice, Volume 83, No. 28, dated February 9, 2018, requires the States to:

- Establish remedies for noncompliance by any designated subrecipients, public agencies, or local governments.
- Attend and require subrecipients to attend fraud related training provided by HUD OIG to assist in the proper management of CDBG-DR funds.

Remedies for noncompliance and attendance requirements are outlined further in DCR's Compliance and Monitoring Manual. DCR has also embedded FWA prevention and/or detection procedures within the program application process; subrecipients, vendors, and contractors' procedures, procurement processes, and compliance monitoring programs.

Appendix A: North Carolina Fraud, Waste and Abuse Laws Employee Reporting Requirements for Fraud, Waste and Abuse Policy Overview § 126-84

Statement of Policy:

It is the policy of this State that State employees shall have a duty to report verbally or in writing to their supervisor, department head, or other appropriate authority, evidence of activity by a State agency or State employee constituting any of the following:

1. A violation of State or federal law, rule or regulation.
 - a. Fraud.
 - b. Misappropriation of State resources.
 - c. Substantial and specific danger to the public health and safety.
 - d. Gross mismanagement, a gross waste of monies, or gross abuse of authority.
2. Further, it is the policy of this State that State employees be free of intimidation or harassment when reporting to public bodies about matters of public concern, including offering testimony to or testifying before appropriate legislative panels. (1989, c. 236, s. 1; 1997-520, s. 5; 2018-41, s. 7.) § 126-85. Protection from retaliation.
 - a. No head of any State department, agency or institution or other State employee exercising supervisory authority shall discharge, threaten or otherwise discriminate

against a State employee regarding the State employee's compensation, terms, conditions, location, or privileges of employment because the State employee or a person acting on behalf of the employee, reports or is about to report, verbally or in writing, any activity described in G.S. 126-84, unless the State employee knows or has reason to believe that the report is inaccurate.

- i. No State employee shall retaliate against another State employee because the employee, or a person acting on behalf of the employee, reports or is about to report, verbally or in writing, any activity described in G.S. 126-84.
- b. No head of any State department, agency or institution or other State employee exercising supervisory authority shall discharge, threaten or otherwise discriminate against a State employee regarding the employee's compensation, terms, conditions, location or privileges of employment because the State employee has refused to carry out a directive which in fact constitutes a violation of State or federal law, rule or regulation or poses a substantial and specific danger to the public health and safety.
 - i. No State employee shall retaliate against another State employee because the employee has refused to carry out a directive which may constitute a violation of State or federal law, rule or regulation, or poses a substantial and specific danger to the public health and safety.
- c. The protections of this Article shall include State employees who report any activity described in G.S. 126-84 to the State Auditor as authorized by G.S. 147-64.6B to the Joint Legislative Commission on Governmental Operations as authorized by G.S. 120-76, or to a legislative committee as required by G.S. 120-19. (1989, c. 236, s. 1; 1997-520, s. 6; 2008-196, s. 2(b); 2008-215, s. 8; 2019-80, s. 2; 2021-180, s. 27.2(e); 2022-6, s. 15.1(b).)
- d. § 126-86. Civil actions for injunctive relief or other remedies.
 - i. Any State employee injured by a violation of G.S. 126-85 who is not subject to Article 8 of this Chapter may maintain an action in superior court for damages, an injunction, or other remedies provided in this Article against the person or agency who committed the violation within one year after the occurrence of the alleged violation of this Article; provided, however, any claim arising under Article 21 of Chapter 95 of the General Statutes may be maintained pursuant to the provisions of that Article only and may be redressed only by the remedies and relief available under that Article. (1989, c. 236, s. 1; 1991 (Reg. Sess., 1992), c. 1021, s. 6; 2013-382, s. 7.10.)
- e. § 126-87. Remedies.
 - i. A court, in rendering a judgment in an action brought pursuant to this Article, may order an injunction, damages, reinstatement of the employee, the payment of back wages, full reinstatement of fringe benefits and seniority rights, costs, reasonable attorney's fees or any combination of these. If an application for a permanent injunction is granted, the employee shall be awarded costs and reasonable attorney's fees. If in an action for damages the court finds that the

employee was injured by a willful violation of G.S. 126-85, the court shall award as damages three times the amount of actual damages plus costs and reasonable attorney's fees against the individual or individuals found to be in violation of G.S. 126-84. (1989, c. 236, s.1)

- f. § 126-88. Notice of employee protections and obligations.
 - i. It shall be the duty of an employer of a State employee to post notice in accordance with G.S. 95-9 or use other appropriate means to keep his employees informed of their protections and obligations under this Article. (1989, c. 236, s. 1.)
- g. § 143B-1208.6. Department heads to report possible violations of criminal statutes involving misuse of State property to State Bureau of Investigation.
 - i. Any person employed by the State of North Carolina, its agencies or institutions, who receives any information or evidence of an attempted arson, or arson, damage of, theft from, or theft of, or embezzlement from, or embezzlement of, or misuse of, any state-owned personal property, buildings or other real property, shall as soon as possible, but not later than three days from receipt of the information or evidence, report such information or evidence to his immediate supervisor, who shall in turn report such information or evidence to the head of the respective department, agency, or institution. The head of any department, agency, or institution receiving such information or evidence shall, within a reasonable time but no later than 10 days from receipt thereof, report such information, excluding damage or loss resulting from motor vehicle accidents or unintentional loss of property, in writing to the Director of the State Bureau of Investigation.
 - 1. Upon receipt of notification and information as provided for in this section, the State Bureau of Investigation shall, if appropriate, conduct an investigation. The employees of all State departments, agencies and institutions are hereby required to cooperate with the State Bureau of Investigation, its officers and agents, as far as may be possible, in aid of such investigation. If such investigation reveals a possible violation of the criminal laws, the results thereof shall be reported by the State Bureau of Investigation to the district attorney of any district if the same concerns persons or offenses in his district. (1977, c. 763; 2003-214, s. 1(1); 2011-145, s. 19.1(q1); 2011-391, s. 43(g); 2014-100, s. 17.1(j); 2014-115, s. 45(a); recodified from N.C. Gen. Stat. 143B-920 by 2023-134, s. 19F.4(i).)