Report to the Legislature

Department of Social and Health Services
and Department of Early Learning
Overpayment Action Report

ESSB 6002 Section 207 (1) (d)

October 1, 2014

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TABLE OF CONTENTS

Background
The Office of Fraud and Accountability (OFA) within the Department of Social and Health Services (DSHS) is designated a limited authority Washington law enforcement agency in RCW 10.93.020(2). In 2011, the Washington State Legislature established OFA for the purpose of detecting, investigating, and prosecuting any act "prohibited or declared to be unlawful in the public assistance programs" which is codified in RCW 74.04.012.

The Office of Financial Recovery (OFR) within Economic Services Administration is responsible for establishing and collecting overpayments of public assistance benefits, child care reimbursements, and vendor overpayments for DSHS, the Department of Early Learning (DEL) and the Health Care Authority (HCA). Many agencies, including OFA, make overpayment collection referrals to OFR.

Engrossed Substitute Senate Bill (ESSB) 6002, Section 207(1)(d) requires DSHS and DEL to take additional actions to identify and reduce the backlog of overpayment cases related to public assistance programs, including the Working Connections Child Care (WCCC) program. The two Departments are to collaborate and create a plan to triage overpayment cases in a manner that identifies and prioritizes cases with large overpayments as well as identify likelihood of fraudulent activity.

DSHS is also responsible for establishing an agreement with the State Auditor's Office to conduct an independent performance audit of OFA to include:
- an analysis of data reporting elements
- current methods for determining the closing of cases
- workload allocation and issues associated with coordination between DSHS and DEL

Lastly, this section of the Bill directs DSHS and DEL to provide a quarterly report to the relevant policy and fiscal committees of the legislature detailing specific actions taken as a result of this section.

Intentional Overpayment Investigation (IOI) Processing
Intentional Overpayment Investigations (IOI) (sometimes also referenced as Welfare Fraud Criminal Investigations) are initiated by referral from:
- DSHS Community Service Office (CSO) financial, WorkFirst and Social Services staff
- internal OFA staff (typically when Fraud Early Detection (FRED) investigations reveal possible continuous intentional program violations or other criminal violations)
- the public via Welfare Fraud Hotline, email, OFA website or Law Enforcement hotline
- a myriad of other sources.

Such cases involve allegations of past ineligibility for food, TANF and WCCC benefits. These investigations result in one of the following outcomes:

1. Allegation not substantiated—there was no finding of intentional, client-caused overpayment
2. Case referred for administrative disqualification hearing and subsequent disqualification of food benefits
3. Criminal investigation closed (no evidence of intentional overpayment)
4. Client consents to 12 month to lifetime food benefit disqualification (depends on type of act and history of client)
5. Referral for prosecution
6. Referral for overpayment recovery

All completed Criminal Investigation (CI) cases are reviewed by the OFA Senior Director, OFA Fraud Chief, or OFA Accountability Chief prior to referral to the prosecutor.
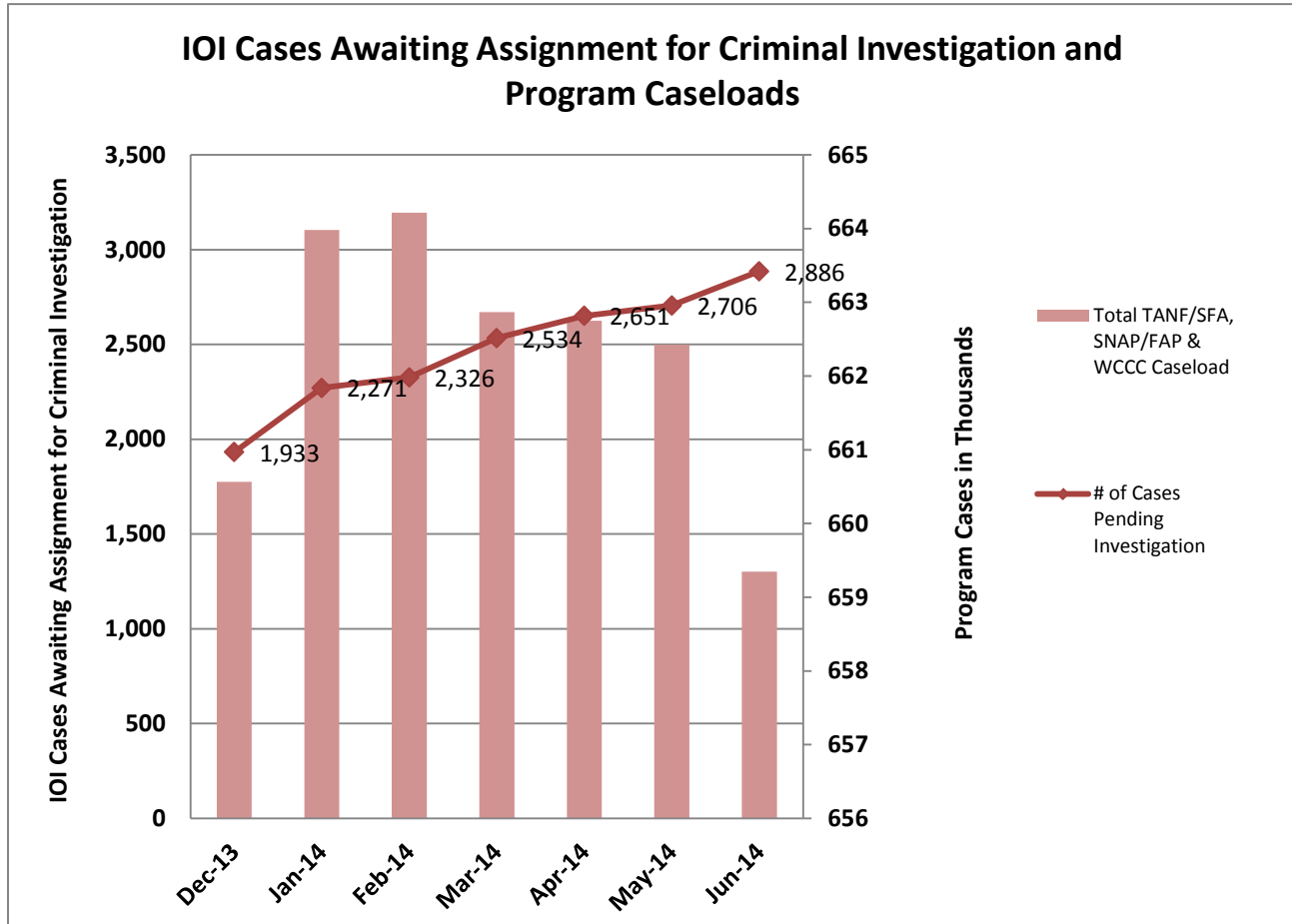
Intentional Overpayment Investigation (IOI) Backlog

OFA intake staff enters IOI cases referred for CI to the Fraud Case Management System (FCMS). Investigators are assigned new cases by a regional supervisor as they complete other cases. Over the course of 2013 and 2014, the number of cases pending assignment for CI has grown each month. Currently there are over 3,000 IOI cases pending assignment for CI. Of the over 3000 cases, 251 have a WCCC component. There are no referrals regarding child care centers in this pending IOI backlog.

Program Caseload Data

Average Monthly Caseload

	WCCC Lag Adjusted Caseload	Basic Food (SNAP/FAP) Caseload	TANF/SFA Caseload
SFY11	35,030	536,637	65,140
SFY12	25,364	581,023	54,436
SFY13	25,221	597,498	48,679
SFY14	27,461	595,122	42,564
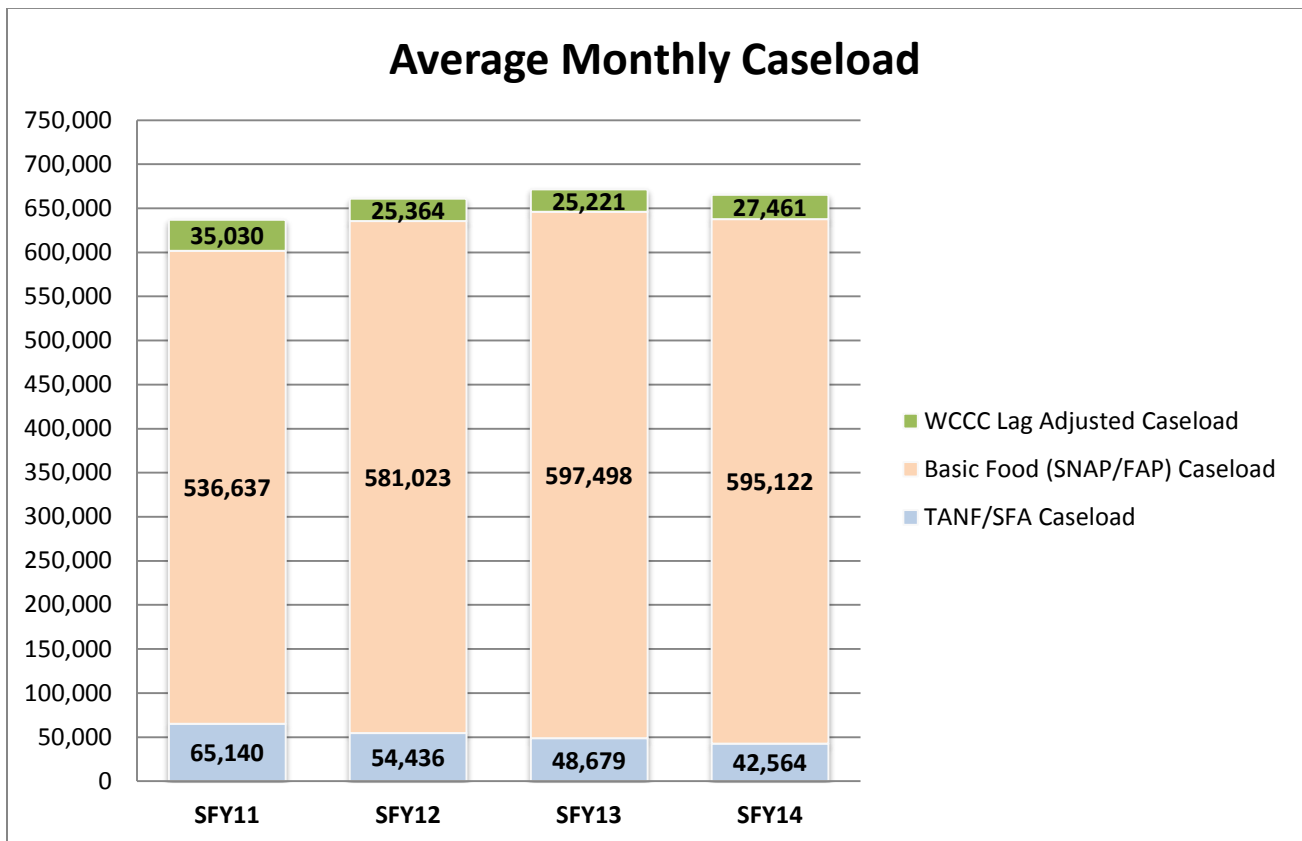
Intentional Overpayment Investigation Related Data

IOI Cases Awaiting Assignment for Criminal Investigation and Program Caseloads

Chart legend:
- Total TANF/SFA, SNAP/FAP & WCCC Caseload (bars)
- # of Cases Pending Investigation (line): Dec-13: 1,933; Jan-14: 2,271; Feb-14: 2,326; Mar-14: 2,534; Apr-14: 2,651; May-14: 2,706; Jun-14: 2,886

The ratio of cases per investigator has been reduced to reflect a more manageable workload. Most law enforcement agencies have 20-40 active cases per detective/investigator. In the past, all cases were assigned out resulting in difficult choices for the investigator in prioritizing the individual workloads. Now, as an investigator completes investigations, new cases are assigned. The current workload allows for more timely completion and manages prioritization of cases for assignment.

Average Cases per Criminal Investigator

Jan-14: 87; Feb-14: 91; Mar-14: 78; Apr-14: 76; May-14: 74; Jun-14: 74

Overpayment Data

Overpayments Established and Program Caseload

Chart: Average Monthly Program Caseload w/in the Quarter (red bars) and Number of Overpayments Established (blue line).

Quarter	Number of Overpayments Established
3Q10	46
4Q10	38
1Q11	43
2Q11	75
3Q11	77
4Q11	56
1Q12	89
2Q12	44
3Q12	78
4Q12	82
1Q13	47
2Q13	63
3Q13	54
4Q13	62
1Q14	45
2Q14	37

Overpayments Established for All Programs (in total Dollars)

Quarter	Overpayments Established ($)
3Q10	262,797
4Q10	379,289
1Q11	648,763
2Q11	464,207
3Q11	1,017,813
4Q11	481,174
1Q12	920,503
2Q12	391,478
3Q12	447,878
4Q12	811,324
1Q13	556,571
2Q13	344,082
3Q13	283,520
4Q13	562,017
1Q14	432,684
2Q14	396,032

OFA implemented a new case management system, final interfaces were completed in August 2014, and customized reports are currently in development. Additional data reports (as listed on page 8) are anticipated to be available for the next quarterly report.

<u>**IOI Backlog Action Plan**</u>

OFA has established an action plan to address the current backlog of IOI cases awaiting assignment for CI. Elements of the plan include:

1. **Develop a Prioritization Tool**
   OFA staff developed and tested a tool that will be used to prioritize IOI cases referred for CI. Cases will be assigned a priority between 1 and 5 (1= highest priority). The tool was designed based on criteria developed by OFA managers and overpayment staff. The tool uses the type of fraud, frequency of fraud referrals of the client, age of referral, and value of potential or actual overpayment. See Exhibit A.

2. **Review and prioritize backlog cases**
   We estimate it will take about three months to review and prioritize the backlog of IOI cases. Overtime will be authorized for OFA staff to conduct this review and triage process, but we know there will not be enough resources to complete this work quickly enough. Therefore, in collaboration with ESA, OFA is establishing three to six Developmental Job Assignment (DJA) positions for financial staff (Financial Service Specialist 3 or 4) who are interested in learning more about fraud work. During the period of their DJA, these staff will review and assign priority to these backlog cases. OFA staff developed a protocol for consistent use and interpretation of the Prioritization Tool to guide this work.

3. **Refer highest priority cases for investigation**
   Based on the results of our prioritization efforts, cases identified with the highest priority for investigation will be assigned to investigators starting Fall 2014. Investigations vary by type of fraud and can include:
   - reviewing a client's entire file (sometimes dating back years);
   - locating assets and income;
   - locating witnesses to prove household makeup;
   - gathering documents from employers, banks, courts, county clerks and other institutions by search warrant, subpoena or request;
   - determining overpayment amount based upon program rules;
   - interviewing client
   - writing the required report

   In joint case investigations coordination with partner agency (HUD, SSA, USDA, FBI, Secret Service, HHS and many local agencies) is required and can involve surveillance, undercover operations and search warrants.

4. **Deploy OFA headquarters staff to regions**
   OFA is committed to initiating investigations as quickly as possible, so we can respond to and address any fraud or misuse of public assistance benefits. However, the speed at which new and pending cases can be assigned depends upon how quickly investigators are able to complete investigations that are already underway. It is important that the quality of investigations is maintained during this process. As a result, OFA has begun taking the steps necessary to create a broader resource pool within each regional team by deploying investigator staff from headquarters to field offices. This re-organization will allow OFA to:

- maximize the skills of existing Investigator 1 positions
- expand their knowledge and investigation capacity
- better coordinate intake and triage work
- leverage efficiencies gained to support investigative capacity

We anticipate this re-organization will be complete by October 1, 2014 and will increase our investigative capacity within existing resources.

5. **Track outcomes**
   OFA will track investigation outcomes including:
   a. IOI referrals assigned for investigation
   b. IOI referrals pending assignment for CI
   c. Number of CI cases without substantiated allegation
      i. # with an overpayment
      ii. # without an overpayment
   d. Number of CI cases sent for Administrative Disqualification Hearing
   e. Number of CI cases with client consent to 12 month disqualification
   f. Number of CI cases sent for prosecution
   g. Dollar amount of overpayments established
   h. Length of time to complete investigation (as data is developed)

Updates of this data will be provided in subsequent quarterly legislative reports.

Office of Financial Recovery (OFR) Services

Housed within ESA's Division of Child Support, OFR is responsible for most collection activities for DSHS, HCA, and DEL not related to child support. OFR's 75 employees focus on maximizing collections and managing programs that receive revenues, collect overpayments, and bill/collect fees for DSHS, HCA and DEL.

In State Fiscal Year (SFY) 2013, OFR's collections totaled $250.8 million including about $1.1 million for vendor childcare overpayments.[1] Recovered funds are typically returned to the originating programs and federal government to meet current expenditures and provide financial aid, medical care, and a host of other services for Washington's vulnerable citizens.

Specifically, OFR is responsible for collecting and accounting for:

- Client public assistance overpayments (including child care)
- Social service (SSPS) vendor overpayments (including child care)
- Certain medical vendor overpayments
- Estate recovery
- Cost-of-care for residents in facilities for individuals with developmental disabilities
- Cost-of-care for patients at state psychiatric hospitals
- Interim assistance reimbursement for the state-funded Aged, Blind or Disabled program (ABD)
- Parent liability for youth incarcerated at Juvenile Justice and Rehabilitation facilities

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[1] OFR is unable to extract collection data for client childcare overpayments from the Client Receivable System (CRS).

- Long-term care and child care facility license fees
- Medical insurance premiums for some low cost medical coverage programs

The OFR enforcement teams are divided into client and vendor collection units. As of July 2014, the client collection unit has approximately 53,000 cases (with a total debt estimated at $64 million) to process. The vendor collection unit has about 4,100 cases (with a total debt estimated at $9.4 million). Small debts are assigned a lower collection priority. OFR allocates a higher percentage of enforcement staff to vendor cases because they typically have more collection potential.

OFR's Public Assistance Overpayment Backlog & Action Plan
From 2007 to 2009, OFR's staffing level declined by as much as 40% without a corresponding reduction in responsibilities. With recent program and policy changes that have a focus on increased client and vendor accountability (which includes the creation of additional fraud units in both HCA and DSHS), OFR workload continues to increase.

As of July 2014, OFR has about a three-month backlog (approximately 2,050 referrals[2] and $1.2 million) in establishing SSPS vendor overpayments which include child care provider and other vendor overpayments, and a six-week backlog (approximately 450 referrals) in establishing client child care overpayments.

In January 2014, there was a six-month backlog (approximately 4,000 referrals) for SSPS vendor overpayments, and a three-month backlog (approximately 920 referrals) for client child care overpayments.

There is no backlog in the processing of TANF and food assistance overpayments which represent about 75% of client public assistance overpayments. The processing of TANF and food assistance overpayments is largely automated, unlike child care overpayments which are heavily reliant on manual and paper processes.

The processing of client and SSPS vendor overpayments in OFR involves the work of two teams: accounting teams and enforcement teams. Accounting teams verify agency referral data, enter information into the appropriate system, and connect potential debts to the appropriate programs using Agency Financial Reporting System (AFRS) coding. Enforcement teams are responsible for taking the actions necessary to collect debts.

The OFR accounting team responsible for SSPS vendor overpayments has been able to reduce the backlog by 50% in the last six months by hiring two non-permanent staff devoted exclusively to reducing backlog. This team manually enters case information from paper referrals into the appropriate OFR system. For the period January 2014 through June 2014, team members entered information on an average of 1,704 SSPS vendor overpayment cases each month.

As workload continues to outpace OFR staffing levels, OFR is not able to process a number of incoming referrals in a timely manner. However, OFR was able to hire a new fiscal analyst to address the client

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[2] A referral is a request from an agency for OFR to establish and enforce an overpayment.

childcare overpayment backlog (which is the OFR accounting team's top priority), and expects that backlog to be eliminated by December 2014.

At current staffing levels, OFR expects the enforcement teams to catch up with the accounting team by the end of SFY 15. Over the year the enforcement teams will focus first on providers or clients that are actively providing or receiving services and those clients who are recently employed.

Because OFR's automated Client Receivable System (CRS) has no case management capabilities, staff must: (1) manually pull and use paper and Excel reports of cases associated with new hire reporting; (2) maintain paper and Excel lists of debtors who have made payment arrangements for tracking purposes; and (3) monitor reasons for public assistance closure as this could indicate possible employment.

The current vendor overpayment referral process is largely manual and paper-reliant. Staff at DEL, HCA, and DSHS administrations (including OFA) must determine whether an overpayment occurred, determine the amount of the overpayment, and send a referral packet to OFR. The initial referral may be electronic. However, since many of the IT systems used by these entities do not interface with OFR's automated systems, OFR staff must print out the information to create a referral record and manually input the information.

A number of referrals contain errors. Errors require a time-consuming data verification process prior to input. Once the claimed overpayment amount has been entered in the appropriate receivable system, OFR clerical staff will mail the referral packet with the debt establishment notice to the potential debtor by certified mail, notifying them of the overpayment and their right to request a hearing. After an appropriate waiting period from the date of service or a hearing decision establishing the debt, OFR can initiate enforcement actions.

To reduce manual entry of referrals, referring agency staff will soon be able to use the SSPS Vendor Overpayment Web application (VOW). VOW is an on-line referral system for SSPS vendor overpayments. However, referrals submitted using VOW must still be checked manually by OFR accounting staff to ensure they are not duplicated in the system. Once the referral is validated, a referral record is created through an overnight automated batch, eliminating the need to manually set up the case. Release of the first phase of VOW occurs in September 2014.

The Department's Information System Services Division (ISSD) is overseeing VOW development work. To minimize errors and maximize referral record automation, OFR has submitted a request to ISSD for system changes that would support additional automated validation to prevent duplicate entries and provide capability for all client SSPS overpayments to be submitted through VOW, rather than through the current paper form.

Independent Performance Audit Plan
DSHS OFA has coordinated the development of an Interlocal Agreement (IA) with the Washington State Auditor's Office (SAO). Under the terms of the Agreement, the SAO will conduct an independent performance audit of OFA. The scope of the audit will include the criteria set out by the Legislature in ESSB 6002 Section 107 (1) (d). SAO will deliver the final audit report, including the DSHS response, to DSHS no later than June 30, 2015.

Appendix A: IOI Prioritization Tool

IOI Prioritization Protocol

The IOI review spreadsheet has been developed to document a fraud score for each IOI case. The fraud score is a major factor in determining which referrals may end up being prosecuted by a state or federal prosecutor.

The score is determined by adding certain fields in the spreadsheets. A low score means strong indication of prosecution. You will be asked to fill in the following (9) fields, I, K, L, N, P, R, S, U, V. The other fields (J, M, O, Q, and T) will auto populate based upon your entry of information to the (9) fields required to complete the fraud score.

Specific directions on completing the (9) fields are as follows:

1. **Field I** - **This is the fraud allegation field**
   Review the referral and determine what type of fraud is occurring that prompted the referral. A drop down menu includes the following:

Fraud Type	Value
Household Composition-Child out of Home	1
Out of State- Non Resident	1
Unreported Income-Child Support	1
Unreported Income-Job	1
Unreported Income-L&I or other gov't source	1
Unreported Income -Other	1
Unreported Resources	1
Household Composition-Unreported Marriage	2
Household Composition-Other	2
Out of State-Duplicate PARIS	2
Childcare	3
EBT Trafficking	3
Household Composition-Absent Parent Present	3
Citizenship Status	4
Unreported Income-Self-Employment	4

   *If the type of fraud is not listed choose the most similar.

2. **Field K – Has overpayment been done?**
   Determine if an overpayment has been completed on the referral.
   Enter the score of **1** if yes there is an overpayment.
   Enter the score of **4** if there is not an overpayment.

3. **Field L – Estimate overpayment**

Determine the maximum amount of either actual or potential overpayment and enter the amount in the field. If overpayment is already completed enter the amount in the field.
Consider overpayments for all programs (cash, food, medical, childcare).
If you are unsure of an overpayment use the maximum possible based upon the referral. This amount is to be used only for intake and fraud scoring.
Any overpayment will be reviewed by OFA overpayment specialist if needed for court or hearing.

4. **Field N - <u>Earliest date of fraud</u>**
   Enter the year when fraud alleged first occurred. This portion of the score helps determine how soon action should be taken on the case due to statute of limitations.

5. **Field P – <u>Determine how many documents have the "lie" related to the fraud alleged</u>**
   Enter 0, 1, or 2 for the amount of documents (applications, MCR, ER, etc.) that have a lie related to the fraud. If more than 2 documents have been "lied on" only enter 3. The amount of the so called "lied on documents" helps determine if the lie was more than an innocent mistake. Repeated lies show evidence of fraud.

6. **Field R – <u>Prior FRED/IOI referral on same fraud issue</u>**
   Has there been a prior FRED referral on the same fraud issue on this client?
   If yes enter score of **1**, if no enter score of **4**.

7. **Field S – <u>Any prior request for FRED/IOI</u>**
   Determine if any type of FRED/IOI has been requested on this client.
   If yes enter score of **1**, if no enter score or **4**.

8. **Field U – <u>Added comments</u>**
   If additional comments on whether referral is strong or weak add a short statement. This is not required to be completed in each case.

9. **Field V – <u>Closure recommended</u>**
   If you find reasons the case should not be investigated (admin error or client did provide truthful information, as examples) please enter "C".

   Upon completion of this project the overall scoring on all cases will be shared with the IOI triage team members.

Appendix B: DSHS/SAO Interlocal Agreement—Purpose, Statement of Work and Consideration

1. Purpose
   The purpose of this Contract for an independent performance audit of OFA to identify and reduce the backlog of overpayment cases related to public assistance program, including the Working Connections Child Care program**.**

2. Statement of Work
   The Contractor shall provide the services and staff, and otherwise do all things necessary for or incidental to the performance of work, as set forth below:

   a. The State Auditor's Office (SAO) will perform an independent performance audit of the Office of Fraud and Accountability.

   b. The scope of the audit shall include SAO analysis of and recommendations regarding:

   (1) The data reporting elements used by OFA;

   (2) Current methods for determining the closing of a case, and for identifying and processing overpayments on public assistance cases, including Working Connections Child Care cases;

   (3) Workload allocation; and

   (4) Issues associated with coordination between DSHS and DEL.

   c. The audit will be conducted in accordance with generally accepted auditing principles.

   d. SAO will compile the audit results in a draft audit report and deliver it electronically to Alan Siegel, DSHS External Audit Compliance Manager.

   e. DSHS shall review the draft audit report and provide comment and responses to SAO within 20 working days of receiving the draft audit report.

   f. SAO will complete a final audit report including the DSHS response and deliver it electronically to Alan Siegel, DSHS External Audit Compliance Manager.

   g. SAO will deliver the final audit report to DSHS no later than June 30, 2015.

3. Consideration Total consideration payable to Contractor for satisfactory performance of the work under this Contract is up to a maximum of $300,000, including any and all expenses.