

FDCM Letter



2023 Fraud Deterrence and Compliance Monitoring (FDCM) Letter

ID/NO: FDCM Letter 07-2023

TO: Texas Workforce Commission Executive Directors
Fraud Deterrence and Compliance Monitoring Directors
Unemployment Insurance Division Directors
Collections Department Director
Business Operations Division Directors
Office of General Counsel

FROM: Chuck Ross, Division Director of Fraud Deterrence and Compliance Monitoring

DATE: September 7, 2023

SUBJECT: Reviewing TWC Applicants for Agency Debt

This letter rescinds and replaces RID Letter 05-2017

PURPOSE

To provide Texas Workforce Commission (TWC) staff with updated and new information regarding procedures for reviewing whether a potential new employee owes the agency debt and monitoring to ensure debt is repaid.

BACKGROUND

TWC Personnel Manual, [Section 1.26](#), designates an employee's financial responsibility when the employee owes a debt to the Commission. Section 1.26.1, Unemployment Insurance Filing, Overpayment Status, and Delinquent Tax Status, provides policy and procedures when a job applicant, both internal and external, has an outstanding debt related to an Unemployment Insurance (UI) claim or UI employer taxes. Section 1.26.2, Debt Resolution, provides policy and procedures when a TWC employee has a debt. This includes employees transferred to TWC by a legislative action, or employees who do not abide by an installment agreement. For more information, see [Section 1.26](#), Personnel Manual.

INFORMATION

Performing a pre-employment debt review involves staff from multiple TWC divisions:

- Division of Fraud Deterrence (FDCM) Internal Investigations (II) unit

- Business Operations (BusOps) Human Resources (HR) department
- Finance Division's Benefits Overpayment Collection Unit (BOCU), hereafter referred to as "Collections"
- FDCM's Benefit Payment Control (BPC) department
- Division of Unemployment Insurance (UI) Operations Administration & Customer Service (UIOA&CS)

PROCEDURES

Screening for Agency Debt During the Hiring Process

As part of the normal hiring process, TWC HR staff or area hiring authority check whether a job applicant owes a debt to TWC from a UI overpayment, delinquent UI taxes, or unpaid wage claim determination. This also applies to internal hires, employees who transfer between departments or divisions using the P-30 process, and new employees who are transferred to TWC by a legislative action.

To be eligible for hire, applicants must either repay their agency debt in full or negotiate a repayment agreement. Selecting authorities may not offer employment to an applicant who has not been screened for agency debt.

Actions:

1. **HR staff:** Send e-mail containing the applicant/transferring employee's name and Social Security number (SSN) to "preemployment.debt.review@twc.texas.gov" requesting a pre-employment check for agency debt.
 - **UI HR or Integrated Service Area Managers (ISAMs), or their designees,** may send an e-mail directly to Pre-employment Debt Review rather than going through the HR department.
2. **II staff:** Check for TWC debt (UI overpayment, delinquent UI taxes, or Payday wage claim debt). Staff also review for any prior UI fraud decision.
 - **II staff:** Log the request and complete the pre-employment debt tracking spreadsheet.
 - **II staff:** Occasionally, staff completing the pre-employment debt review discover an issue that needs further review. The most common issue is when wages from employment are reported during a time when the individual was receiving unemployment benefits. If an issue that needs further investigation is found, **II staff** notifies HR management and OCG-HR Legal staff that an issue needs further investigation and refers the issue to the BPC department. BPC staff investigate the potential unreported earnings (or other issue) and determine whether fraud occurred. *See Investigating Potential Issues for more details.*

3. **II staff:** Forward the findings to the HR original requestor, HR management, and OGC HR Legal staff. **Note:** II staff provides only the debt information to the HR original requestor. II does not provide the original HR requestor details of an investigation. Those details are provided to HR management, who then decides what information can be released.
 - While a fraud determination does not automatically preclude the applicant from being offered a job, the hiring authority will use information about the case when deciding whether to offer a job.
4. **HR staff or Applicant/Employee's Management staff:** If the applicant/employee has an agency debt, HR/management staff sends an email to the person informing them about the debt and instructing them to contact the Collections department to set up a repayment schedule.
 - UI Overpayment debt – (512) 463-3335 or beatrice.flores@twc.texas.gov
 - UI Tax debt – (512) 463-2766 or latasha.simms@twc.texas.gov
 - Payday Law debt – (512) 463-9061 or william.sommer@twc.texas.gov
5. **Applicant/Employee:** Contacts Collections to arrange restitution.
6. **Collections staff:** Works with the applicant/employer to arrange repayment, including arranging a repayment schedule where the person will make monthly payments, if the person is not able to make a lump sum payment. If necessary, Collections staff will send a Repayment Schedule for the person to sign and return as evidence of the agreement. Collection staff logs the information on the Employee Overpayment report spreadsheet.
7. **Collections staff:** Once repayment or a repayment schedule has been made, Collections staff sends an email to HR or the original hiring authority of the status.
8. **HR staff:** Continue through the normal hiring process.

II staff normally provide the debt review information (debt found or not found) to HR on the same business day, unless received at the end of the day or after 5pm. If received late in the day, a response is provided the next business day. If staff detect an issue that is referred to BPC for additional investigation, the HR staff is advised that a potential issue was referred, and a response is pending the outcome of the investigation. Please note that an issue referred to BPC is potentially unemployment benefits fraud. Because of the gravity of a fraud determination, the investigation is thorough and can take some time to complete.

Monitoring Payment

Because TWC allows an applicant/employee to repay debt in monthly installments, TWC must monitor to ensure repayment is made. Employees who do not repay the debt or meet the repayment agreement are subject to disciplinary action, up to and including termination.

A current TWC employee may have an agency debt when:

- A Job applicant agrees to a monthly repayment schedule prior to being hired.
- A UI or Payday debt occurs after the individual is employed.
- A legislative action transfers a state employee who has an existing TWC debt.

FDCM's Internal Investigations (II) department monitors the repayment of agency debt using the TWC Employees Debt spreadsheet. This spreadsheet includes the employee's name, details about the debt and repayment schedule, and Cost Center manager.

Actions to monitor repayment of agency debt:

- **II staff:** Each month, II staff receive the Employee Overpayment Report from UIOA&CS and confirms additions to the report have repayment schedules noted on the tracking spreadsheet. II staff reviews the data to check whether any new debt was due to fraud, and updates the spreadsheet with information on the debt, minimum monthly payment, and last payment, as needed. The spreadsheet indicates whether the employee is new to the list, current with their repayment, appealing the debt, or late with their payment.
 - **II staff:** If the employee is not already listed on the spreadsheet, II staff verify with Collections staff whether a repayment schedule is in place.
 - **II staff:** If no schedule was completed, II staff notify HR that a person was hired without a repayment schedule.
- **II staff:** Notify OGC-HR Legal staff that the report is updated.
- **OGC HR Legal staff:** Identifies any employees who are past due on repayment and notifies the employee's management/department head.
- **Employee's Management staff:** Notifies the employee that the debt is past due and that if the employee does not reconcile the account, they may be subject to disciplinary action. The department head will consult with OGC HR Legal before taking disciplinary action.

Investigating Potential Issues

If II staff identify a potential unreported or under reported earnings issue, the original HR requestor is notified that additional investigation is needed. II staff refer the issue to FDCM's Benefit Payment Control (BPC) Department for investigation.

BPC staff take the following actions:

- **BPC Supervisor:** Assigns the issue to an investigator within 24 hours. Investigations are expedited by staff.
- **BPC Investigator:** Creates a case in the benefits system and contacts all relevant employers to collect earnings information.

- **BPC Supervisor or Investigator:** Once the earnings information is collected, the BPC supervisor/investigator notifies the II department that BPC is ready to speak with the individual (job applicant).
- **II staff:** Notifies HR staff that the applicant needs to contact the BPC investigator to provide information.
- **HR staff:** Contacts the applicant and provides all of the following information. Contact can be made by speaking directly with the applicant or leaving a voicemail.
 - BPC Investigator's name and phone number
 - Deadline to respond (must be at least 48 business hours, rounded up to the closest ¼ hour)
 - Consequences for failing to respond: "If you fail to respond by the deadline, a decision will be issued based on available information."
- **HR staff:** Emails "pre-employment debt review" with all the following details:
 - Date and time applicant was contacted.
 - Whether contact was made with the applicant and if so, whether the applicant was spoken to, or if a voicemail or message was left with a responsible party, and the name of the responsible party.
 - Date and time of the deadline (48 business hours)
- **BPC investigator:** When the applicant calls, staff investigates using normal procedures, including rebuttal opportunity to address any adverse wage information that may have been obtained. All parties given the standard 48-hour deadline so the determination can be completed as quickly as possible. Extensions may be granted but must be a reasonable time frame (1-2 days).
- **BPC investigator:** Issues a determination based on the available information. If the individual fails to respond, the BPC investigator follows normal procedures for issuing a determination of fraud or non-fraud (earnings correction).
- **BPC investigator:** Notifies II staff with information about the outcome of the investigation, who then forward the information to HR. The hiring authority should consider the nature of the fraud when deciding whether to offer a job. Having a fraud determination on an applicant's record does not automatically disqualify them from being employed at TWC.

ACTION REQUIRED

All TWC staff, supervisors, and managers should be aware of the information in this letter.

INQUIRIES

Staff should direct any questions to their supervisor or manager.

Rescissions: RID letter 05-2017	Expiration: Until Rescinded
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