



General Administration Handbook

Volume IV

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CHAPTER ONE: INTEGRITY OF THE WORKFORCE SYSTEM

Section. 1: Purpose

The purpose of the policies contained herein are to adhere to the WIOA regulations at Title 20 of the Code of Federal Regulations (CFR) §678.620 which define the role of the one-stop operator and the Texas Administrative Code, Title 40, Part 20 §801.21 & §801.22 requiring the Texas Workforce Commission to partner with Local Workforce Development Boards to provide, maintain, evaluate and continuously improve of a One-Stop Service Delivery Network, including at least one Workforce Solutions Office on-site access to all services set forth in §801.25 and §801.28 consistent with Federal and State Law.

Section. 2: Policy Administration

1. The workforce policies are contained herein reviewed, developed or revised when necessary to ensure compliance with federal and state rules and regulations or as deemed necessary by the Board as prescribed in its Bylaws. It is the intent of the Board to set policy that is effective and efficient for the taxpayers.
2. The Board and its contractors will refer to applicable laws, regulations, provisions of contracts and Board plans, and official directives and circulars including, but not limited to, U.S. Department of Labor (DOL) Training and Employment Guidance Letters, DOL Training and Employment Notices, U.S. Department of Health and Human Services guidance letters, U.S. Department of Education, Office of Vocational and Adult Education guidance, Uniform Guidance, Commission rules contained Part 20 of the Texas Administrative Code (relating to the Texas Workforce Commission), Texas Workforce Commission Workforce Development (WD) Letters and AEL Letters, the Agency's Financial Manual for Grants and Contracts, and other Agency guidance for guidance regarding implementation and procedure. If at any time a conflict exists between federal or state issuances and board policy, federal or state issuances will supersede board policy.
3. The Board has established procedure and requirements to comply with the Texas Public Information Act as stated in §552 and found in the Board's Administrative Manual.
4. Board Staff is responsible for the comprehensive review, draft language, and timely distribution of all policies and backup material to be presented to the Board as required in WD Letter 10-07. Designated Board staff shall make all policies available and accessible to the workforce system and members of the public.

Section 4: Board Contracting Guidelines, Standards of Conduct, and Conflict of Interest

1. The Board and its contractors shall adhere to the Board Contracting Guidelines found in Texas Administrative Code §802.21 regarding (1) Fiscal Integrity Provisions (2) Bonding, Insurance, and Other Methods of Securing Funds to Cover Losses (3) Standards of Conduct and (4) Disclosures; and the limits found in §802.22.
2. Boards must also adhere to Federal and State Regulations regarding conflict of interest including, 20 C.F.R §667.200 and Texas Administrative Code §802.41, and WIOA regulations at 20 CFR §683.220 which require Boards to install internal controls that are consistent with Uniform Guidance at 2 CFR §200.303.

Section 5: Contractor Insurance Requirements

1. The Board and its contractors shall adhere to insurance requirements as outlined in the Texas Workforce Commission Financial Manual for Grants and Contracts (FMGC) and Section 10 of the Agency Board Agreement.

Section 6: Equal Opportunity and Anti-Harassment Policy

1. The Board and its contractors shall obey the laws enforced by the U.S. Equal Employment Opportunity Commission (EEOC) and therefore shall not discriminate in any aspect of employment in terms of race, color, religion, sex (including pregnancy, gender identity, and sexual orientation), national origin, age (40 or older), disability or genetic information. Harassment by the Board or its contractors based on legally protected characteristics will not be tolerated.
2. Any person that feels that they have been illegally discriminated against or harassed by a member of the Board, its staff or its contractors may report it. Once the matter is reported it will promptly be investigated. Retaliation from the Board or its contractors will be subject to disciplinary action to include possible termination of agreements.

Section 7: Prohibition on Direct Service Delivery

1. As per, Texas Administrative Code §2308.264 and Commission rule §801.53, the Board must ensure that it does not directly deliver or determine eligibility for workforce services in its local workforce development area (workforce area) or contract with the following persons or entities to deliver or determine eligibility for workforce services:
 - (1) A Board member;
 - (2) A business, organization, or institution that a Board member represents on the Board;
 - (3) A Board member's business, organization, or institution in which a Board member has a substantial financial interest; or
 - (4) A Board employee.
2. Texas Administrative Code §2308.267 stipulates that a Board's staff be "separate from and independent of" its contracted service provider, and Commission rule §801.53(d) specifies that a Board "shall ensure that the Board, its members, or its employees do not directly control the daily activities of its workforce service contractors."

Section 8: Upholding the Integrity of the Workforce System

1. Compliance with Texas Administrative Code, Title 40, Part 20, Chapter 802 will be maintained.
 - A. A workforce service contractor's failure to adhere to §802.42 of the Chapter may be subject to corrective action including:
 - sanction;
 - disallowed costs for compensation to the former board employee;
 - contract termination; or
 - other actions designed to enforce compliance.
 - B. Board members and all system staff will adhere to the requirements set forth in Chapter 802 and the Code of Conduct adopted by the Board of Directors and outlined in the Standard Operating Procedures section. The following sanctions and penalties may assessed by the Board Chair (for board members), the Chief Executive Officer (for board staff) and the Contract Designee (for contractor staff) should a violation occur:
 - 1) Board Member
 - Written reprimand; or
 - Removal from the Board
 - 2) System Staff
 - Written reprimand;
 - Administrative leave without pay; or
 - Employment termination

Section 9: Fraud, Waste, Theft and Abuse

1. The Board adheres to the Texas Workforce Commission fraud, waste, theft and abuse policy and guidance to include, but not limited to, WD Letter 21-16, change 2 and TA Bulletin 276, and other issuances.
2. The Board adopts the Chapter 4.

3. Should fraud, waste, theft or abuse be suspected, any or all actions allowable by the Texas Workforce Commission to address suspected and/or realized fraud, waste, theft and abuse may be implemented.

CHAPTER TWO: MONITORING AND COMPLIANCE

Section 1: Quality Assurance Compliance and Monitoring Policy for Review and Follow-up of Employment and Training Programs

A. Purpose: To provide quality assurance policies and procedures to Workforce Solutions Borderplex system staff charged with the responsibility of conducting local level quality assurance reviews of Texas Workforce Commission (TWC) programs under the Workforce Innovation and Opportunity Act (WIOA), Supplemental Nutrition Assistance Program Employment and Training (SNAP E&T) , Temporary Assistance to Needy Families (TANF) Choices, Child Care Services, Employment Services, Noncustodial Parent (NCP), Trade Adjustment Assistance (TAA), and any other federal/state grants.

1. Annual review of Board administered employment and training programs will be conducted in accordance with TWC rule as found in the Texas Administrative Code (TAC), Title 40, Part 20, Subchapter A, §802.
2. Monitoring procedures will be followed as detailed at Subchapter 4.6 in the Standard Operating Procedures.

Section 2: Sanction Process

A. Purpose: Pursuant to the Texas Administrative Code, to include §802.121-§802.125, which outlines sanctionable acts and consequences, the Workforce Solutions Borderplex (Board) has developed this policy to ensure accountability of Board Contractors in meeting the needs of employers and job seekers, ensure performance in reaching outcome measures, ensure adequate returns on investment, and support the Board in achieving its goals, so that all customers receive the best possible service in the workforce area.

1. The Board CEO or designee may apply corrective action against contractors to include but is not limited to formal sanctions and potential termination of contractual relations.
2. Corrective action may include technical assistance plans (TAPs), corrective action plans (CAPs), and Sanctions.
3. When it is determined that contractor performance, which includes contracted performance measures, delivery of services, compliance with program rules and regulations, fiscal accountability, and overall contract performance, is unsatisfactory, the following may be applied by the Board CEO or designee.

B. Sanctionable Acts

1. A Contractor's failure to comply with any provisions of its signed contract, program rules, standards, applicable Federal or State laws and regulations, or Board policies may subject the Contractor to sanctions.
2. The Board CEO may place a contractor in sanction status or assess a corrective action or penalty, for failure to ensure at any time during the program year, compliance with the following: One or more contracted performance measures; one or more contract provisions; and one or more federal or state statutes, regulations, guidances, or directives.

C. Sanction Status

1. The Board CEO may assess penalties for sanctionable acts listed in this policy. Notwithstanding the sanctionable acts appearing after each specific level of sanction of this policy, the Board CEO may assign

a higher or lower level of sanction status based on the severity or mitigating circumstances surrounding the sanctionable acts.

2. More than one penalty may be assessed in response to one occurrence of a sanctionable act in one or more program areas (as applicable). The number and severity of penalties assessed for one or more occurrences of sanctionable acts may correlate with the sanction status level assigned to a Board Contractor. If a Contractor is already in a sanction status when another sanctionable act occurs or is discovered, the Board CEO may increase the level of sanction status of the Contractor.
3. Board contractors will have policies, procedures and internal monitoring in place to proactively identify and rectify internal program and fiscal deficiencies.

D. Intent to Sanction

1. Prior to imposition of sanctions or withholding of funds, the Workforce Solutions Borderplex (Board) will provide up to 30 calendar days for the Contractor to correct any deficiencies subject to any time limits imposed by law or regulation. At the discretion of the Board CEO, the resolution period may be extended beyond 30 calendar days. Deficiencies that infringe on the health and safety of a participant, or in any way place a participant in harm's way, must be corrected immediately. During this period, the Contractor may request or be offered technical assistance to ensure correction of deficiencies; this may include increased program and fiscal monitoring. If a Technical Assistance Plan (TAP) is not in place, the Contractor will develop a Corrective Action Plan (CAP) within the first five (5) business days of the Intent to Sanction. The CAP will address contract compliance and performance outcomes, to include service delivery, fiscal accountability issues/deficiencies, and other areas as appropriate.
2. The TAP or CAP will be submitted to the Compliance Section of the Board.
3. Technical assistance is performance-driven and outcome-based, stressing the sharing of information and best practice models. Assistance is provided upon request, for both fiscal and performance issues. Technical assistance may be provided by the Board staff or other entity.
4. Program performance and fiscal monitoring assistance may include increased site visits, and analysis of both financial and performance outcomes to help identify potential deficiencies before such deficiencies result in sub-standard performance or questioned costs. Monitoring will result in recommendations that provide practical solutions that can be used to take immediate corrective action.
5. An Intent to Sanction letter will be required prior to the Board CEO placing a Contractor in sanction status or assessing a penalty. Failure to rectify and correct the deficiencies within the resolution period, as referenced in the Intent to Sanction letter, will result in Sanction. There will be no appeal to an Intent to Sanction letter.

E. Notice of Sanction

1. The Board CEO will issue notice of Sanction upon a verified contract deficiency and will determine the level of Sanction. The Workforce Solutions Borderplex CEO will provide a resolution period respective to the nature of the contract deficiency. The Contractor will correct all deficiencies respective to the sanction within the designated resolution period.
2. The effective date of the Sanction will be the date the Sanction letter is sent to the Contractor via electronic means. The resolution period will begin on the effective date of the Sanction. All notices of deficiencies and violations will be sent by the following method; E-mail.

F. Level I Sanction

1. Depending on the nature of the deficiency(ies), failure to rectify and correct the deficiencies within the resolution period, as referenced in the Sanction letter, will result in placement at Level I sanction.

2. The Board CEO may place a Contractor in Level I Sanction Status for sanctionable acts as described in this Section. Sanctionable acts that occur during the contract year include, but are not limited to the following:
 - a. Failure to submit accurate financial, program or performance reports as required or requested by the contract;
 - b. Failure to take corrective action to resolve findings identified during monitoring, investigative, or program reviews, including failing to comply with a TAP or CAP;
 - c. Failure to rectify or resolve all independent audit findings or questioned costs within required time frames; Violation of administrative and service contract requirements; or
 - d. Failure to retain required service delivery and financial records. Failure to submit required annual audits.
3. Actions upon notification of Level I sanctions include, but are not limited to the following:
 - a. The TAP or CAP will be revisited, revised and submitted to the Board Compliance and Monitoring Program Administrator;
 - b. Additional preventive maintenance measures to be taken by the Board CEO may include, but are not limited to contract renegotiations and additional program/fiscal monitoring;
 - c. Withholding of 5% of all operation/fixed-unit funds during the effective sanction period will begin on the effective date of the sanction, as appropriate to the type of contract;
 - d. Resolution of deficiencies within the sanction resolution period will release withheld funds for disbursement pursuant to the contract;

Board staff will provide updates on activities and progress to the Board of Directors and/or Executive Committee throughout the sanction period.

G. Level II Sanction

1. Depending on the nature of the deficiency(ies), failure to rectify and correct the deficiencies within the resolution period, as referenced in the Sanction letter, will result in placement at Level II sanction. The Board CEO may place a Contractor in Level II Sanction Status for sanctionable acts as described in this Section. Sanctionable acts that occur during the contract year include, but are not limited to the following:
 - a. Failure to rectify a Level I sanction within the resolution period, as referenced in the Sanction letter;
 - b. Committing a second violation; or
 - c. Committing a violation of local, state and federal law, regulation, guidance or directive.
2. Upon notification of Level II sanction:
 - a. The TAP or CAP will be revisited, revised and submitted to the Board Compliance and Monitoring Program Administrator;
 - b. Participation in technical training and workshops designated by Board staff;
 - c. Submission of additional and/or more extensive financial and/or performance reports;
 - d. Designation as a high-risk contractor requiring additional monitoring visits; Forfeiture of previously withheld funds;
 - e. A fine equivalent to 5% of all operation/fixed-unit funds during the effective sanction period will begin on the effective date of the sanction, as appropriate to the type of contract;
3. Board staff will provide updates on activities and progress to the Board of Directors and/or Executive Committee throughout the sanction period.
4. Failure to rectify Level II sanctions within the resolution period, as referenced in the Sanction letter, will result in progression to higher level Sanction.

- a. Implementation of actions required by the Board to address the deficiencies;
- b. Six (6) month ineligibility for bidding for same or similar services;
- c. Reduction of grant or contract allocations for future periods.

H. Level III Sanction

1. Depending on the nature of the deficiency(ies), failure to rectify and correct the deficiencies within the resolution period, as referenced in the Sanction letter, will result in placement at Level III sanction.
2. The Board CEO may place a Contractor in Level III Sanction Status for sanctionable acts as described in this Section. Sanctionable acts that occur during the contract year include, but are not limited to the following:
 - a. Failure to rectify a Level II sanction within the resolution period, as referenced in the Sanction letter;
 - b. Committing three or more Level I violations; or
 - c. Committing two or more Level II violations. Failure to rectify deficiencies that infringe on the health and safety of a participant, or in any way place a participant in harm's way, immediately.
3. Upon notification of Level III sanction:
 - a. The TAP or CAP will be revisited, revised and submitted to the Board Compliance and Monitoring Program Administrator;
 - b. Implementation of actions required by the Board CEO to address the deficiencies;
 - c. Six (6) month ineligibility for bidding for same or similar services;
 - d. Reduction of grant or contract allocations for future periods;
 - e. Forfeiture of previously withheld funds, as applicable;
 - f. A fine equivalent to 5% of all operation/fixed-unit funds during the effective sanction period will begin on the effective date of the sanction, as appropriate to the type of contract; and
 - g. Board staff will provide updates on activities and progress to the Board of Directors and/or Executive Committee throughout the sanction period.
4. Failure to rectify Level III sanctions within the resolution period, as referenced in the Sanction letter, will result in progression to higher level Sanction.
 - a. Recommend that the Board CEO deobligate funds;
 - b. Selection of an alternate entity to administer the program(s)/contract involved;
 - c. Contract cancellation or termination (Board staff will oversee and approve all actions until contract is terminated);
 - d. Suspension of bidding on Board procurement for goods and services for one (1) year from the resolution period ending date.

I. Enforcement

1. The specific sanction(s) to be imposed by this policy will be determined by the Board CEO upon recommendation of Board staff.
2. The written notice will be sent to the Contractor's authorized signatory and contact person.

J. Appeal

1. Appeals/Grievances regarding the imposition of sanctions will be submitted in accordance with the provisions of the contract and with the Board Appeals policy;
2. Any sanctions imposed under this policy may be appealed pursuant to applicable State and Federal appeal provisions and any laws or regulations governing the program services, which are the subject of the contract.

K. Resolution

1. Upon Board staff recommendation, Board CEO or designee will determine at which point a deficiency has been resolved. If a deficiency is resolved within the resolution period, the sanction will be lifted by the Board CEO or designee. Contractor will be provided written notification of the Board CEO's or designee decision.

Section 3: Self-Monitoring by Providers of Workforce Development Services

A. Purpose: Texas Workforce Commission (TWC) rules and governing statutes require monitoring by Local Workforce Development Boards, subrecipients and contract service providers to ensure programs achieve intended results and resources are efficiently and effectively used for authorized purposes and are protected from waste, fraud, and abuse. Monitoring and self-monitoring activities are designed primarily to ensure good management by ensuring that programs and activities supported by Workforce Solutions Borderplex (Board) program funds are in compliance with contractual agreements, with TWC rule as found in the Texas Administrative Code (TAC), Title 40, Part 20, Subchapter A, §802 and, and Board policies.

B. Self-Monitoring Requirements

1. Self-monitoring of internal operations will have complete records of all monitoring. The same must be made available to the Board during the contract term and for as long thereafter as the contract certification require.
2. At a minimum, monitoring procedures will include an outline of the elements (areas) to be monitored, the frequency of self-monitoring activities how self-monitoring will be conducted, standardized monitoring forms and reports, and the process for implementing corrective action and resolution of findings.
3. In accordance with state guidelines, program monitoring activities are conducted to ensure that programs achieve both intended and expected results. Processes and procedures used to determine performance may include review and evaluation of the following:
 - Program results or outcomes;
 - Performance measures;
 - Reporting accuracy;
 - Record keeping and file maintenance;
 - Monitoring functions
 - Service delivery;
 - Policies and procedures; and
 - Other activities required by the contract/agreement or program.
4. Fiscal monitoring activities are performed to ensure that resources are efficiently and effectively used for authorized purposes and are protected from waste, fraud and abuse. Process and procedures used to determine performance may include the review and evaluation of the following, as applicable to the contract/agreement or program:
 - Accounting and reporting systems;
 - Budget methodologies;
 - Cash management practices;
 - Cost allocation plans and processes;
 - Cash disbursement compliance and documentation;
 - Insurance coverage and risk exposure;
 - Oversight and monitoring functions;
 - Payroll administration;
 - Purchasing and procurement processes and procedures;
 - Property accountability and safeguarding

5. Processes and procedures used to determine performance will include a review, evaluation and determination regarding compliance with the appropriate agreement as well as the appropriate cost principles applicable for the type of entity and agreement.
6. Generally, individuals assigned to perform self-monitoring activities should not monitor any program, activity, managerial, or administrative function for which they have duties and/or responsibilities. However, on-going evaluation of program activities by managers and supervisors should also be considered and included in the self-monitoring process. Providers of workforce development services will maintain documentation on its self-monitoring and of any existing subcontractor activities as required by this policy and make this documentation available to the Board upon request.

C. Procedures

Workforce development service providers will develop monitoring procedures and a schedule or timetable for monitoring Board funded activities.

CHAPTER THREE: General Administrative Policy

Subchapter 3.1: Marketing and Communications Standards

Section 1: Purpose

To communicate the required marketing, design, guidelines and communication standards, to include Equal Opportunity information. By adopting this policy, the Board of Directors ensures compliance with the Texas Workforce Commission requirements, as outlined in WD Letter 03-07, to brand all Texas workforce boards as “Workforce Solutions,” and with R4FMB No. 02-10 issued by the U.S. Department of Labor on March 11, 2010, WD Letter 17-10, to include subsequent issuances and 29 CFR 37.34(a) and U.S. Department of Labor American Job Center brand in Training and Employment Guidance Letter No. 36-11, Tool Kit available at http://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=7695.

Section 2: Logos and Taglines

1. The following logos at “a” and “b” shall be used for the Workforce Solutions Borderplex, Inc. and the American Job Center Network respectively.



a.



b.

2. “Workforce Solutions Borderplex A proud partner of the American Job Center network” is the official name of workforce centers, business services and child care services in the region. The managing contractor(s) will publicly identify itself as Workforce Solutions Borderplex A proud partner of the American Job Center network when communicating with customers and potential customers, employers and in all community outreach activities.
3. All advertising, external marketing, and public materials created by Workforce Solutions Borderplex contractors must be approved by administrative staff prior to use.
4. Workforce Solutions Borderplex contractors must use the logos (a. and b.) on their written correspondence and marketing materials.
5. Business cards must include the logo along with the address and telephone number of the contractor.
6. Advertising, external marketing, and public materials of Workforce Solutions Borderplex will include the approved Equal Opportunity tagline, in accordance with federal and state requirements.

The approved Equal Opportunity tagline is:

A proud partner of the American Job Center Network

Equal Opportunity Employer/Program. Auxiliary aids and services are available upon request to individuals with disabilities. Relay: 1-800-735-2989 (TTY)/ 711 (Voice) Igualdad de oportunidades de Empleo/Programas. Equipo auxiliar y servicios de apoyo están disponibles para personas con discapacidad al ser requeridos. Relay Texas: Relay: 1-800-735-2989 (TTY)/ 711 (Voz).

7. WIA nondiscrimination and equal opportunity provisions at 29 C.F.R. §37.34:
 - i do not require nondiscrimination and equal opportunity information to be displayed on promotional items;
 - ii do cover recruitment brochures and other materials ordinarily distributed or communicated to staff, clients, or the public at large, regardless of whether such information is provided orally or in writing, and electronically or on paper; and
 - iii do cover program information published or broadcast in the news media.
8. The funding source of materials must be disclosed
 - a By clearly communicating to the public specific activities or accomplishments resulting from performance of grant awards; and there is no ambiguity on what service is being promoted.
 - i An example of a funding disclaimer should read:
“Funded by all or in part of, the Department of Labor/ETA WIOA Formula Grants and Wagner-Peyser; the Department of Health and Human Services TANF and Child Care Development Fund; and the Food and Nutrition Service SNAP Employment & Training.”

Section 3: Contractor Logos

1. Contractors may use its organization or corporate name and logo on Workforce Solutions Borderplex material, such as stationary, business cards, brochures, advertising and marketing materials, if the material is paid for with funding separate from Workforce Solutions Borderplex-contracted funds. Contractors must provide written notice to the Board's Executive Office of their intent to advertise their business name at least 30 days in advance of such advertisement. Written notice must include the source of funding to be used when advertising the business name and an attestation that no Board-funding will be used for such advertising.
2. Board-funding cannot be used for:
 - Displaying a contractor's business name and/or logo on materials used in performing contracted duties;
 - Replacing the contractor's unused advertising materials; and
 - Removing the contractor's business name and/or logo from signage remaining on Workforce Solutions Borderplex premises.

Therefore, once a contract expires/terminates or is not renewed, contractors who have chosen to advertise their business name and/or logo will be charged for:

- Costs associated with replacing unused material containing the outgoing contractor's business name and/or logo; and
 - Removing the outgoing contractor's business name and/or logo from signs designed to remain on Workforce Solutions Borderplex premises.
3. Contractors may use its organization or corporate name and logo in an activity or business that is not related to Workforce Solutions Borderplex.

Section 4: Communication with the Media

1. The Board Chair and the Chief Executive Officer are the only people to address the public or media in matters pertaining to the Board, staff and working relations with Board contractors.
2. In the event that the Board Chair or Chief Executive Officer is unavailable, designated Board staff will be contacted through the Board's Executive Office to make public or media comment.
3. Individual Board Members cannot comment on behalf of the Board on any matter to the media.
4. Workforce Solutions Borderplex contractors must direct any media requests for comment to the Board's Executive Office.

Section 5: Failure to Comply

1. Contractor's failure to comply with these guidelines and standards will result in the following action:
 - First violation will result in a written warning that will include corrective action to be taken. Contractors will notify administrative staff in writing once the corrective action has been completed.
 - Second violation will result in a fine up to \$5,000, based on the severity of the violation, which will be deducted from the contractor's administrative funds.
 - Third violation will result in a fine up to \$10,000, based on the severity of the violation, or up to 1% of the total amount of the contract which will be deducted from the contractor's administrative funds. The contractor may also be placed on probation or result in a recommendation for termination of the contract.
2. Contractors who are assessed fines will not be allowed to modify contract budgets by increasing administrative funds to offset the fine.

Section 6: Advertising and Public Relations Costs

1. Advertising and public relations costs must adhere to 2 CFR Parts 220,225, 230 and 48 CFR Chapter 31.

2. Sufficient documentation must be maintained for advertising and public relations costs in order to demonstrate allowability of such costs. Documentation must demonstrate:

- The purpose or intent of the activity;
- How the activity is necessary to the grant;
- That the cost for the activity is “reasonable;”
- What specifically is included in the cost; and
- That a fair share was allocated to the grant, when appropriate.

Section 7: Procedures

1. Detailed marketing and communications procedures may be found in the Standard Operating Procedures section of this volume.

Subchapter 3.2: Record Retention

1. Records will be retained in accordance with State and Federal requirements and the Texas Workforce Commission’s *Financial Manual for Grants and Contracts* (FMGC), Appendix K.
2. Generally, records are to be retained for the period beginning at the start of the current fiscal year plus three years from the end of the previous period year. Files pertaining to an active audit, questioned costs or litigation, may be held for the periods covered by the activity. Upon resolution of the activity, records will revert to the regular schedule and will be stored or destroyed according to their time period.
3. Detailed record retention procedures may be found in the Standard Operating Procedures section of this volume.

Subchapter 3.3: Complaints and Resolution

A. Non-Discrimination Complaints

1. Customers will be notified in writing of any adverse action and are provided with information of their appeal rights and their right to file a complaint regarding workforce services.
2. All complaints, hearings, and appeals will follow due process, which will include the elements described below.
 - 2.a. Submissions
 - 1) A complaint may be submitted by Texas Workforce Center customers; other interested individuals affected by the One-Stop Service Delivery network, such as subrecipients and eligible training providers; and previously employed individuals who believe they were displaced by a Texas Workforce Center customer participating in work-based services in accordance with Texas Administrative Code Title 40, Part 20, Chapter 823, Subchapter B, 823.10.
 - 2) Complaint shall be in writing, to include electronic submission.
 - 3) Complaint shall be filed within 180 days of the alleged violation.
 - 4) Complaint shall include the party’s name and current mailing address; and a brief statement of the alleged violation, including facts which are the basis of the complaint.
 - 5) The Board will maintain a complaint log and all complaint related materials in a secure file for a period of three years.
 - 6) Each Board shall ensure that information about complaint procedures is provided to individuals, eligible training providers, and subrecipients. The information provided shall be presented in such a manner as to be understood by the affected individuals, including youth, individuals with disabilities, and individuals with limited English proficiency. This information shall be:

- a) posted in a conspicuous public location at each Texas Workforce Center;
 - b) provided in writing to any customer;
 - c) made available in writing to any individual upon request; and
 - d) placed in each Texas Workforce Center customer's file.
- 2.b. Determinations
- 1) Determination affecting the type and level of services to be provided by the Board or its designee shall be promptly provided to any person who is directly affected, to include the following information:
 - a) brief statement of adverse action;
 - b) mailing date of the determination;
 - c) explanation of the individual's right to appeal;
 - d) procedures for filing an appeal to the Board, including applicable timeframes as required in Chapter 823.3;
 - e) right to have a hearing representative, including legal counsel; and
 - f) address or fax number to send the appeal.
 - 2) Training providers shall have the opportunity to appeal a determination related to:
 - a) denial of eligibility as a training provider under WIOA §122(b), §122(e);
 - b) termination of eligibility as a training provider or other action under WIOA §122(f); or
 - c) denial of eligibility as a training provider of on-the-job or customized training by the operator of a Texas workforce Center under WIOA §122(h).
- 2.c. Appeals
- 1) A person who receives a determination from the Board or a Board designee may file an appeal with the Board requesting a determination review.
 - 2) The appeal must be submitted in writing.
 - 3) The appeal must be filed within 14 calendar days of the mailing date of the determination, and include the party's proper mailing address.
- 2.d. Board Informal Resolution Procedure
- 1) Board shall provide the opportunity for an informal resolution of a complaint or an appeal.
 - 2) Informal resolution may be provided through informal meetings between involved parties; a second review of the case; telephone or conference calls to affected parties; in-person interviews with affected parties; or written explanations or summaries of laws/regulations concerning the complaint.
- 2.e. Board Hearings
- 1) If informal resolution results in a final agreement between parties, no hearing shall be held.
 - 2) If no final agreement is reached in the informal resolution procedure, Board shall provide the opportunity for a hearing.
 - 3) Either a final agreement resulting from informal resolution or a hearing and Board decision shall be completed within 60 calendar days of the original filing of the appeal or complaint.
 - 4) The Board shall allow an individual alleging a labor standard violation to submit a complaint to a binding arbitration procedure if there is a collective bargaining agreement that provides for it.
 - 5) A decision by a Board hearing officer, stating the results of the hearing, including findings of fact and conclusions of law, shall be mailed to the parties within 60 calendar days of the filing of the appeal or complaint. The document shall provide information as to the appeal rights of the parties.
 - 6) If a Board decision is not mailed within the 60-calendar day timeframe, or if any party disagrees with a timely Board decision, a party may file an appeal with TWC.

- 7) A written appeal needs to be filed with TWC Appeals, Texas Workforce Commission, 101 East 15th St., Room 410, Austin, Texas 78778-0001, within 14 calendar days after the mailing date of the Board's decision.
- 8) If the Board does not issue a decision within 60 calendar days of the original appeal or complaint filing date, an appeal must be filed to TWC no later than 90 calendar days after the original appeal or complaint filing date.

B. Discrimination Complaints

1. The board adopts the EO complaint processing procedures as prepared and presented by TWC in WD Letter 18-07, Change 2, to include subsequent revisions or replacements. Processing of EO/discrimination complaints will be in accordance with the procedures, including the timeframes prescribed by TWC and the U.S. Department of Labor.
2. Retaliation is prohibited against an individual because he or she has either opposed an unlawful discriminatory employment practice; opposed an unlawful discriminatory non-employment practice; or made a complaint, testified, assisted or participated in an inquiry.
3. Due process and the following elements will be followed.
 - 3.a. Designated Staff
 - 1) Board contracted service providers, defined in this policy as the career center operator, child care services operator, the business services operator and others as notified, shall designate an individual to serve as customer service liaison to coordinate the responsibilities as assigned by the Board in reference to complaint issues. In an effort to prevent a conflict of interest or appearance of a conflict of interest, the designated individual shall not be a human resources staff person. Responsibilities include, but are not limited to, serving as the service provider's liaison with the board, including the implementation of the TWC's Methods of Administration.
 - 2) In cases where service providers operate multiple locations, customer service liaisons and alternate customer service liaisons shall be designated as points of contact, to receive complaints during regular business hours at their respective locations, (i.e. the career center's full-service centers and satellites, and the child care service provider's administrative offices).
 - 3.b. Discrimination Complaint Processing
 - 1) Customer service liaisons are not to provide legal advice, or coerce customers. They are to attempt resolution of workforce system issues before customers request to submit a formal complaint. If an individual requests to submit a discrimination complaint, customer service liaisons will provide assistance, in accordance with TWC's *Texas Workforce Solutions Discrimination Complaint Procedures*.
 - 2) All individuals alleging equal opportunity violations against employers outside of the workforce system (employer not listed with WorkInTexas) are to be referred directly to the local Equal Employment Opportunity Office.
 - 3) Customer service liaisons will record discrimination complaints on the discrimination complaint log, as per instructions in the *Texas Workforce Solutions Discrimination Complaint Procedures*, WD Letter 18-07, Change 2, and submit same to Board's EO officer on a quarterly basis.
 - 4) Both the Board's EO officer and the service provider's customer service liaisons will retain complaint records and logs for no less than three years from the date of disposition of the complaint. Service providers shall obtain clearance from the Board's EO officer prior to destruction of records and logs.

- 5) All discrimination complaints will follow due process as set forth in the Texas Workforce Solutions Discrimination Complaint Procedures.
- 3.c. Alternative Dispute Resolution (ADR)
- 1) ADR is an option available to complainants.
 - 2) Should ADR be elected, it will be carried out in accordance with the Board's written ADR procedures.
 - 3) EO Officer will adhere to timeframes set forth in the *Texas Workforce Solutions Discrimination Complaint Procedures*, WD Letter 18-07, Change 2, to include subsequent issuances or revisions.

C. Federal Appeals Process for WIOA Title I Noncriminal Grievances and Complaints, WD Letter 19-19

This policy establishes procedures that govern the receipt, handling and resolution of non-criminal grievances or complaints made in connection with WIOA Title 1 grant programs and activities conducted in the Workforce Solutions Borderplex (WSB) area. Borderplex Solutions Workforce Development Board, local recipients of WIOA funds, and contracted and sub-contracted providers of WIOA services will abide by the procedures set forth below in processing such complaints.

1. General Principles and Requirements

Title 20 of the Code of Federal Regulations (CFR), Section 683.600, requires the WSB to establish a procedure for receiving and resolving complaints from clients or other interested parties alleging violations of WIOA Title 1 committed by any member of the local workforce development system, including the WSB, partners, providers of WIOA services, and WIOA contractors and subcontractors.

This policy does not address complaints alleging discrimination under WIOA Section 188 and/or Title 29 CFR Part 38; discrimination complaints are resolved through complaint procedures available online at: <https://www.borderplexjobs.com/legal/equal-opportunity>

This policy does not address complaints involving allegations of fraud, abuse or other criminal activity; such complaints must be reported directly to Department of Labor's (DOL) Office of the Inspector General and the Texas Workforce; see <https://twc.texas.gov/reporting-fraud>.

An individual alleging a labor standards violation will submit the grievance to a binding arbitration procedure, if a collective bargaining agreement covering the parties involved so provides.

All members of the local workforce development system, including the WSB, partners, providers of WIOA services, and WIOA contractors and subcontractors must apprise WIOA clients and participants of this policy and make reasonable efforts to ensure that these procedures are understandable to affected clients and individuals – including youth and individuals who have limited English-speaking capabilities.

Grievances or complaints relating to procurements must be filed with the WSB online at: https://borderplexjobs.formstack.com/forms/complaint_form.

Grievances or complaints must be filed within *one year* of the alleged violation. All grievances or complaints, amendments and withdrawals must be in writing. The one-year time period is not extended for complaints that are re-filed with amendments. The official date of the complaint is the date it is actually received.

2. Local Grievance Procedures

The following grievance procedure governs grievances arising in the Borderplex local workforce development area:

- a. Applicants, participants, Job Center partners, service providers, bidders, WIOA funded staff or others alleging violations of WIOA, WIOA regulations, WIOA grants and sub grants, or other contracts under WIOA (other than discrimination complaints and fraud/abuse/criminal activity complaints) will utilize this Grievance Procedure in filing a complaint. In all cases above, the complaining party has the right to ask for and receive help in filing the complaint or grievance. Individuals will be informed of this right by either WSB staff or the subcontractor as appropriate.
- b. Except for complaints regarding discrimination and fraud/abuse/criminal activity, grievances arising from the actions of the WSB, and/or its service providers must exhaust available remedies provided by this policy before such complaints are submitted to the State for resolution.
- c. Complaints, unless otherwise specified, (except for those alleging fraud or criminal activity or discrimination) will be filed with the Executive Director of the Borderplex WSB within one year of the alleged occurrence.
- d. Delegation Progress:
 - i. Complaints against employers participating in On-the-Job Training (OJT) contracts, and which concern the terms and conditions of a participant's employment or OJT contract terms, will first be handled directly with the employer or through the employer's grievance procedure. If the complaint cannot be resolved with an On-the-Job Training employer, the complaint will be resolved in accordance with this grievance procedure.
 - ii. Complaints by WIOA funded personnel involving the terms and conditions of their employment will first be handled pursuant to the employing agency's procedures. If the complaint cannot be resolved with an employing agency, the complaint will be resolved in accordance with this procedure.
 - iii. Labor Standards Violations: Whenever participants have complaints alleging a Texas or federal labor standards violation, they will use the established local and State Grievance Procedures or choose to submit the grievance to a binding arbitration procedure, if a collective bargaining agreement covering the parties to the grievance so provides.

All grievances not included in Section 4, a through c, above will follow the procedures listed below:

1. Complaints must be made within one year of the alleged occurrence and must be in writing, signed by the complainant and include the following information:
 - a. The full name, telephone number (if any) and address of the person making the complaint.
 - b. The full name and address of the individual or entity against whom the complaint is made.
 - c. A clear and concise statement of the facts, including pertinent dates, constituting the alleged violation.
 - d. The provisions of law, regulation, grant or other WIOA agreement(s) alleged to have been violated.
 - e. The relief requested.

A complaint will be considered to have been filed when the EO Officer of the WSB receives from the complainant a written statement, including information specified above which contains sufficient facts and arguments to evaluate the complaint.

Complaints should be sent to:

Attn: EO Officer

Workforce Solutions Borderplex Development Board

300 E. Main, Suite 800

El Paso, TX 79901

The WSB will investigate the complaints and attempt to resolve them informally for a period of 30 days as follows:

2. Informal Resolution: The WSB will notify the complainant and the respondent of the opportunity for an informal resolution. Respondents must make good faith efforts to resolve all grievances or complaints prior to the scheduled hearing. Failure on the part of either party in the grievance or complaint to exert good faith efforts will not constitute a basis for dismissing a grievance or complaint, nor will such failure be considered in the resolution process. Where a complaint alleges a violation of WIOA Title I, WIOA grant or any WIOA agreement, the WSB will ensure that every grievance or complaint not resolved informally, or not withdrawn is provided a hearing, regardless of the grievance or complaint's apparent merit or lack of merit.

When the complaint has been resolved through the informal resolution process, the WSB will request that the complainant withdraw his or her complaint within 10 days of resolution. The WSB will maintain copies of correspondence in the complainant's file.

3. Decision Not later than 60 days after the filing of the grievance or complaint, the EO Officer will mail a written decision to both parties by first class mail. The EO Officer's decision will contain the following information:

The names of the parties involved;

A statement of the alleged violation(s) and issues related to the alleged violation;

A statement of the facts as determined and adjudicated by the EO Officer;

The EO Officer's decision and the reasons for the decision; and

A statement of corrective action or remedies for violations, if any, to be taken.

4. Appeals to the Secretary must be submitted by certified mail with a return receipt requested. In addition to sending an appeal to the Secretary, the party must also simultaneously provide a copy of the appeal to the opposing party and the US Department of Labor Employment and Training Administration (DOLETA) regional administrator.

Mailing addresses to the Secretary and DOLETA regional administrator are provided below:

Secretary, US Department of Labor

200 Constitution Ave. NW

Washington, DC 20210

Attention: ASET

Regional Administrator, US Department of Labor Employment and Training Administration

525 S. Griffin Street, Room 317

Dallas, Texas 75202

CHAPTER FOUR: Standard Operating Procedures

Subchapter 4.1: Marketing, Communications, and EO Taglines

The requirements in 29 CFR §38 apply to recipients. WIOA regulations define recipient as an entity to which financial assistance under Title I of WIOA is extended, including state workforce agencies, boards, subrecipients, vendors, service providers, eligible training providers, partners, and employers participating in subsidized employment/work experience placements.

Recipients must include the “equal opportunity employer/program,” and “auxiliary aids and services are available upon request to individuals with disabilities,” statements in recruitment brochures and other materials that are ordinarily distributed or communicated in written and/or oral form, electronically and/or on paper, to staff, customers, or the public at large, to describe programs or the requirements for participation by recipients and participants. Where such materials indicate that the recipient may be reached by voice telephone, the materials must also prominently provide the number of the text telephone (TTY) or equally effective telecommunications system, such as a relay service, videophone, or captioned telephone used by the recipient, as required by §38.15(b).

Recipients that publish or broadcast program information in the news media must ensure that such publications and broadcasts state that the federally assisted program or activity in question is an equal opportunity employer/program (or otherwise indicate that discrimination in federally funded programs or activities is prohibited by federal law), and indicate that auxiliary aids and services are available upon request to individuals with disabilities.

As set forth in Texas Workforce Commission WD Letter 02-19, recipients must include a “Babel notice,” indicating in appropriate languages that language assistance is available, in all communications of vital information, such as hard copy letters or decisions or those communications posted on websites.

Babel notice means a short notice included in a document or electronic medium (e.g., website, “app,” email) in multiple languages informing the reader that the communication (document, form, etc.) contains vital information, and explaining how to access language services to have the contents of the communication provided in other languages.

1. Babel Notice - The following Babel notice will be included on documents as specified below and must be in the Board’s designated languages (as of the original date this policy is implemented Spanish is the only designated language; both English and Spanish versions provided below). Other languages may be required once the Board’s Language Access Plan is complete.

Babel Notice in English

This document contains vital information about requirements, rights, determinations, and/or responsibilities for accessing workforce system services. Language services, including the interpretation/translation of this document, are available free of charge upon request.

Babel Notice in Spanish

Este documento contiene información importante sobre los requisitos, los derechos, las determinaciones y las responsabilidades del acceso a los servicios del sistema de la fuerza laboral. Hay disponibles servicios de idioma, incluida la interpretación y la traducción de documentos, sin ningún costo y a solicitud.

Documents/forms, including digital/hard copy, the website, and the app, that meet all of the following criteria are required to have the Babel notice:

- Contain vital information (as defined in Section II of this policy)
- Intended for individuals accessing, attempting to access, or being outreached for workforce system programs or services (including job seekers, providers, and parents); some examples include (but are not limited to): forms customers fill out, letters that require some kind of action or that customers must understand to apply for/retain/take advantage of a service or benefit, documents used to promote services, etc.
- Created by the Board or a Board subrecipient, or that local board areas are otherwise authorized to alter

The purpose of the Babel notice is to inform customers that the information contained in a document/communication can be made available in other languages. Therefore, dual or multi-language forms that contain translations in the Board's designated languages are not required to include a Babel notice. However, all information on the form must be translated; there cannot be sections or words that are in English only (or in another language only). In addition, the Babel notice is not required on English versions of documents if a separate version of the form exists in the Board's designated languages. The Babel notice is also not required on forms written in the Board's designated languages (for example, a form translated into Spanish is not required to have the Babel notice in Spanish or any other language).

The EO, Relay, and Babel taglines should be placed at the bottom of the page. For documents with multiple pages, these taglines must be on the bottom of the first page (they are not required to be on every page). If there is a signature page, the taglines must be placed at the bottom of the signature page instead of the bottom of the first page.

2. Letterhead - Workforce Solutions Borderplex contractors choosing to place their logo on Workforce Solutions Borderplex stationary may add their logo if it is smaller than the system logo. It must read, "Managed by" above their logo. At the bottom center of the letterhead, an Equal Opportunity tagline must be added. Contractors may print in color or in black and white. Examples of the design will be made available upon request to the Board's Executive Office. The approved Equal Opportunity tagline is:

A proud partner of the American Job Center Network
Equal Opportunity Employer/Program. Auxiliary aids and services are available upon request to individuals with disabilities. Relay: 1-800-735-2989 (TTY) / 711 (Voice). Igualdad de oportunidades de

Empleo/Programas. Equipo auxiliar y servicios de apoyo están disponibles para personas con discapacidad al ser requeridos. Relay: 1-800-735-2989 (TTY) / 711 (Voz).

3. Business Cards – Contractors may have a smaller version of their logo on their business cards. Design examples will be made available upon request to the Executive Office.
4. Printed Material – All brochures and/or written informational material may include the contractor’s smaller logo.
5. Staff must be aware of the following definitions, as defined by the Office of Management and Budget:
 - Advertising costs – costs of advertising media and corollary administrative costs. Advertising media include magazines, newspapers, radio and television, direct mail, electronic or computer transmittals and the like; and
 - Public relations – activities dedicated to maintaining the organization’s image or maintaining or promoting understanding and favorable relations with the community or public at large or any segment of the public.
6. Staff must be aware of the most frequent reasons advertising or public relations costs are disallowed. These reasons include:
 - Excessively high or unreasonable costs;
 - Not properly allocating costs to all grants or programs that benefit from the costs; and/or
 - Promotional costs only promote the organization and not program services.
7. Staff may incur costs, with prior written approval from management, for advertising or public relations if they are necessary, reasonable, justifiable and documented.
8. Staff must ensure the allocation method is clearly defined and documented when the activity benefits more than one program.
9. Staff must ensure items in which costs are expended for outreach and promotional purposes provide information about specific services available through the program in which the costs are allocated. Items that promote only the entity’s name, logo, address, telephone number, etc. are not allowed.

Subchapter 4.2: Record Retention

Section 1: Schedule of Record Retention

1. The schedule below lists many of the records created and utilized by the Board. The schedule indicates the minimum amount of time records should be maintained in compliance with State and Federal guidelines (*Texas Workforce Commission Financial Manual for Grants and Contracts*, Appendix K) and board policy.

A. WDB Administration

Unit directors and/or managers are responsible for ensuring the policy is implemented in their individual units. The Records Retention Specialist and/or designee is responsible for coordinating records management within the organization and ensures records are classified according to the Retention Schedule as described below.

WDB Human Resources	
Record Type	Action
Active employees files	Hard copy in office
Terminated employees within period + 3 years	Hard copy files in office

Terminated employees after 3 years from start of current period	Send for destruction
Recruiting files (applications, resumes, interview questions, etc.)	Scan and destroy hard copy

Staff Development	
Record Type	Action
Active employee mandatory training certificates	Scan and destroy hard copy
Terminated employees within period + 3 years mandatory training certificates	Maintain electronic record only
Terminated employees after 3 years	Destroy electronic record

Procurement	
Record Type	Action
Active contracts	Hard copy in office
Closed contracts within period + 3 years	Scan and send hard copy to on-site secondary storage
Closed contracts after 3 years from start of current period	Maintain electronic record only; destroy hard copy

Finance	
Record Type	Action
Journal entries, bank records, receipts, etc., within period + 1 year	Scan and maintain hard copy in office
Journal entries, bank records, receipts, etc., after 1 year and within 4 years from start of current period	Maintain electronic record only; send hard copy to on-site secondary storage
Journal entries, bank records, receipts, etc., after 4 years from start of current period	Maintain electronic record only; destroy hard copy

B. Contractor(s)

Contractors will develop and maintain process for ensuring participant records and files are closed and comply with the following retention schedule.

Participant Files (to be managed by Contractor(s))	
Record Type	Action
Applications, forms, assessments, etc.; within period + 1 year from completion	Scan and send maintain hard copy in office
Applications, forms, assessments, etc; after 1 year and within 3 years from participant exit	Maintain electronic record only; send hard copy to on-site secondary storage
Applications, forms, assessments, etc; after 3 years from participant exit	Maintain electronic record only; send hard copy for destruction

Section 2: Records Destruction

1. Staff and/or Contractor(s) must request record destruction via a Destruction Request Form. The CEO or designee may authorize the final destruction of any official records.
2. Records will not be destroyed if there is any litigation, claim, negotiation, audit, open records request, administrative review, or other action involving the record until the completion of the action and the resolution of all issues that arise from it, or until the expiration of the retention period, whichever is later, in accordance with State and Federal guidelines when legal requirements are met. (See *Texas Workforce Commission Financial Manual for Grants and Contracts*, Appendix K).

Section 3: Failure to Comply

Failure to maintain records in accordance with the Record Retention Policy and schedule will result in disciplinary action or penalty.

Subchapter 4.3 Open Records

Section 1: Purpose

The purpose of the Open Records Request Policy is to document the procedure for responses to Open Records Requests. This policy applies to the handlings of any requests made by a member of the public pursuant to the Texas Public Information Act, Chapter 552 of the Texas Government Code, which commonly referred to as the Texas Open Records Act (hereinafter referred to as the “Public Information Act.”)

Section 2: Access to Records

1. Regular business hours of Workforce Solutions Borderplex (Workforce Development Board) is Monday through Thursday, 7:00 am to 6:00 pm; closed Fridays, Saturdays, and Sundays, and most holidays. Requests for public information made electronically during any day other than a regular business day will be acknowledged within 24 hours or the next business day.
2. The Workforce Development Board enforces this policy in all aspects in accordance with the Texas Open Records Act.
3. Requests for public information must be made in writing through any of the following methods:
 - In person at Workforce Development Board Administration Office only – 300 E. Main, Suite 800, El Paso, TX 79901. Requests submitted at any Workforce Development Board job center, remote location, or offsite event, will not be considered officially received by the Workforce Development Board.
 - Via email to OpenRecordsRequests@borderplexjobs.com;
 - Online form found at <https://www.borderplexjobs.com/legal/open-records>

Section 3: Exceptions

The following information is considered confidential by the Workforce Development Board. Any requests for any information in any of the following categories will be automatically claimed as an exception to the Texas Attorney General within ten business days of the receipt of the open records request. The Workforce Development Board will release or withhold the following information in accordance with the final determination made by the Texas Attorney General.

- Information that is considered confidential or protected by law, either constitutional, statutory or by judicial decision;
- Personal information including addresses, phone numbers, social security numbers, federal tax documents, and personnel files;
- Information on active procurements;
- Information or documentation considered attorney-client privilege;
- Information or documentation pertaining to customers, vendors, program participants including demographics, contact information, program eligibility, attendance, performance, etc.
- Information or documentation that is not under the custody or control of the Workforce Development Board, such as documents, files and records belonging to contractors, partners, or service providers.

Section 4: Point of Contact

For purpose of the Public Information Act, the Chief Executive Officer is designated as the official point of contact for all open records requests and other requests for information/documentation submitted to Workforce Solutions Borderplex. The CEO may designate an Open Records Coordinator as the primary staff member responsible for the management, oversight, tracking, collection, release, and reporting of all open records requests.

Section 5: Advice from Legal Counsel

The Workforce Development Board reserves the right to obtain advice from legal counsel in connection with any requests that may seek information or documentation that is privileged or otherwise exempt from disclosure, or at the event of complex requests.

Section 6: Approval for Release

Before any public information is released, the Workforce Development Board's Chief Executive Officer (CEO) or his/her designee will approve the release in writing and within the required period as set by the Open Records Act. At no time is any employee, contractor, vendor, participant authorized to release public information without the written approval of the CEO or his/her designee. At no time does this or any other policy allow for the removal of an original document, file or public record from the Administration Office, centers or remote locations of the Workforce Development Board.

Section 7: Fees

The Workforce Development Board will apply all fees and charges in accordance with Chapter 70 of the Texas Administrative Code.

- a. The charge for providing a copy of public information shall be an amount that reasonably includes all costs related to reproducing the public information, including costs of materials, labor and overhead. If a request is for 100 or fewer pages, the charge for providing copies of the information will not include costs of materials, labor or overhead, unless the pages to be photocopied are located in:
 - 1) Two or more separate buildings that are not physically connected with each other; or
 - 2) A remote storage facility.

Section 8: Non-Compliance

Failure to comply with this policy and/or the Texas Open Records Act will result in disciplinary action up to and including termination.

Subchapter 4.4: Fraud, Waste, Theft and Abuse

1. The requirements set forth in WD Letter 21-16, change 2 will be followed.
2. When allegations of fraud, waste, theft or abuse are received by Workforce Solutions Borderplex, the information will be disseminated to designated staff.
3. TWC maintains full jurisdiction over TWC, Board, or contractor employee investigations. Workforce Solutions Borderplex will not conduct fact-finding on fraud, waste or abuse involving TWC Board, or contractor employees, unless specifically directed to do so by TWC Office of Investigations.
 - Employee-related incidents: Employee includes TWC staff, Board members, Board staff, and Board subcontractor staff.
4. The designated staff will review the information and staff the claim with the Board's Chief Executive Officer (CEO).
5. The CEO will determine if fact-finding will be done by Board staff or conducted by an independent thirdparty.
6. Board Chief Executive Officer or designee may refer cases to local law enforcement authorities for criminal prosecution.
7. Fact-Finding will include the following:
 - a. Board staff (or an independent third-party) with the contractor will ensure that the fact-finding:
 - Identifies the individual responsible for the overpayment or improper act;
 - Directs all correspondence to the individual; and
 - Ascertains the identifying characteristics (e.g., Social Security number, Texas Driver License or Identification Card Number, etc.) and the individual's current address.
 - b. The individual (against whom a claim has been made) will have the opportunity to respond to the claim.
8. The following consequences may be applied:
 - a. Board staff (with workforce service contractor, when appropriate) may take the following actions, as determined by the Board Chief Executive Officer or designee, if a person has been found to have committed fraud, waste, theft or abuse:
 - Nonpayment of services delivered;
 - Recoupment of funds from the person ;
 - Any other action consistent with the intent of the governing statutes or regulations to protect federal or state funds; and
 - Referral for prosecution to the proper authorities.
9. The Board may take all actions allowable by the Texas Workforce Commission to prevent or correct suspected fraud if it is determined that a child care provider is suspected of fraud. Action taken against a provider found to have committed fraud may include but is not limited to:
 - Stop authorizing care at the provider's facility or location unless/until it is determined that fraud did not occur
 - Termination of current child care provider agreements and prohibit future agreements
 - Nonpayment of child care services delivered

10. The Board may take all actions allowable by the Texas Workforce Commission to prevent or correct suspected fraud if it is determined that a parent is suspected of fraud. Action taken against a parent found to have committed fraud may include but is not limited to:
 - Prohibiting future child care eligibility, provided that the prohibition does not result in a Choices or Supplemental Nutrition Assistance Program Employment and Training participant becoming ineligible for child care
 - Terminating care during the 12-month eligibility period if eligibility was determined using fraudulent information provided by the parent.

Subchapter 4.5: Code of Conduct

1. The board of directors, board employees, its contractors and staff, and its training providers will act responsibly to ensure compliance with local, state and federal laws and regulations and grantor or funding entities' rules and policies when conducting Workforce Solutions Borderplex business.
2. The board of directors and chief executive officer will ensure adherence to the standards set forth in The Board Book: A Reference Manual to include its polices, by-laws and the "Board/CEO Partnership Agreement."
3. The board of directors, board employees, its contractors and staff, and its training providers will not knowingly engage in deceptive practices regarding federal, state and local regulations, rules, policies and procedures or engage in illegal acts.
4. The board of directors, board employees, its contractors and staff, and its training providers will act responsibly to properly use and protect federal, state and local funds.
5. The board of directors, board employees, its contractors and staff, and its training providers will not knowingly misappropriate or use Workforce Solutions Borderplex funding, personnel or equipment for personal gain or advantage.
6. The board of directors, board employees, its contractors and staff, and its training providers will not falsify records or direct or coerce others to do so.
7. The board of directors, board employees, its contractors and staff, and its training providers will not knowingly make false statements about workforce system staff, customers, contractors or the workforce system.
8. The board of directors, board employees, its contractors and staff, and its training providers will report any instances of suspected fraud, waste, theft or abuse.
9. The board of directors, board employees, its contractors and staff, and its training providers will take prompt action when wrongdoing is suspected, and will not tolerate any retaliation (or threats of retaliation) against anyone who reports suspected wrongdoing.
10. The board of directors, board employees, its contractors and staff, and its training providers will maintain sound internal fiscal controls to ensure workforce funds are used strictly in the manner for which they were intended.
11. The board of directors, board employees, its contractors and staff, and its training providers will welcome and cooperate with external review, to include state and federal monitoring, and secure an annual independent audit, as additional mechanisms for ensuring the protection of public funds.
12. The board of directors, board employees, its contractors and staff, and its training providers will act in a manner to ensure that Workforce Solutions Borderplex business is above reproach and embraces the tenets of fair dealing, to include promoting open and competitive procurement.
13. The board of directors, board employees, its contractors and staff, and its training providers will not use nonpublic information gained through a relationship with the Texas Workforce Commission, board member, board or system employees, contractors or training providers to seek or obtain financial gains that would be a conflict of interest or create the appearance of a conflict of interest.

14. The board of directors, board employees, its contractors and staff, and its training providers will not offer or accept gift or favors that affect professional judgment, are used to obtain special advantage or can be perceived as a conflict of interest.
15. The board of directors, board employees, its contractors and staff, and its training providers will not disclose confidential information, except for professional purposes in the context of one's duties and as allowed by law, or use such information for personal gain.
16. The board of directors, board employees, its contractors and staff, and its training providers commit to maintaining ethical, professional, respectful and nondiscriminatory behavior toward customers, which includes individuals, businesses and organizations.
17. The board of directors, board employees, its contractors and staff, and its training providers are responsible for ensuring, promoting and facilitating transparency in all business transactions.
18. The board of directors, board employees, its contractors and staff, and its training providers will monitor themselves and each other for adherence to the Code of Conduct.

Subchapter 4.6: Quality Assurance Compliance and Monitoring

Section 1: General

Program quality and outcomes will be evaluated through timely reviews which will ensure all employment and training programs administered by the Board are meeting the individual program requirements. Program data will be collected and analyzed to identify a program's strengths and weaknesses and address program quality and outcomes.

Section 2: Review Scheduling

Compliance and Monitoring staff will prepare a schedule (program) for all reviews. The schedule will be based on a risk assessment of each contractor.

Section 3: Methodology

Compliance and Monitoring staff will, perform desk reviews, conduct entrance interviews, on-site reviews and exit interviews, participate in the analysis of findings to determine necessary recommendations for corrective action, write reports and follow-up on findings. The length of the review will be based upon the number of randomly selected files and attributes to be reviewed.

Section 4: Review Reporting

1. The Compliance and Monitoring review reports will identify problems or areas of non-compliance (federal, state and local) to be addressed by the workforce service provider(s) to enhance the quality of program services and the effective and efficient use of resources.
2. The Compliance and Monitoring review reports will provide recommendations for corrective action and guidance to enhance program quality.
3. Issues identified during the review will be presented during the exit conference, unless an exit conference is not deemed necessary. The Compliance and Monitoring staff will provide an electronic copy of the draft report to the workforce service provider's management. The workforce service provider will provide in the draft report a written response to the draft findings within ten (10) business days after receipt of the draft report detailing how the draft findings are being corrected.

Section 5: Follow-up

Follow-up reviews will be scheduled accordingly following receipt of the provider's response to the draft report to verify that the draft findings have been corrected.

Section 6: Reporting Fraud, Waste or Abuse

Discovery of fraud, waste or abuse or the indication of such will be immediately reported to the Board COO , CEO, and the workforce service provider(s).

CHAPTER FIVE: Situations in the Workplace

Subchapter 5.1: Recognizing and Responding to Emergency Situations in the Workplace

Section 1: Purpose

To set guidelines designed to recognize and address emergency situations to facilitate maintenance of safety for Workforce Solutions Borderplex customers and staff. It is the intent of this policy to strengthen the confidence of the workforce system staff in responding to emergencies that may occur at any of our permanent locations and/or off-site locations, such as those for special events. It is also the intent of this policy to ensure Workforce Solutions Borderplex system's full compliance with Texas Workforce Commission WD Letter 24-11.

Due to circumstances facing several of our customers: loss of employment, impending denial or suspension of benefits, such as unemployment checks, food stamps, transportation services, and childcare services, customers may express themselves in an agitated or depressed manner.

1. Workforce Solutions Borderplex is committed to maintaining a workplace free from hostility, violence, or threats of violence.
 - a. Violent and/or threatening behavior is not to be tolerated by any individual against any individual, including co-worker against co-worker, customer against customer, or customer against family member.
 - b. Violent and/or Threatening Behavior – Verbal or physical conduct that may reasonably construed to be hostile in nature, includes, but is not limited:
 - Violent physical actions;
 - Direct or implies threats to do harm to person(s) or property, including intimidating use of one's body or physical objects;
 - Verbally abusive or intimidating language or gestures; threatening abuse, or harassing communication (for example, phone calls, letters, memoranda, faxes, e-mail. Or voice mail messages);
 - Unauthorized possession of a weapon at the worksite;
 - Destructive or sabotaging actions against workforce system staff, customers or property;
 - Engaging in a pattern of unwanted or, intrusive behavior against another individual (for example, stalking, spying, etc.);
 - Violation of a restraining or protective order.
2. Contractor will immediately report incident to Board via RSM-3120 <http://intra.twc.state.tx.us/intranet/gl/docs/rsm-3120.pdf> (available on intranet)
3. Contractor will develop procedures to address emergency situations.

Subchapter 5.2: Communicable diseases

Workforce Solutions Borderplex' (WSB) decisions involving persons who have communicable diseases shall be based on current and well-informed medical judgments concerning the disease, the risks of transmitting the illness to others, the symptoms and special circumstances of each individual who has a communicable disease, and a careful weighing of the identified risks and the available alternative for responding to an employee with a communicable disease.

Communicable diseases include, but are not limited to, measles, influenza, viral hepatitis-A (infectious hepatitis), viral hepatitis-B (serum hepatitis), human immunodeficiency virus (HIV infection), AIDS, AIDS-Related Complex (ARC), leprosy, Severe Acute Respiratory Syndrome (SARS) and tuberculosis. WSB may choose to broaden this definition within its best interest and in accordance with information received through the Centers for Disease Control and Prevention (CDC).

WSB will not discriminate against any job applicant or employee based on the individual having a communicable disease. Applicants and employees shall not be denied access to the workplace solely on the grounds that they have a communicable disease. WSB reserves the right to exclude a person with a communicable disease from the workplace facilities, programs and functions if the organization finds that, based on a medical determination, such restriction is necessary for the welfare of the person who has the communicable disease and/or the welfare of others within the workplace.

WSB will comply with all applicable statutes and regulations that protect the privacy of persons who have a communicable disease. Every effort will be made to ensure procedurally sufficient safeguards to maintain the personal confidence about persons who have communicable diseases.