


August 28, 2013

TO: WIA Contractors of the Orange County
Workforce Investment Area

FROM: Andrew Munoz
Community Investment Division Administrator/
Orange County Workforce Investment Board Executive Director



SUBJECT: Incident Reporting
Information Notice 13-OCWDA-01
Supersedes Information Notice 03-OCWDA-13

PURPOSE:

The policy provides procedures for reporting criminal activity and noncriminal complaints to the Compliance Review Office (CRO) of the Employment Development Department (EDD) and the Department of Labor's (DOL) Office of Inspector General (OIG).

SCOPE:

This directive applies to all Orange County Workforce Investment Area (OCWIA) contractors of programs funded under the Workforce Investment Act (WIA).

EFFECTIVE DATE:

This policy is effective immediately.

REFERENCES:

- Title 20 Code of Federal Regulations (CFR) Sections 667.505 and 667.630
- DOL Training Employment and Guidance Letter 2-12, Employment and Training Administration (ETA) Grant Recipient Responsibilities for Reporting Instances of Suspected Fraud, Program Abuse and Criminal Conduct (July 12, 2012)
- Workforce Investment Act Directive WIAD12-18 (June 12, 2013)

BACKGROUND:

WIA regulations, Title 20 CFR Section 667.630, require that information and complaints involving criminal fraud, waste, abuse or other criminal activity must be reported immediately. Complaints of a noncriminal nature, such as mismanagement and gross waste of funds, may also be reported.



PROCEDURES:

Orange County Workforce Investment Board (OCWIB) and all WIA Contractors will comply with all the requirements of Workforce Investment Act Directive WISD12-18 for incident reporting. All WIA Contractors shall establish appropriate and written internal program management procedures to prevent and detect fraud, abuse, and criminal activity and shall include the designation of a person on the WIA Contractor's staff who will be responsible for the notifications.

REPORTING:

Within one workday of detection or discovery of information alleging fraud, abuse, or other criminal activity involving WIA funds, the detecting entity shall prepare a written incident report (see attached form). The report will be submitted to the OIG with a copy simultaneously provided to the Employment and Training Administration (ETA) and OCWIB. *Copy for OCWIB shall be addressed to: Incident Reporting/OCWIB, 1300 South Grand Avenue, 3rd floor, Building B, Santa Ana, CA 92705.*

ACTION:

Bring this Information Notice, along with the attachments, to the attention of all staff.

INQUIRIES:

If you have any questions, please contact your Contract Administrator.

ATTACHMENTS:

1. Glossary of Terms
2. Incident Report

Glossary of Terms

The federal definitions that follow are provided for use as a guide in the identification of fraud, abuse, and other criminal activity. Since the definitions cannot address every possible activity, questions as to whether an activity is reportable under this policy should be referred to your Regional Advisor for clarification and guidance.

Emergency is defined as a situation involving imminent health or safety concerns, or the imminent loss of funds exceeding an amount much larger than \$50,000 (e.g. \$500,000).

Employee/Participant Misconduct are actions occurring during or outside work hours that reflect negatively on the Employment Development Department (EDD) or its mission, including, but not limited to: conflict of interest or the appearance of conflict of interest involving outside employment, business and professional activities; the receipt or giving of gifts, fees, entertainment, and favors; misuse of government property; and, misuse of official information and other activities that might adversely affect the confidence of the public in the integrity of the government as well as serious violations of federal and State laws.

Fraud, Misfeasance, Nonfeasance or Malfeasance is defined as any alleged deliberate action which may be in violation of government statutes and regulations. This category includes, but is not limited to, indications of bribery, forgery, extortion, embezzlement, theft of participant checks, kickbacks from participants or contractors, intentional payments to a contractor without the expectation of receiving services, payments to ghost enrollees, misuse of appropriated funds, misrepresenting information in official reports, and falsification of records and claims regarding trainees (e.g. knowingly enrolling ineligible participants). Criminal fraud is a type of larceny and is punishable under both federal and California law as a felony. Civil fraud is subject to tort actions under civil laws.

Gross Mismanagement is defined as any actions or situations arising out of management ineptitude or oversight and leading to a major violation of the legislative process, regulations, or contract/grant provisions. These actions or situations have the potential to severely hamper accomplishment of program goals, waste government resources, and jeopardize future support for a particular project. This category includes, but is not limited to, unauditible records, unsupported costs, highly inaccurate fiscal reports or program reports, payroll discrepancies, payroll deductions not paid to the IRS or the State of California, and lack of good internal control procedures.

Incident Report is the primary form for reporting instances of fraud, misapplication of funds, gross mismanagement, and any other incidents of known or suspected criminal or other serious activities.

Misapplication of Funds is defined as any alleged deliberate use of funds, assets or property not authorized or provided for by legislation or regulations, grants, or contracts. This category includes, but is not limited to, nepotism, political patronage, use of participants for political activity, ineligible enrollees, conflict of interest, failure to report income from federal funds, violation of contract/grant procedures, the use of government funds for other than specified purposes, and the use of WIA funds for other than WIA purposes. Indian and Native American programs are excluded from the nepotism category, as cited in Section 632.118 of 20 CFR Part 632, Subpart F of the WIA regulations.

Note: An incident report should be filed when there appears to be an intent to misapply funds rather than merely for a case of minor mismanagement.

Standard of Conduct Violations are violations of terms and conditions stipulated in the subgrant agreement. The relevant stipulations in the subgrant agreement are General Assurances, Employment of Former State Employees, Conducting Business Involving Relatives, Conducting Business Involving Close Personal Friends and Associates, Avoidance of Conflict of Economic Interest, and Maintenance of Effort.

OIG Hotline: The OIG operates the hotline to receive and process allegations of fraud, waste, and abuse concerning grants, contracts, programs and operations. The OIG also uses the hotline to address allegations of criminal activity and serious misconduct involving government employees.

Note: The OIG Hotline should NOT be used for resolving employee grievances, Equal Employment Opportunity complaints, labor disputes, or other personnel concerns.

INCIDENT REPORT

<p>1. Type of report (check one)</p> <p><input type="checkbox"/> Initial</p> <p><input type="checkbox"/> Supplemental</p> <p><input type="checkbox"/> Final</p> <p><input type="checkbox"/> Other <i>[specify]</i></p>	<p>2. Type of incident (check one)</p> <p><input type="checkbox"/> Conduct violation</p> <p><input type="checkbox"/> Criminal violation</p> <p><input type="checkbox"/> Program violation</p>
<p>3. Allegation against (check one)</p> <p><input type="checkbox"/> Contractor</p> <p><input type="checkbox"/> Program Participant</p> <p><input type="checkbox"/> Other <i>[(specify), give name and position of employee(s), list telephone number, Social Security Account number, if applicable, and other identifying data.]</i></p>	
<p>4. Location of incident</p> <p><i>[Give complete name(s) and addresses of organizations(s) involved]</i></p>	
<p>5. Date and time of incident/discovery <i>[date, time]</i></p>	
<p>6. Source of complaint (check one)</p> <p><input type="checkbox"/> Audit <input type="checkbox"/> Contractor <input type="checkbox"/> Program Participant <input type="checkbox"/> Public</p> <p><input type="checkbox"/> Investigative Law Enforcement Agency <i>[(specify)]</i></p> <p><input type="checkbox"/> Other <i>[(specify), give name and telephone number so additional information can be obtained.]</i></p>	
<p>7. Contacts with law enforcement agencies</p> <p><i>[Specify name(s) and agency contacted and results]</i></p>	
<p>8. Persons who can provide additional information</p> <p><i>[(Include custodian of records) name, position or job title, employment, local address (street, city and state) or organization, if employed and telephone number]</i></p>	
<p>9. Details of incident</p> <p><i>[Describe the incident]</i></p>	