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Number: WIN - 0048

Date: September 24, 2013

Expiration Date: N/A

TO: Workforce Development System Partners

FROM: Amy L. Smith, Director of Policy, Program Administration & Technical Assistance

SUBJECT: Reporting Incidents Involving WIA Funding

Purpose:

To establish expectations and procedures for reporting alleged, suspected or known fraud, program abuse and criminal misconduct to the Employment Security Department (ESD) and the Department of Labor's (DOL) Office of Inspector General (OIG). This guidance corresponds to the requirements contained in Policy 3255 Revision 1 and Training and Employment Guidance Letter (TEGL) 2-12.

Action Required:

WDCs and their contractors, as well as Employment Security Regional Directors, should distribute this guidance broadly throughout the system to ensure that staff and partners within the WorkSource System are familiar with the content and requirements.

WDCs must establish appropriate internal expectations or procedures for all subrecipients, including the WDC, to prevent and detect fraud, abuse, gross mismanagement or misuse of program funds, and criminal activity and follow the procedures set forth herein for documenting, immediately reporting, and following-up on instances of alleged, suspected or known fraud, program abuse and criminal misconduct involving recipients or subrecipients of federal funds under the Workforce Investment Act (WIA).

Content:

1. Background

20 CFR Section 667.630 and TEGL 2-12 provide expectations and requirements for reporting information and complaints involving criminal fraud, waste, abuse or other criminal activity that must be reported immediately through DOL's Incident Reporting System to the OIG.

The [Incident Report \(IR\) form](#), Office of Inspector General (OIG) 1-156, is the official form to be used for reporting allegations of criminal and other illegal or improper activities in WIA funded programs. When the OIG receives an IR, they determine whether the allegations have merit and, when appropriate, conduct or arrange for an investigation and/or audit. If the OIG determines that the case does not have investigative or audit merit, the case is referred back to ETA for resolution.

No action will be taken against any individual who discloses information concerning criminal or improper activities or makes a valid complaint to proper authorities. These individuals may remain anonymous. If an individual believes that his/her position will be compromised by reporting information through the IR system, he/she may send the report directly to the OIG or OFAM.

2. Subrecipient Responsibilities

Reporting procedures do not supersede the responsibility for subrecipients to safeguard WIA funds by taking prompt and appropriate corrective action when any evidence of a violation of WIA or its implementing regulations is found. Whenever the entity reporting the allegation of an incident believes that immediate action to prevent further financial loss or other damage is necessary, or recovery of funds or property may be impeded if immediate action is not taken, the reporting entity has the responsibility to take any action it deems appropriate, including contacting the local law enforcement agency. Any immediate action taken or planned by the reporting entity must be reported to ESD when the incident report is submitted.

All incident reports, emergency or other, must be sent to ESD and the OIG using the contact information provided below. WDCs and their subrecipients must use the [IR form](#) to immediately document and report suspicions, allegations or complaints involving:

- WIA-related fraud;
- Misfeasance, nonfeasance or malfeasance;
- Misapplication of funds; gross mismanagement;
- Employee/participant misconduct; or
- Other potential or suspected criminal actions.

Situations involving imminent health or safety concerns, or the imminent loss of funds exceeding an amount larger than \$50,000 (e.g. \$500,000), are considered emergencies and must immediately be reported to the OIG via the hotline telephone and followed up immediately (within one working day) in the form of an IR.

NOTE: Types of reportable incidents (with additional context) are listed in the definitions section.

3. Report Submission

WDCs and their subrecipients must submit incident reports to the following entities:

Employment Security Department:
(choose one of the following methods)

- Email: LScheel@esd.wa.gov; or
- Mail: Attention - Incident Reporting Internal Audit Office
Employment Security Department
P.O. Box 9046
Olympia, WA 98507-9046

For questions or instructions call the Internal Audit Office at 360-902-9276

AND

Office of Inspector General:
(choose one of the following methods)

- Email: hotline@oig.dol.gov;
- FAX: (202) 693-7020; or
- Mail: Office of Inspector General
Complaints Analysis Office
200 Constitution Avenue, N.W., Room S-5506
Washington, D.C. 20210

Hotline for emergency situations:
1-800-347-3756 or 202-693-6999

NOTE: Per requirements at 20 CFR 667.630 to copy DOLETA on the submission of incident reports, ESD will forward any incident report it receives to DOLETA on behalf of the reporting entity.

Definitions:

Emergency – 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 – WDC, partner, contractor or participant actions occurring during or outside work hours that reflect negatively on the U.S. Department of Labor 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 Federal property; and, misuse of official information and such other activities as 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 – Any alleged deliberate action which may be in violation of Federal 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, and misrepresenting information in official reports.

Gross Mismanagement – 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. Such 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 Internal Revenue Service, and lack of good internal control procedures.

Misapplication of Funds – 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, and the use of Federal funds for other than specified purposes. 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. 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.

Subrecipient – An entity, other than a participant or applicant, to which a recipient (or higher tier subrecipient) extends WIA Title 1 funds. (20 CFR 660.300).

References:

- 20 CFR 667.505 and 667.630
- [TEGL 2-12](#)
- [WIA Policy 3255 Rev. 1](#), Audit Requirements -- Including Incident Reporting/Fraud & Abuse

Website:

http://www.wa.gov/esd/1stop/policies/state_guidance.htm

Direct Inquiries To:

For Policy Inquiries:
Workforce & Career Development Division
WCDDpolicy@esd.wa.gov
360-902-9797

For Incident Reporting Questions:
Internal Audit Office
Employment Security Department
LScheel@esd.wa.gov
360-902-9276

Attachment: [Incident Report \(IR\) form](#), Office of Inspector General (OIG) 1-156