



**WORKFORCE DEVELOPMENT
BOARD OF MADERA COUNTY**

INCIDENT REPORTING POLICY

EDD Revision Date: 9/10/02; 6/12/13
WDB Review Date: 8/26/04; 3/22/07; 12/15/16, 6/17/21

EXECUTIVE SUMMARY:

Purpose:

This document establishes the Workforce Development Board of Madera County's policy and procedures for reporting allegations of fraud, program abuse, or criminal conduct involving grantees or other entities and subrecipients receiving federal funds either directly or indirectly from the Employment Development Department (EDD) to the EDD Compliance Review Office (CRO) and the US Department of Labor's (DOL) Office of Inspector General (OIG). This policy and the associated procedures apply to the Local Workforce Development Area (Local Area) and other subrecipients of programs funded under the Workforce Innovation and Opportunity Act (WIOA), and is effective immediately.

Scope:

This policy applies to the Madera County Local Workforce Development Area (LWDA) and all subrecipients or other programs funded under the Workforce Innovation and Opportunity Act.

Effective Date:

This policy is effective on the date of approval by the Workforce Development Board of Madera County.

REFERENCES:

- EDD Directive WSD20-12
- Title 2 Code of Federal Regulations (CFR) Part 200: Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (Uniform Guidance) Sections 200.22, 200.23, 200.92, 200.333, and 200.344
- Title 20 Code of Federal Regulations (CFR) Sections 683.600 and 683.620
- DOL Training and Employment 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)

STATE-IMPOSED REQUIREMENTS:

This policy contains some State-imposed requirements. These requirements are indicated by ***bold italic*** type.

FILING INSTRUCTIONS:

This policy implements the requirements of WSD20-12. Retain this policy until further notice.

BACKGROUND:

Per Title 20 CFR Section 683.620 information and complaints involving criminal fraud, waste, abuse, or other criminal activity must be reported immediately through DOL's Incident Reporting System to OIG with a copy simultaneously provided to the Employment and Training Administration (ETA). Complaints of a noncriminal nature (e.g., mismanagement and gross waste of funds) may be handled under the procedures set forth in Title 20 CFR Section 683.600 or may be reported through the DOL's Incident Reporting System.

When an individual has knowledge or suspicion of a violation of the WIOA or its regulations, the individual must take prompt and appropriate action.

POLICY AND PROCEDURES:

Definitions:

Complaint – allegations of criminal activity and serious misconduct accepted by the DOL as incidents, and allegations of fraud, waste, and abuse concerning federally-funded grants, contracts, programs and operations, and dangers to the public health and safety. The Incident Reporting System should not be used for resolving employee grievances, Equal Employment Opportunity complaints, labor disputes, or other personnel concerns.

Contract – a legal instrument by which a non-federal entity purchases property or services needed to carry out the project or program under a federal award. The term as used in this part does not include a legal instrument, even if the non-federal entity considers it a contract, when the substance of the transaction meets the definition of a federal award or subaward. (Uniform Guidance Section 200.22)

Contractor – an entity that receives a contract as defined in 200.22 Contract. (Uniform Guidance Section 200.23)

Subaward – an award provided by a pass-through entity to a subrecipient for the subrecipient to carry out part of a federal award received by the pass-through entity. It does not include payments to a contractor or payments to an individual that is a beneficiary of a federal program. A subaward may be provided through any form of legal agreement, including an agreement that the pass-through entity considers a contract. (Uniform Guidance Section 200.92)

Subrecipient – a non-federal entity that receives a subaward from a pass-through entity to carry out part of a federal program, but does not include an individual that is a beneficiary of

such program. A subrecipient may also be a recipient of other federal awards directly from a federal awarding agency. (Uniform Guidance Section 200.93)

Policy:

All subrecipients that receive WIOA funds must promptly report to OIG and CRO all allegations of WIOA-related fraud, abuse, and other criminal activity. The CRO must immediately report the allegations through the DOL's Incident Reporting System to the OIG with a copy simultaneously provided to the ETA. In addition to submitting allegation is to the CRO, subrecipients may also report allegations directly to the OIG, if deemed appropriate.

Each subrecipient must establish appropriate internal procedures to prevent and detect fraud, abuse, and criminal activity. These procedures must include a reporting process to ensure that OIG and CRO are notified immediately of any allegations of WIOA-related fraud, abuse, or criminal activity. Internal procedures must be in writing and include the designation of a person on the subrecipients' staff who will be responsible for such notifications.

Subrecipients must establish, document, and implement procedures to immediately notify the funding entity of any suspected or proven fraud, abuse, or other criminal activity involving WIOA-funded activities. Funding entities must provide written notification to subrecipients regarding their responsibilities to be alert for instances of fraud, abuse, and criminal activity committed by staff, contractors, or program participants and to report all such instances to the funding entity, and CRO immediately including that the allegations may also be reported to the OIG. Proof of this notification must be maintained in the funding entity's files. Subrecipients detecting the presence or appearance of fraud, abuse, or other criminal activity must obtain sufficient information to provide a clear, concise report of each incident. Reports must include a statement of all facts, known at the time, as well as any known or estimated loss of WIOA funds resulting from the incident. It is important that an initial report is made to CRO within one working day of the detection of the incident. The submission of an incident report should not be delayed even if all the facts are not readily available. Any facts subsequently developed by the subrecipient must be forwarded in a supplemental incident report.

The reporting procedures do not supersede the responsibility for subrecipients to safeguard WIOA funds by taking prompt and appropriate corrective action when any evidence of a violation of WIOA or its implementing regulations is found.

Reporting:

Within one workday of detection or discovery of information alleging fraud, abuse, or other criminal activity involving WIOA funds, a written incident report shall be prepared by the detecting entity. The report must be submitted on the Incident Report form, which can be found as Attachment C to TEGl 2-12, or a similar document containing the requested information to the CRO by email at PACBCROIncidentReports@edd.ca.gov.

The Incident Report may also be submitted to the DOL OIG at their Web site www.org.dol.gov/hotlinecontact.htm, by telephone at 1-800-347-3756, by fax to (202) 693-7020, or by mail to:

Office of Inspector General
United States Department of Labor
200 Constitution Avenue NW, Room S-5506
Washington, DC 20210

And to the Executive Director of the Workforce Development Board of Madera County by telephone at (559) 662-4500, by fax at (559) 673-1794, or by mail to:

Executive Director
Workforce Development Board of Madera County
P.O. Box 1205
Madera, CA 93639

Allegations considered to be of an emergency nature may be reported by telephone to the Compliance Resolution Unit Supervisor at (916) 654-8354 or by calling the OIG/DOL Hot Line at 1-800-347-3756 and ***followed immediately thereafter by a written incident report.***

The Workforce Development Board of Madera County Executive Director has designated the Controller as the person responsible to forward any incident report received to CRO and OIG/DOL. The CRO will record any incident report it receives in the WIOA Incident Report System, report the incident directly to the OIG Complaints Analysis Office, and forward the incident report to DOL/ETA Region 6 within one working day of receipt. However, CRO may have to contact the reporting entity for clarification or additional details prior to forwarding it to Region 6. Concurrently with its transmittal of the incident report to Region 6, CRO will, when applicable, notify the reporting entity to take appropriate action to recover misspent funds, or to contain its financial liability.

Upon receipt, ETA Region 6 will forward the Incident Report to DOL Regional OIG, San Francisco. Subsequently, ETA Region 6 will advise the CRO of the action to be taken by the DOL Regional OIG. When the OIG receives an Incident Report, they will determine whether or not to investigate the incident. If OIG decides not to investigate an Incident Report, the case is referred back to ETA for resolution. At this time the case is referred to the EDD by ETA Region 6 for investigation. If the OIG decides to investigate the incident, ETA Region 6 will instruct the CRO to wait for the OIG's results before commencing the state-level formal resolution.

When the CRO commences the state-level resolution, it will request a fact-finding and resolution report from the appropriate next level of oversight, depending on the nature of the allegations. The CRO may require the EDD's direct subrecipients to submit a fact-finding and local resolution report, or the fact-finding mission may be conducted by the EDD. The fact-finding may, in certain circumstances, rise to the level of a special monitoring review, an investigation, or an audit by the appropriate state entities or by independent third party auditors, as determined by the CRO.

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 CRO when the incident report is submitted.***

Allegations of fraud, abuse, or other criminal activity in WIOA-funded programs may originate from sources other than subrecipients. Such sources may include informants, independent auditors, or local law enforcement agencies. Whenever the EDD receives an allegation from such a source, the CRO will prepare and submit an Incident Report to the OIG Complaints Analysis Office and to ETA Region 6, in accordance with WDD Directive WSD20-12. In such a case, CRO will, when appropriate, inform the subrecipient of the incident reported and advise the latter of the need to take certain action.

During an investigation, based on a report of fraud or abuse, the DOL OIG investigators or auditors may contact a subrecipient regarding an incident of which the subrecipient was not previously aware. Upon learning of the incident from federal sources, the subrecipient should contact the CRO to determine whether the latter is aware of the incident. If the subrecipient is not aware of the allegations, but CRO is aware, then the CRO will, when appropriate, inform the subrecipient of the specific allegations contained in the Incident Report.

Action will not be taken against any complainant for disclosing information concerning criminal or improper activities or making a valid complaint to proper authorities. Complainants may remain anonymous. If a complainant considers that their position will be compromised by reporting information through an Incident Report, the complainant may send the report directly to the OIG.

Post Close-Out Adjustments and Continuing Responsibilities

Per Uniform Guidance Section 200.344, the closeout of a federal award does not affect any of the following:

- The right of the federal awarding agency or pass-through entity to disallow costs and recover funds on the basis of a later audit or other review. The federal awarding agency or pass-through entity must make any cost disallowance determination and notify the non-federal entity within the record retention period.
- The obligation of the non-federal entity to return any funds due as a result of later refunds, corrections, or other transactions including final indirect cost rate adjustments.

Records Retention Requirements

Per Uniform Guidance Section 200.333, financial records, supporting documents, statistical records, and all other non-federal entity records pertinent to a federal award must be retained for a period of three years from the date of submission of the final expenditure report, or for a period of three years from the date of the submission of the quarterly or annual financial report (for federal awards that are renewed quarterly or annually), as reported to the federal awarding agency or pass-through entity (in the case of a subrecipient). Pass-through entities must not impose any other record retention requirements upon non-federal entities. The only exceptions are the following:

- If any litigation, claim, or audit is started before the expiration of the 3-year period, the records must be retained until all litigation, claims, or audit findings involving the records have been resolved and final action taken.

- When the non-federal entity is notified in writing by the federal awarding agency, cognizant agency for audit, oversight agency for audit, cognizant agency for indirect costs, or pass-through entity to extend the retention period.
- Records for real property and equipment acquired with federal funds must be retained for 3 years after final disposition.

INQUIRIES:

If you have any questions about the information contained in this policy, please contact the Executive Director, Workforce Development Board of Madera County at (559) 662-4500.

Attachments

1. Glossary of Terms
2. Incident Report Form