

DIRECTIVE NO: Supersedes: 14-07

TO: WIA Service Providers

EFFECTIVE: January 2011

SUBJECT: Incident Reporting

REFERENCES:

- Title 20 Code of Federal Regulations (CFR) 667.505 and 667.630
- WIAD02-3 Incident Reporting

BACKGROUND:

The WIA regulations, Title 20 CFR Section 667.630, requires that information and complaints involving criminal fraud, waste, abuse or other criminal activity must be reported immediately through the U. S. Department of Labor's (DOL) Incident Reporting System to the DOL Office of Inspector General (OIG) with a copy simultaneously provided to the Employment and Training Administration (ETA) San Francisco Regional Office. The Incident Reporting System also processes noncriminal complaints regarding gross mismanagement and waste of funds. The information requested in this directive provides direction for the completion of the DOL Incident Report Form (DL 1-156), which is attached to this directive and acknowledges the types of incidents that the OIG Hotline seeks to identify.

DEFINITIONS:

Complaint, for this directive only, means criminal complaint.

Fraud is any deceitful act or omission, or willful device used with the intent to obtain some unjust advantage for one party, or to cause an inconvenience or loss to another party. Types of fraud include embezzlement, extortion, forgery, theft, theft of participant checks solicitation and receipt of bribes (kickbacks), and falsification of records and claims regarding trainees (e.g., knowingly enrolling ineligible participants), intentional payments to contractors without the expectation of receiving services, and payments to ghost enrollees. Criminal fraud is a type of larceny and is punishable under both federal and State law as a felony. Civil fraud is subject to tort actions under civil laws.

Misapplication of Funds is defined as any use of funds, assets, or property not authorized or provided for in the grant or contract. This category includes, but is not limited to, nepotism, political patronage, use of participants for political activity, intentional services to ineligible

enrollees, conflict of interest, failure to report income derived from federal funds, violation of contract provisions, maintenance of effort violations, and the use of WIA funds for other than WIA purposes. **Note:** a report must be filed when it appears that there exists an intent to misapply funds rather than merely a case of minor mismanagement.

Gross Mismanagement is defined as actions, or situations arising out of management ineptitude or oversight, which lead to a major violation of contract provisions and/or which severely hamper accomplishment of program goals. These include situations that lead to waste of government resources and put into serious jeopardy future support for a particular project. This category includes, but is not limited to, unauditible records, unsupported costs, highly inaccurate fiscal and/or program reports, payroll discrepancies, payroll deductions not paid to the Internal Revenue Service and the lack of internal control procedures.

Employee/Participant Misconduct should be considered as actions occurring during or outside work hours, that reflect negatively on the Department of Labor, the State and the WIA program or its purpose, and may include, but are not limited to, conflict of interest or the appearance of conflict of interest involving outside employment, business and professional activities, and the receipt or giving of gifts, fees, entertainment, and favors; misuse of federal property; misuse of official information; and other activities that might adversely affect the confidence of the public regarding the integrity of government.

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.

Subrecipient, for this directive, means a recipient that does not receive WIA funds directly from the State.

POLICY:

All service providers shall promptly report to the Office of Economic and Workforce Development (OEWD) all allegations of potential fraud, abuse, and other criminal activity.

OEWD and each service provider shall establish appropriate internal program management procedures to prevent and detect fraud, abuse, and criminal activity. These procedures must include a reporting process to ensure that OIG and the OEWD are notified immediately of any allegations of WIA-related fraud, abuse, or criminal activity. Service providers will establish, document, and implement procedures to immediately notify the funding entity of any suspected or proven fraud, abuse, or other criminal activity involving WIA-funded activities. It is the service provider's responsibility 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 immediately. Proof of this notification must be maintained in the funding entity's files.

The incident reporting process should not be used for personnel actions such as Equal Employment Opportunity complaints, employee grievances, or labor disputes.

Reporting

These reporting procedures shall ensure that all instances of fraud, abuse, or other criminal activity associated with WIA-funded activities are concurrently reported to the State of California Employment Development Department (EDD) through the OEWD.

Within one workday of detection or discovery of information alleging fraud, abuse, or other criminal activity involving WIA funds, a written incident report shall be prepared by the detecting entity. The report must be submitted on the attached form or similar document containing the requested information.

Submit the report to:

WIA Program Manager
Office of Economic and Workforce Development
30 Van Ness Avenue, Ste. 3900
San Francisco, CA 94102

OEWD will simultaneously submit a report to EDD at:

Attention: Compliance Resolution Unit
Compliance Review Division, MIC 22M
Employment Development Department
P.O. Box 826880
Sacramento, CA 94280-0001
(916) 653-3270

And to the Office of Inspector General:

Office of Inspector General
United States Department of Labor
200 Constitution Avenue, N.W., Room S-5506
Washington, D.C. 20210
www.oig.dol.gov/hotnet1.htm, by fax to (202) 693-5210

Allegations considered to be of an emergency nature may be reported by telephone to Marc Majors at the OEWD at (415) 581-2314 and by calling the OIG/DOL Hot Line at 1-800-347-3756 and followed immediately thereafter by a written incident report.

The OIG telephone "Hotline" permits reporting of matters anonymously, if desired, to avoid fear of reprisal. Information filed via the Hotline should be as specific as possible to enable the OIG to identify and solve the problem. The Hotline should not be used for resolving employee grievances, EEO compliance, labor disputes or other personal concerns.

The entity 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 as well as any known or estimated loss of WIA funds resulting from the incident. The submission of an incident report should not be delayed even if all facts are not readily available. Any facts subsequently developed by the entity are to be forwarded in a supplemental incident report.

The OEWD will forward any incident report it receives to EDD. The EDD in turn will submit a report to ETA. Upon receipt, ETA will forward the incident report to the OIG. Subsequently, ETA will advise EDD of the action to be taken by the OIG. If OIG decides to investigate the incident, EDD will wait for OIG's results before commencing the state-level formal resolution. If OIG decides not to investigate the incident, EDD or OEWD will request, when appropriate, a special monitoring review or an investigation by the appropriate state agency. Otherwise, OEWD will require the service provider to submit its fact finding and local resolution.

The reporting procedures do not supersede the responsibility for service providers 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 will be reported to the OEWD when the incident report is submitted.

Allegations of fraud, abuse, or other criminal activity in WIA-funded programs may originate from sources other than service providers. Such sources may include informants, independent auditors, or local law enforcement agencies.

In such a case, OEWD will, when appropriate, inform the subject service provider 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, OIG investigators or auditors may contact a service provider regarding an incident of which the service provider was not previously aware. Upon learning of the incident from federal sources, the service provider should contact OEWD to determine whether the latter is aware of the incident.

The reporting procedures do not supersede the responsibility for agencies to safeguard WIA funds by taking prompt and appropriate corrective action upon becoming aware of any evidence of a violation of WIA or its implementing regulations.

Resolution of Incident Reports

Incidents will be resolved either through either the issuance of an initial and final determination to the entity or through the audit resolution process. Debt collection will be conducted in accordance with OEWD policies for recovery of misexpended WIA funds in Policy Directive No. 08-07.

Service providers will work in collaboration with the OEWD and EDD to facilitate incident resolution processes.

ACTION:

The OEWD and its service providers shall follow this policy. This policy will remain in effect from the date of issue until such time that a revision is required. The OIG Hotline telephone number for reporting suspected incidents should be prominently posted for staff members and for the general public, where applicable.

INQUIRIES:

Inquiries should be addressed to the WIA Program Manager at (415) 581-2314 or marc.majors@sfgov.org.

Rhonda Simmons
Director of Workforce Development
Office of Economic and Workforce Development

INCIDENT FORM

DATE:	NAME OF PERSON FILLING OUT FORM:
TYPE OF REPORT: <input type="checkbox"/> Initial <input type="checkbox"/> Supplemental <input type="checkbox"/> Final <input type="checkbox"/> Other	
NAME OF PARTICIPANT (IF DIFFERENT):	
LOCAL STREET ADDRESS (WITH APT. #):	
CITY/STATE:	ZIP CODE:
PHONE: ()	EMAIL:
GRIEVANCE/APPEAL AGAINST (PROGRAM NAME, ADDRESS TELEPHONE):	
ALLEGATION AGAINST: <input type="checkbox"/> PROGRAM EMPLOYEE <input type="checkbox"/> OTHER PARTICIPANT	
INCIDENT: <input type="checkbox"/> DISCRIMINATION <input type="checkbox"/> PROGRAM ISSUE <input type="checkbox"/> CRIMINAL ACTIVITY	

___CONDUCT

(PLEASE PROVIDE A DESCRIPTION OF THE INCIDENT, INCLUDING DATES. ATTACH ADDITIONAL SHEETS IF NEEDED):

Signature of Person Filling Out Form

FOR OFFICIAL USE ONLY

Date Received _____ Received By _____

Expedited Appeal _____

Grievance Number _____ Grievance? Y / N Appeal? Y / N

Referred Through _____

Program _____ WIA _____ CDBG _____ General Fund