

EASTERN WASHINGTON PARTNERSHIP

WORKFORCE DEVELOPMENT COUNCIL

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WDA Policy #: 107 Revision 1
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SUBJECT INCIDENT REPORTING OF FRAUD AND ABUSE UNDER WIOA
AND DEBT REPAYMENT

POLICY

The WDC and its subrecipients must exercise all precaution to prevent and detect fraud, abuse, gross mismanagement or misuse of program funds, and criminal activity, and follow the procedures in this policy 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 WIOA.

Reporting procedures do not replace the WDC's and subrecipients' responsibility to safeguard WIOA funds by taking prompt and appropriate corrective action when any evidence of a violation of WIOA or its related 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 affected if immediate action is not taken, the reporting entity has the responsibility to take any action it feels 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.

Situations involving imminent health or safety concerns, or the imminent loss of funds exceeding \$50,000, are considered emergencies and must immediately be reported.

All incident reports, emergency or other, must be provided to ESD and the OIG using the contact information provided below. The WDC and its subrecipients must immediately document and report suspicions, allegations or complaints involving:

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

Information and complaints involving criminal fraud, waste, abuse or other criminal activity must be reported immediately through the Department of Labor's Incident Reporting System to the Department of Labor's Office of Inspector General Office of Investigations, Complaints Analysis Office, Room S-5506, 200 Constitution Ave. NW, Washington D.C. 20210, or to the corresponding Regional Inspector General for investigations with a copy simultaneously provided to the Employment and Training Administration. The Hotline number is 1-800-347-3756 or 1-202-693-6999. E-mail: hotline@oig.dol.gov . Online Contact Hotline: <http://www.oig.dol.gov/contact.htm> .

NOTE: Per requirements at proposed 20 CFR 683.620 to copy DOLETA on submitted incident reports, ESD will forward any incident report it receives to DOLETA on behalf of the reporting entity.

The WDC will also direct all incident reports to the Employment Security Department. They can be sent by e-mail to lscheel@esd.wa.gov . They can be mailed to Incident Reporting, Internal Audit Office, Employment Security Department, P.O. Box 9046, Olympia WA 98507-9046. A copy of the Incident Report form and instructions for completing it is attached. The original and one copy of the Incident Report will be forwarded to the Employment Security Department and to the Department of Labor Regional Administrator within one (1) working day of its receipt. Telephone calls regarding the necessary procedures for reporting fraud or abuse can be made directly to the Audit Resolution Unit at 360-438-4652

Anyone having information about suspected or known fraud and abuse should report such information. No action should be attempted which would allow any evidence, regardless of how insignificant to be misplaced or altered prior to review by trained investigators. It is important to remember that individuals having an awareness of suspicious activity have a legal responsibility to report such action.

Subrecipients and contractors must be familiar with the procedures of reporting suspected or known criminal activity or program abuse, including the availability of the OIG/DOL Hotline. They should display a poster about the Hotline in their office.

In the event that a debt repayment is formally established when a final determination is issued through the audit resolution process, or through monitoring findings, incidence reports or complaints, the following process will occur. All WIOA debt repayments must come from non-WIOA funds, match, stand-in costs, or in-kind services as appropriate. Collection of debt for fraudulent activities will be subject to the resolution determined by the federal and state agencies. In the event that the resolution is that the local entity shall attempt to collect the debt for fraudulent activities, the following options will be used:

1. Adjustment in payments offset

Under this method, an agreement is entered into with the debtor whereby the grant is reduced by the amount of the debt while the program is maintained at an undiminished cost level supported by non-federal contributions.

2. Withholding

This repayment will involve withholding amounts owed to the debtor for past services or other considerations already provided in satisfaction of the debt owed.

3. Stand-in Costs

This method is not actually a debt repayment but is a way of “erasing” debt. The debtor must identify allowable costs associated with the grant during the grant period but not charged to the grant and substitute those costs for the disallowed costs, thus erasing the debt. This method would require negotiation and a written agreement between the debtor and the WDC. Such costs are subject to audit and documentation must be maintained when such agreements are made.

4. Additional Services

This method involves a repayment agreement with the debtor whereby additional grant services, above those originally agreed to with the WDC, paid through non-federal funds are received in lieu of cash. This method requires a written agreement signed by both parties with conditions regarding the type of funds to be used, documentation subject to audit, a description of the services rendered, and a time limitation.

5. Installment Payments

Cash installment repayment agreements will usually be of short duration for three to twelve months, with a maximum of twenty-four months. The duration will be negotiated based on the size of the debt and the debtor’s ability to pay.

DEFINITIONS

Emergency – a situation involving imminent health or safety concerns, or the imminent loss of funds exceeding \$50,000.

Employee/Participant Misconduct – The WDC, subrecipient, 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 or professional activities; the receipt or giving of gifts, fees, entertainment, and favors; misuse of Federal property; and/or, 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 checks, kickbacks from

participants or contractors, intentional payments to ghost enrollees, misuse of appropriated funds, or misrepresenting information in official reports.

Gross Mismanagement – Actions or situations arising out of management ineptitude or oversight 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 to 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, or 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, or 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.

Subrecipient- an entity that receives federal assistance passed through from a prime recipient of another subrecipient to carry out or administer a WIOA program. Distinguishing characteristics of a subrecipient include:

- Determining eligibility for assistance;
- Performance measured against meeting the objective of the program;
- Responsibility for programmatic decision making;
- Responsibility for applicable program compliance requirements;
- Use of the funds passed through to carry out a program of the sub-entity as compared to providing goods or services for a program of the prime recipient.