

<b>WORKFORCE INVESTMENT BOARD OF TULARE COUNTY (WIB)</b>  <b>WORKFORCE INVESTMENT ACT TITLE I-B ACTIVITIES</b>	<b>DATE:</b> <b>August 14, 2013</b>
	<b>SUBJECT:</b> <b>Incident Reporting</b>

**WIB DIRECTIVE**

**TUL 13-03**

**TO:** WIB Service Providers and WIB Staff

**SUBJECT:** Incident Reporting

**EXECUTIVE SUMMARY**

**Purpose:**

This directive provides procedures for reporting incidents, including but not limited to criminal fraud, criminal abuse or other criminal activity, and noncriminal complaints, such as waste of funds, 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 programs funded under the Workforce Investment Act (WIA).

**Effective Date:**

This directive is effective upon date of issuance.

**References:**

- Title 20 Code of Federal Regulation (CFR) Sections 667.505 and 667.30
- 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 Services Directive WSD 12-18, Subject: Incident Reporting

**WORKFORCE INVESTMENT BOARD OF TULARE COUNTY – IMPOSED REQUIREMENTS:**

This directive contains no WIB-imposed requirements.

**FILING INSTRUCTIONS:**

This directive supersedes TCWIBD-05-12, October 17, 2005. Retain this directive until further notice.

**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 DOL's Incident Reporting system to the OIG with a copy simultaneously provided to the ETA. The Incident Reporting System also

processes noncriminal complaints regarding mismanagement and gross waste of funds. This directive assists in the completion of the DOL's Incident Report Form and acknowledges the types of incidents (e.g. fraud, abuse, criminal activity) that the OIG Hot Line seeks to identify. Reports may be submitted to the OIG at their website [www.oig.dol.gov/hotlineform.htm](http://www.oig.dol.gov/hotlineform.htm), by telephone at 1-800-247-3756, by fax to (202) 693-7020, or by mail to

Office of Inspector General  
Complaints Analysis Office  
200 Constitution Avenue, N.W., Room S-5506  
Washington, D.C. 20210

This directive ensures that all instances of fraud, abuse, or other criminal activity associated with WIA-funded activities are concurrently reported to the CRO.

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

## **POLICY AND PROCEDURES:**

### **Definitions:**

*Complaint*, for this directive only, means criminal complaint and noncriminal complaints accepted by DOL as incidents, such as gross waste of funds, mismanagement and dangers to the public health and safety.

*Subrecipient*, for this directive, means local areas and other recipients that receive WIA funds directly from the State.

*Subrecipient Contractor* means a recipient that does not receive WIA funds directly from the State.

### **General:**

All subrecipients that receive WIA funds shall promptly report to the OIG and CRO, all allegations of WIA-related fraud, abuse, and other criminal activity.

Each subrecipient 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 the OIG and CRO are notified immediately of any allegations of WIA-related fraud, abuse, or criminal activity. Internal management procedures must be in writing and include the designation of a person on the subrecipients' staff who will be responsible for such notifications.

Subrecipient contractors 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. Funding entities must provide written notification to subrecipient contractors 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, the OIG and CRO immediately. 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 know or estimated loss of WIA funds resulting from the incident. It is important that an initial report is made to the OIG and CRO within one working day of the detection of 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 subrecipient are to be forwarded in a supplemental incident report.

The 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. Attachment 1 includes a glossary of terms related to reportable issues.

## **Reporting:**

**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:

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

And to the OIG at their website [www.oig.dol.gov/hotlinecontact.htm](http://www.oig.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  
Complaints Analysis Office  
200 Constitution Avenue, N.W., Room S-5506  
Washington, D.C. 20210

Allegations considered to be of an emergency nature may be reported by telephone to the Compliance Resolution Unit Supervisor at (916) 653-0298 and by calling the OIG Hot Line at 1-800-347-3756 and **followed immediately thereafter by a written incident report.**

The Workforce Services Division will forward any incident report it receives to the CRO. The CRO will record any incident report it receives in the WIA Incident Report System and forward the incident report to DOL/ETA, Region 6, within one working day of receipt. However, the 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, the 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 the DOL Regional OIG, San Francisco. Subsequently, Region 6 will advise the EDD of the action to be taken by the DOL Regional OIG. If the OIG decides to investigate the incident, the CRO will wait for the OIG's results before commencing the state-level formal resolution, if the OIG decides not to investigate the incident, the CRO will request, when appropriate, a special monitoring review or an investigation by the appropriate state entities. Otherwise, the CRO will require the subrecipient to submit its fact finding and local resolution.

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 the CRO when the incident report is submitted.

Allegations of fraud, abuse, or other criminal activity in WIA-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 source, the CRO will prepare an incident report (DOL Form DL 1-156) and submit it to Region 6, in accordance with this directive. In such a case the CRO will, when appropriate, inform the subject 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 the CRO is then the latter will, when appropriate, inform the former of the specific allegations contained in the incident report.

**ACTION:**

Bring this directive to the attention of all relevant parties.

**INQUIRES:**

Please direct questions concerning this directive to WIB Administration (559) 713-5200.



ADAM PECK  
Executive Director

**AP:EC:**

Attachments:      Attachment 1, Glossary of Terms  
                         Attachment 2, Use and Preparation of Form  
                         Attachment 3, 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; misuses 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, misuses 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 QIA 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.

**USE AND PREPARATION OF FORM**  
**Workforce Investment Board of Tulare County, Incident Reporting Form**

- A. Purpose  
 The WIB Incident Reporting Form (Attachment 3) should be used for reporting incidents of program abuse, fraud, or other criminal violations involving DOL/ETA, State, or locally funded programs and operations.
- B. Use of the WIB Incident Reporting Form
1. As an Initial Report  
 The WIB Incident Reporting Form is designed primarily as an initial report of actual or suspected violations to inform the WIB that a violation or apparent violation has occurred. It should also be used to initially inform the WIB of cases involving employees, programs, and operations being investigated by or reported in other investigative agencies.
  2. As a Supplemental Report  
 The WIB Incident Reporting Form should also be used to submit supplemental information not available at the time the original report was submitted. The WIB Incident Reporting Form should be used as indicated below.
    - (a) It is determined that the matter cannot be resolved at the agency level and the case is administratively closed.
    - (b) Supplemental reports should be submitted without awaiting the results of adjudication.
  3. As a Final Report  
 The WIB Incident Reporting Form should be used as indicated below.
    - (a) An incident is resolved or otherwise settled.
    - (b) Final adjudication or imposition of administrative/disciplinary action against the person or organization involved is initiated. When adjudication results become known, the final report should be sent to the WIB.
- C. Completion of the Incident Report  
 The WIB Incident Reporting Form should be completed as follows:
- Block 1. Indicate the type of report being submitted by checking the appropriate block. If the report is both an "Initial" and a "Final" report, then place a check in both the initial and final blocks.
- Block 2. Check appropriate block.
- Block 3. Check appropriate block.
- Block 4. Enter the name of the person, recipient, or sub-recipient, if applicable, and the location where the incident occurred. A general geographic (city, town) location or mail address should be used.
- Block 5. Complete as necessary.

Block 6. Check appropriate block(s). Public includes press.

Block 7. Any information requested by any law enforcement agency should be reported here. Identify the office and/or agency and the results (e.g. information requested and/or provided upon request).

Block 8. Complete as appropriate.

Block 9. Detail/Synopsis – This is a clear, concise statement of the incident which should include:

- (a) (When). Identify the time and date when the incident occurred; when it was discovered; when it was reported to supervisory personnel, OIG, or other law enforcement agency; and whether an inventory was conducted to determine the extent of loss.
- (b) (What). Describe the complete incident in as much detail as is available and necessary to give a complete picture of what happened.
- (c) (Who). Enter the names of those principal personnel who are listed in Block 4 and Block 8, as well as other personnel whose identities are necessary to complete the narrative and give the reader a complete picture of what happened. Include, when applicable, complete identities of persons/agencies to who the incident is reported or referred. If needed for purpose of clarification, include the reason(s) why non-principal personnel were involved (e.g. fire department personnel who made pertinent determinations in a suspected arson incident).
- (d) (Where). Clearly specify the location where the incident occurred (e.g. a certain building, an area/room within a building, a particular contractor, grantee location).
- (e) (Why). Frequently the motive for an incident is not readily discernible (e.g. a suicide or property destruction) or it must be deduced from the existing facts and circumstances. If the “why” for an incident is known or suspected, it should be reported. When a suspected motive is reported, the basis/rationale for the suspicion should be noted.
- (f) (How). Report the manner/method by which an incident actually or probably was committed and discovered. “How” an incident was discovered and committed should be reported in sufficient detail to assist proper authorities in the development of preventive measures.
- (g) Plan of Action. Indicate if WIB assistance is requested.

Continuation. Entries requiring additional space may be continued at the end of the synopsis entry in Block 9 or on a separate sheet(s) of paper. Each continuation sheet should be headed “Continuation”.

D. Supporting Documentation.

All documentation (e.g. photographs, drawings) relevant to the incident or necessary to clarify the attendant facts should be forwarded with the WIB Incident Reporting Form, if not already provided.

Note: The copies sent to the WIB should be in a sealed envelope within the mailing envelope. In no event should reports be electronically transmitted.



## 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 <i>[give complete name(s) and addresses of organization(s) involved]</i></p>	
<p>5. Date and time of incident/discovery</p>	
<p>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 <i>[specify names(s) and agency contacted and results]</i></p>	
<p>8. Persons who can provide additional information <i>[include custodian of records name, position or job title, employment, local address (street, city, state) or organization, if employed and telephone number]</i></p>	
<p>9. Details of incident <i>[describe the incident]</i></p>	

