



RIVERSIDE COUNTY  
ECONOMIC DEVELOPMENT AGENCY

# ***POLICY AND PROCEDURES***

Date: July 8, 2004

Number: 10-10

**SUBJECT:** **FRAUD AND ABUSE OF WORKFORCE INVESTMENT ACT (WIA) FUNDS**

**PURPOSE:** To inform and provide direction to Riverside County Economic Development Agency (EDA) staff and contracted service providers with the policy and procedures regarding the reporting requirements specific to fraud, abuse and criminal acts against WIA funds.

**REFERENCES:** Title 20 Code of Federal Regulations (CFR) Sections 667.505 and 667.630

California Employment Development Department (EDD) Workforce Investment Act Directive Number: WIAD02-3, September 10, 2002

**SUPERCEDES:** Riverside County Private Industry Council Job Training Field Memorandum Number: 93-13, February 1, 1994

**LOCALLY IMPOSED REQUIREMENTS:** Locally imposed requirements are indicated in ***bold, italic*** type.

**EFFECTIVE DATE:** July 1, 2004

**BACKGROUND:**

Any abuse of Workforce Investment Act funds, whether it be criminal fraud, waste or non-criminal gross mismanagement of funds, must be reported immediately to the Office of Inspector General (OIG) through the Department of Labor's Incident Reporting System and Riverside County EDA staff. The Code of Federal Regulations requires that all instances of fraud, abuse or other criminal activity be concurrently reported to the State Compliance Review Division. State WIA directive WIAD02-03 requires that each subrecipient shall establish internal procedures for the prevention and detection of fraud, abuse and criminal activity, hence the following definitions and policy are established.

**DEFINITIONS:**

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**DISTRIBUTION: WDB; SP; ADMIN; PPD; FISCAL; PROG.COMP.; CUST.SERV.**

**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, forgery, theft, solicitation and receipt of bribes (kickbacks), 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.

**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 the Workforce investment Act funds for other than WIA purposes.

**Gross Mismanagement** is defined as actions or situations arising out of management ineptitude or lack of oversight, which lead to a major violation of contract provisions and/or which severely hamper accomplishment of program goals. These include situations which 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 or the State of California, 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 program or its purpose and may include, but are not limited to, conflict of interest involving outside employment, business and professional activities, and the receipt of 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 funds.

**Lower-Tier Subrecipient** means a recipient that does not receive WIA funds directly from the state. Also defined as contracted service providers for purposes of this policy.

**Maintenance of Effort** is defined to mean that:

- No currently employed worker shall be displaced by any participant (including partial displacement such as reduction in the hours of non-overtime work, wages or employment benefits).
- No participant shall be employed or job opening filled when:
  1. Any other individual is on layoff from the same or any substantially equivalent job, or
  2. The employer has terminated the employment of any regular employee or otherwise reduced its workforce with the intention of filling the vacancy so created by hiring a participant whose wages are subsidized under the WIA.

**Subrecipient** for this policy means the Economic Development Agency as the Local

Workforce Investment Area (LWIA) who receives WIA funds directly from the state.

**Standard of Conduct Violations** are violations of terms and conditions generally required in federal agreements. A violation is considered to be evident when the following are not met:

- **General Assurances**-When every reasonable course of action will be taken in order to maintain the integrity of this expenditure of public funds and to avoid any favoritism, questionable or improper conduct. Federal funds are administered in an impartial manner, free from personal, financial or political gain. Executive staff and employees, in administering WIA funds, will avoid situations which give rise to a suggestion that any decision was influenced by prejudice, bias, special interest or personal gain.
- **Employment of Former State Employees**-an assurance that any former WIA employee employed by EDA and/or the State of California in a position that could have enabled such individuals to impact policy regarding or implementation of program covered by the subgrant will not be assigned to any part or phase of the activities conducted pursuant to the subgrant for period of not less than two years following the termination of such employment.
- **Conducting Business Involving Relatives**-No relative by blood, adoption or marriage of any executive or employee will receive favorable treatment for enrollment in services provided by, or employment with, the contractor. For the purpose of this agreement, "relative by blood or marriage" shall include: wife, husband, son, daughter, mother, father, brother, brother-in-law, sister, sister-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, niece, nephew, stepparent and stepchild.
- **Avoidance of Conflict of Economic Interest**-An executive or employee of a federal funded agreement or an elected official in the LWIA will not solicit or accept money or any other consideration from a third person for the performance of an act reimbursed in whole or in part by EDA or the State Employment Development Department (EDD). Supplies, materials, equipment or services purchased with subgrant funds will be used solely for purposes allowed by the Workforce Investment Act.

**Tort** is defined as damage, injury, or a wrongful act done willfully, negligently, or in circumstances involving strict liability, but not involving breach of contract, for which a civil suit can be brought.

#### **POLICY:**

***All EDA staff and contracted service providers, in accordance with regulation shall include a system of internal controls which ensure resource use is consistent with laws, regulations and policies; are safe guarded against waste, loss and gross mismanagement of funds; are alerted to the potential of fraud, abuse and/or criminal acts in the WIA programs through conflicts of interest, falsification of records or reports and misappropriation of funds or other assets; and lastly, be aware of obligations to report such activities to EDA.***

***EDA staff and contracted service providers are advised Incident Reports of such***

***activities are to be immediately issued to the Office of Inspector General and the State EDD Compliance and Review Division through EDA. Such submission shall not be delayed pending local investigatory action. Through all laws and regulations authorizing and implementing the WIA program, EDA staff and contracted service providers are responsible to prevent and eliminate program fraud, abuse and criminal acts. All instances of prohibited acts, whether suspected or known, shall be reported for investigation.***

**PROCEDURES:**

EDA staff and contracted service providers will follow the procedures listed below in reporting all instances (or suspected instances) of fraud, abuse and criminal activity:

1. Contracted Service Providers shall:

- Report any fraud and/or abuse to EDA staff within 24 hours of discovery of the act or upon reasonable belief of such acts arising.
- Submit notice to:

Jerry Craig  
Workforce Development Administrator  
Workforce Development Centers of Riverside County  
1151 Spruce Street  
Riverside, CA 92507  
Attention: (Name of Project Administrator)

- Assure and be assured confidentiality of the reporting party will be provided and maintained.
- Report allegations of an emergency nature immediately to the EDA Workforce Development Administrator at 909.955.3100.
- Report and/or notify local law enforcement agencies immediately regarding all instances of non-program related criminal activity, such as burglary, arson, vandalism, assault or damage to buildings.

2. EDA staff shall

- Notify the following staff for reporting purposes and notification to file
  - a. Immediate Supervisor
  - b. Unit Manager
  - c. Grievance Officer
  - d. Fiscal Staff
  - e. Contract Project Manager
- Report any fraud and/or abuse to the State EDD Compliance Review Division within 24 hours of discovery of the act or upon reasonable belief of such acts occurring.

3. EDA Grievance Officer shall:

- Submit notice or report to the:

Compliance Review Division, MIC22M  
Attention: Compliance Resolution Unit  
Employment Development Department  
P.O. Box 826880  
Sacramento, CA 94280

- Submit notice to the Office of Inspector General (OIG) at [www.oig.dol.gov/hotnet1.htm](http://www.oig.dol.gov/hotnet1.htm), by telephone at 1.800.347.3756, by fax to 202.693.5210, or by mail to:

Office of Inspector General  
United States Department of Labor  
200 Constitution Avenue, N.W., Room S-5506  
Washington, D.C. 20210

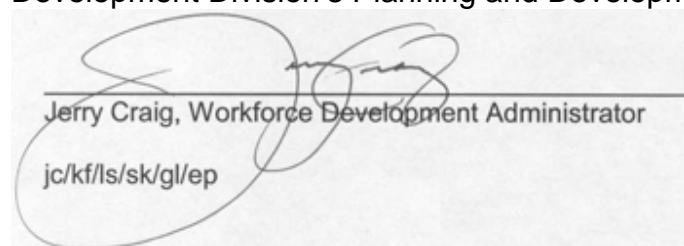
- Report any incidence considered to be of an emergency nature by telephone to the Compliance Resolution Unit Supervisor at 916.653.3270 and by calling the OIG/Hot Line at 1.800.347.3756, **followed immediately by a written incident report** (Attached)
- Submit a supplemental report, if necessary, using the attached incident report

4. Both EDA staff and Contracted Service Providers shall:

- Maintain notification of such activity in agency files
- Ensure the report is clear and concise and that as much information as possible has been gathered
- Include any amount of monetary loss and all facts and/or circumstances known at the time of the initial report
- Not delay the incident report due to lack of additional or complete information

It is possible a reportable incident of fraud, abuse or other misuse of funds may be sent to the Compliance Review Division (CRD) or OIG by other agencies or individuals. EDA may be notified either by CRD or OIG. It is the responsibility of EDA staff to ensure that both entities are aware of the incident should notification be sent only to EDA. Conversely, it is the responsibility of the CRD to notify EDA if notification is sent only to CRD.

Please refer any question concerning this Policy and Procedures to the Workforce Development Division's Planning and Development Unit.



Jerry Craig, Workforce Development Administrator  
jc/kf/l/s/sk/gl/ep