



Missouri Division of Workforce Development
DWD Issuance 23-2015

Issued: June 14, 2016
Effective: June 14, 2016

Subject: Policy on Reports and Complaints about Criminal Fraud, Waste, Abuse, or Other Criminal Activity Related to Federal Awards

1. Purpose: This Issuance updates requirements for mandatory disclosure of information or complaints regarding fraud, waste, abuse, or other criminal activity associated with the use of federal Workforce Innovation and Opportunity Act (WIOA)¹ or Wagner-Peyser Act² funds.

2. Background: Recipients of federal awards under WIOA or the Wagner-Peyser Act are obligated to report incidents of fraud, waste, misappropriation, or theft of those funds by the recipient, or a subrecipient, as a condition for receiving those funds.

3. Substance: WIOA sec. 107(c)(3) delegates authority to the Governor to decertify a Local Workforce Development Board (Board) for cause at any time, after providing notice and an opportunity for comment. Causes include fraud, abuse, or failure to fulfill the WIOA-prescribed duties of a Board in WIOA sec. 107(d).

In the proposed³ WIOA implementing regulations, Proposed Rule 20 CFR 683.200(h) stipulates that all WIOA Title I and Wagner-Peyser Act recipients of federal awards must disclose violations of federal criminal law potentially affecting the award. The proposed rule incorporates by reference the requirements of the “Uniform Guidance for Federal Awards” at 2 CFR 200.113, “Mandatory Disclosures.” This Rule requires:

The non-federal entity or applicant for a federal award must disclose, in a timely manner, in writing to the federal awarding agency or pass-through entity, all violations of federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the federal award. Failure to make required disclosures can result in any of the remedies described in § 200.338 “Remedies for noncompliance,” including suspension or debarment. (See also 2 CFR part 180⁴ and 31 U.S.C. 3321.⁵)

The above-referenced Rule at 2 CFR 200.338 prescribes the following remedies or penalties for noncompliance with mandatory disclosures:

If a non-federal entity fails to comply with federal statutes, regulations, or the terms and conditions of a federal award, the federal awarding agency or pass-through entity may impose additional conditions, as described in § 200.207, “Specific conditions.” If the federal awarding agency or pass-through entity determines that noncompliance cannot be

¹ Pub. Law 113-128 [29 U.S.C. 3101 et seq.].

² 29 U.S.C. 49, et seq.

³ WIOA; Notice of Proposed Rulemaking, Docket ETA 2015-0001, April 16, 2015 (80 FR 20689–20966). The U.S. Department of Labor (DOL) submitted the Final Rule in this proceeding for review by the Office of Information and Regulatory Affairs on May 9, 2016. However, due to regulatory and statutory circumstances, it is possible that an effective version of this Final Rule will not be available for an indeterminate time. This Issuance assumes the Final Rule shall be as proposed, until the published version takes legal effect

⁴ “OMB Guidelines to Agencies on Government-wide Debarment and Suspension (Nonprocurement).”

⁵ “Disbursing Authority in the Executive Branch.”

remedied by imposing additional conditions, the federal awarding agency or pass-through entity may take one or more of the following actions, as appropriate in the circumstances:

(a) Temporarily withhold cash payments pending correction of the deficiency by the non-federal entity or more severe enforcement action by the federal awarding agency or pass-through entity.

(b) Disallow (that is, deny both use of funds and any applicable matching credit for) all or part of the cost of the activity or action not in compliance.

(c) Wholly or partly suspend or terminate the federal award.

(d) Initiate suspension or debarment proceedings as authorized under 2 CFR part 180 and federal awarding agency regulations (or in the case of a pass-through entity, recommend such a proceeding be initiated by a federal awarding agency).

(e) Withhold further federal awards for the project or program.

(f) Take other remedies that may be legally available.

4. Action: This Issuance is effective July 1, 2016, for all recipients of federal awards in the Missouri workforce system.
5. Contact: Direct questions, comments, or reports or complaints in compliance with this issuance to: Julie Carter, Fiscal Manager, at (573) 526-1644, or julie.carter@ded.mo.gov.
6. References:
 - WIOA sec. 107(c)(3) [29 U.S.C. 3122(c)(3)]
 - 20 CFR 683.200(h), as proposed
 - 2 CFR 200.113
 - 2 CFR 200.338
7. Rescissions: This Issuance/guidance supersedes and replaces DWD Issuance 02-2003, “Reporting of Criminal Fraud, Waste, Abuse, or Other Criminal Activity,” dated April 14, 2004.
8. Attachments: None.

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