HHS OIG Issues Self-Disclosure Guidance, Form

Jerry Ashworth

Federal Grants Management Handbook

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The Department of Health and Human Services (HHS) Office of Inspector General (OIG) recently issued guidance, and a related submission form, to assist nonfederal entities receiving HHS awards and their subrecipients in self-disclosing potential violations of federal criminal law involving fraud, bribery or gratuity violations.

HHS regulations mirroring the Office of Management and Budget’s uniform guidance mandate disclosures of criminal, and possible criminal, offenses that nonfederal entities must make with respect to HHS grants (45 C.F.R. §75.113) (see ¶ 317 in the Federal Grants Management Handbook). OIG’s Grant Self-Disclosure Program provides a framework for disclosing, coordinating, evaluating and resolving potential violations of law relating to recipient awards or subrecipient subawards. Under the terms and conditions of the award, recipients and subrecipients of HHS awards must make these disclosures to both the HHS awarding agency and OIG. While following the guidance under the Grant Self-Disclosure Program fulfills the obligation to disclose to OIG, a separate disclosure must also be made to the HHS awarding agency.

The OIG guidance states that if an award recipient or subrecipient learns of a potential violation of law relating to their award — regardless of whether the potential violation is of federal criminal, civil or administrative law and regardless of how the recipient or subrecipient learned about the potential violation — it must: investigate the potential violation; assess any losses suffered by the federal program(s); take corrective action; and make full disclosure to the appropriate authorities.
HHS award recipients and subrecipients also may voluntarily disclose conduct causing liability under the Civil Monetary Penalty Law (CMPL) (42 U.S.C. § 1320a-7a) or conduct that might violate civil or administrative law that does not clearly fall within the scope of offenses described at 45 C.F.R. §75.113.

**Penalties**

OIG may sanction a recipient or subrecipient if it determines that it engaged in fraud or certain other improper conduct related to HHS awards. This conduct includes knowingly presenting a specified claim under a grant, contract or other agreement that is false or fraudulent, or knowingly making or using any false statement, omission or misrepresentation of a material fact in any application, proposal, bid, progress report or other document submitted to HHS in order to receive funds under an HHS grant, contract or other agreement. Such sanctions may include civil monetary penalties, assessments or exclusion from participation in federal health care programs.

“Prompt disclosure, full cooperation and robust internal investigation of potential violations are key indicators of an award recipient’s integrity,” OIG stated in the guidance. “As such, OIG rewards disclosers that self-disclose potential violations and cooperate during the disclosure process by imposing a lower penalty amount than would normally be required.”

Although each case can vary, the guidance explained that OIG’s general practice in the settlement of self-disclosed CMPL matters is to require a multiplier of 1.5 times the damages instead of the two- or three-times multiplier that would normally apply to violations that were not self-disclosed.

**Disclosure Form**

To ensure an efficient evaluation of disclosed matters, recipients and subrecipients providing information on potential disclosures should complete the HHS OIG Grant Self-Disclosure Submission Form and submit it by mail to the Office of Counsel to the Inspector General or by email to grantdisclosures@oig.hhs.gov. This form requests basic identifying information and a description of the conduct disclosed.
Along with recipient or subrecipient identification information and point of contact, items requested on the self-disclosure submission form include a:

- full description of the conduct disclosed including, at a minimum, the date the discloser learned of the conduct, the types of conduct, transactions or claims related to the matter, the time period during which the conduct occurred, and the names of persons believed to be involved, including an explanation of their roles in the matter;
- statement of the federal criminal, civil and administrative laws that are potentially violated by the disclosed conduct;
- description of any corrective action or measures taken by the discloser upon discovery of the conduct;
- estimate of the financial impact to the federal government, and a description of the method for calculating the financial impact;
- list of all federal agencies from whom the discloser is currently receiving federal awards; and
- statement of whether the discloser has knowledge that any federal, state or local government agency currently is undertaking: (1) an inquiry into the matter disclosed, or (2) an investigation or other inquiry related to the discloser for any other matter. If the discloser has knowledge of any such current inquiry, it must identify any involved agencies and their individual representatives.

HHS OIG also noted the results of the following recent grant recipient self-disclosure settlements:

- Total Health Care Inc. in Maryland, following a self-disclosure to OIG, agreed in June to pay more than about $151,000 for allegedly violating CMPL by employing an individual who it knew or should have known was excluded from participation in federal health care programs.
Michigan State University (MSU), after a self-disclosure, agreed in March to pay $47,580 for allegedly violating CMPL by using federal funds from a cooperative agreement titled “The Flint Center for Health Equity Solutions” awarded by the National Institutes of Health — National Institute on Minority Health and Health Disparities to reimburse a subrecipient who paid the principal investigator for travel. OIG alleged MSU violated applicable regulations restricting federal award recipients from entering into covered transactions with debarred individuals and the terms and conditions of the NIH award to MSU.

For More Information


See also List of Recently Settled Grantee Self-Disclosures.