

Reporting a Loss or Theft of King County Property and/or Violations of Federal Criminal Law that Potentially Affects Federal Grants

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PURPOSE

Reporting a Loss or Theft of King County Property

King County agencies must comply with Washington State reporting requirements, RCW 43.09.185, regarding known or suspected loss or theft of public funds, public assets, or other illegal activity. The report must be made regardless of the value of the loss or theft, and regardless of whether or not a suspect has been identified.

Reporting Violations of Federal Criminal Law that Potentially Affect Federal Grants

King County agencies must comply with Code of Federal Regulations, [2 CFR, Section 200.113](#) that requires reporting of violations of Federal criminal law involving fraud, bribery, or gratuity potentially affecting a Federal grant.

This Human Resources Bulletin provides the reporting procedures and the reporting form to be utilized when reporting a loss or theft. This Human Resources Bulletin also sets out the procedures for reporting a violation of Federal criminal law involving fraud, bribery, or gratuity potentially affecting a Federal grant. This Human Resources Bulletin replaces and supersedes Human Resources Bulletin "Reporting Theft of County Property" 2012-0001 (July 12, 2012).

PROCEDURES

Reporting a Loss or Theft of King County Property

Guidance:

The reporting requirement is not intended to and should not prevent agencies from conducting investigations of known or suspected loss or theft of public funds, public assets, or other illegal activity, or from taking appropriate administrative and/or disciplinary action based on the results of an internal investigation.

When internal investigations occur, agencies must inform employees suspected of theft of their *Garrity* right during investigatory interviews. Under *Garrity*, the employee must be ordered to answer the investigator's questions and be informed that the employee's statements, information or evidence which is gained by such statements cannot be used against the employee in any subsequent criminal proceeding. The *Garrity* admonishment applies to all public sector employees.

The *Garrity* Rule provides that an employee may be disciplined (including being terminated) for insubordination for failure to answer a question concerning criminal activity during an employment investigatory interview but only where:

- a. The employee has been ordered to answer the question and is compelled by the threat of discipline to respond; and
- b. The questions asked are specifically, directly and narrowly related to the employee's duties or fitness for duty.

Attached below is a sample *Garrity* admonishment.



Garrity
Admonishment

In cases involving a separate criminal investigation arising from the same allegations, agencies should consult with both the Criminal Division and the Employment Section of the Prosecuting Attorney's Office prior to initiating an administrative investigation or action. If the investigation involves employees represented by labor organizations, agencies must consult with the Office of Labor Relations.

Responsibilities:

1. Employees and managers must immediately report all instances of suspected or known losses or thefts. Typically, the agency designee that receives reports will be the agency's Human Resources Service Delivery Manager (HR SDM) or highest ranking human resources representative.
2. If it is not feasible to make a report through the agency's HR SDM or other designee, the report may be made directly to the Human Resources Division Director or Deputy Director.
3. Agencies, via their HR SDM or other designee, must immediately report all instances of suspected or known losses or thefts of public funds, assets, or other illegal activity to the Chief Accountant in the Department of Executive Services Finance and Business Operations Division ("FBOD") (who is responsible to report losses and thefts to the State Auditor's Office and to the Department of Executive Services Office of Risk Management.).

When the loss or theft is a county information asset which holds computerized data that includes personally identifiable information, the agency, usually via the employee's division director, must notify the person whose personally identifiable information was, or is reasonably believed to have been, acquired by an unauthorized person (RCW 42.56.590). Contact the county King County Information Technology Chief Information Security and Privacy Officer to report a stolen information asset and for more information on how to manage a security breach. The Chief Information Security and Privacy Officer will report the loss or theft to the Department of Executive Services Office of Risk Management.

Attached below is the county's "Report of Loss or Theft of King County Property" form:



Report of Loss or
Theft of King County

- a. The incident report must be submitted to the FBOD Chief Accountant immediately after the agency becomes aware of the known or suspected loss.
- b. A separate form must be submitted for each known or suspected loss or theft incident reported.
- c. Although utilization of the county's "Report of Loss or Theft of King County Property" form is preferred, agencies may also use their own form, and attach it to the county's form for submission.
- d. If a theft is suspected, the incident must also be reported to law enforcement authorities. A copy of the police report may be attached to the county's "Report of Loss or Theft of King County Property." If the police report is not readily available, it may be provided at a later date.

4. Agency management must take reasonable actions to prevent further losses or thefts that may arise from or be associated with the reported loss or theft.
5. Agency management must put reasonable safeguards into place to preserve all records or other evidence pertaining to the reported loss or theft.
6. Per guidance provided in the Washington State Auditor's Budgeting, Accounting and Reporting System (BARS) Manual, agencies, typically via their HR SDMs, should **immediately** notify the appropriate local or state law enforcement agency of the following:
 - Suspected losses involving the health or safety of employees or property
 - Losses resulting from breaking and entering or other vandalism of property

Some examples of loss, theft, or other illegal activity which must be reported to the State Auditor's Office via the FBOD Chief Accountant include but are not limited to:

- a. Theft or loss of county information assets such as Blackberries, cellular telephones, laptops, and USB sticks. For purposes of this HR Bulletin, an information asset is anything that processes, stores or transmits electronic information or data, including a personally owned information asset used to conduct King County business.
- b. Receipt of wages for time recorded on a time card or equivalent for which no work was performed or any other false claim for compensation or reimbursement other than a payroll error (in cases of a payroll error, the payroll clerk shall follow standard protocol to correct the error).
- c. Receipt of a special duty rate of pay for which no special duty was performed other than a payroll error (in cases of a payroll error, the payroll clerk shall follow standard protocol to correct the error).
- d. Theft of county property such as cash, checks, or other negotiable instruments, equipment and/or services (including county property that may have been stolen from an employee when in the employee's vehicle or home).
- e. Use of county credit cards to purchase items which are not used for county business
- f. Expenditure of petty cash to purchase items which are not used for county business.
- g. Overpayments, but only in cases where the overpayment was not collected or where fraud was involved.

Per guidance provided in the Washington State Auditor's Budgeting, Accounting and Reporting System Manual, entities **are not required** to report the following to the State Auditor's Office via the FBOD Chief Accountant:

- a. Normal and reasonable *over and short* situations from cash receipting operations. Record these transactions in the accounting system as miscellaneous income and expense, respectively, and monitor this activity by cashier for any unusual trends.
- b. Reasonable inventory shortages identified during a physical count. Record inventory adjustments in the accounting system.
- c. Breaking and entering or other vandalism of property, unless there is a theft involved.

7. Do not attempt to correct the loss without a report to and approval of the FBOD Chief Accountant. To recover a dollar amount from an employee, agencies will work with FBOD Payroll Operations which will lead the process, following RCW 49.48.210 (attached below) and/or the applicable collective bargaining agreement, to collect the sum due from the employee or former employee. In cases where the employee or former employee does not respond, FBOD, in accordance with RCW 49.48.210, may submit the matter to a collections agency.



RCW 49.48.210.doc

Retaliation prohibited:

King County does not tolerate retaliation. An adverse employment action may not be taken against an individual because he or she made a good faith report of a loss or theft incident. Retaliatory action is misconduct and may result in disciplinary action up to and including termination.

Reporting Violations of Federal Criminal Law involving Fraud, Bribery or Gratuity Potentially Affecting Federal Grants

Guidance:

In addition to the general requirement to report a loss or theft of King County property as outlined above, there is a special reporting requirement related to Federal grants. Under the Code of Federal Regulations, 2 C.F.R., Section 200.113, King County agencies are required to disclose, in writing, in a timely manner, all violations of Federal criminal law involving fraud, bribery or gratuity potentially affecting a Federal award. This is true whether the violation involves King County and its employees or a sub-recipient of the grant.

For example, if King County receives federal funding from the Department of Health and Human Services (HHS), and passes the funding along to a sub-recipient, and then an employee of the sub-recipient commits a violation of federal law involving fraud, the County is held responsible for reporting the fraud. The County must notify the federal grantor, in this example HHS, of the violation.

Responsibilities

1. If a King County agency learns of a violation of Federal criminal law involving fraud, bribery or gratuity potentially affecting a federal grant, the agency must report the violation to the FBOD Chief Accountant. Reportable violations include not only those violations concerning King County or its employees, but also include violations relating to sub-recipients of award monies.
2. The FBOD Chief Accountant is responsible for reporting the violation to the relevant Federal agency.

REFERENCES:

RCW 42.56.590; 43.09.185, 245, 260 and 330, 49.48.210

2 CFR Section 200.113, Mandatory Disclosures

Executive Orders/Policies and Procedures and Public Rules, "King County Executive Audit Committee" FIN 15-1 (AEP) (April 1, 1996)

Washington State Auditor's BARS Manual Vol. 1, PT 3, Ch 12 located at:

http://www.sao.wa.gov/EN/Audits/LocalGovernment/BarsManuals/Documents/2010_GAAP.pdf

QUESTIONS/COMMENTS

Refer all questions or comments related to reporting any losses, any thefts and/or violations of Federal criminal law involving fraud, bribery or gratuity potentially affecting Federal grants via e-mail to the FBOD Chief Accountant. Questions or comments related to *Garrity* rules should be referred to the agency's HR SDM.