WORKFORCE DEVELOPMENT BOARD of Ventura County

LOCAL POLICY BULLETIN #2022-02

Effective Date: April 27, 2023

GUIDANCE ON THE HANDLING AND PROTECTION OF PERSONALLY IDENTIFIABLE INFORMATION

PURPOSE

To provide guidance on compliance with the requirements of handling and protecting Personally Identifiable Information (PII).

SCOPE

The Workforce Development Board of Ventura County (WDBVC) and its contractors and subrecipients.

BACKGROUND

As part of their grant activities, Workforce Development Board of Ventura County (WDBVC) contractors and subrecipients may have in their possession large quantities of PII relating to their organization and staff; contractor/subrecipient and partner organizations and staff; and individual program participants. This information is generally found in personnel files, participant data sets, performance reports, program evaluations, grant and contract files and other sources.

Federal agencies are required to take aggressive measures to mitigate the risks associated with the collection, storage, and dissemination of sensitive data including PII. The Appendix in Attachment I list a brief overview of efforts at the Federal level to protect PII. As the grantor agency, WDBVC is providing this policy to contractors/subrecipients to notify them of the specific requirements contractors/subrecipients must follow pertaining to the acquisition, handling, and transmission of PII.

POLICY AND PROCEDURES

A. Definitions

PII– OMB defines PII as information that can be used to distinguish or trace an individual's identity, either alone or when combined with other personal or identifying information that is linked or linkable to a specific individual.[1]

Sensitive Information– any unclassified information whose loss, misuse, or unauthorized access to or modification of could adversely affect the interest or the conduct of Federal programs, or the privacy to which individuals are entitled under the Privacy Act.

Protected PII and non-sensitive PII– The Department of Labor (the Department) has defined two types of PII, protected PII and non-sensitive PII. The differences between protected PII and non-sensitive PII are primarily based on an analysis regarding the "risk of harm" that could result from

[1] OMB Memorandum M-07-16, *Safeguarding Against and Responding to the Breach of Personally Identifiable Information* (May 22, 2007), available at: http://whitehouse.gov/OMB/memoranda/fy2007/m07-16.pdf

the release of the PII.

1. *Protected PII*, is information that if disclosed could result in harm to the individual whose name or identity is linked to that information. Examples of protected PII include, but are not limited to, social security numbers (SSNs), credit card numbers, bank account numbers, home telephone numbers, ages, birthdates, marital status, spouse names, educational history, biometric identifiers (fingerprints, voiceprints, iris scans, etc.), medical history, financial information, and computer passwords.

2. *Non-sensitive PII,* on the other hand, is information that if disclosed, by itself, could not reasonably be expected to result in personal harm. Essentially, it is stand-alone information that is not linked or closely associated with any protected or unprotected PII. Examples of non-sensitive PII include information such as first and last names, e-mail addresses, business addresses, business telephone numbers, general education credentials, gender, or race. However, depending on the circumstances, a combination of these items could potentially be categorized as protected or sensitive PII.

To illustrate the connection between non-sensitive PII and protected PII, the disclosure of a name, business e-mail address, or business address most likely will not result in a high degree of harm to an individual. However, a name linked to a social security number, a date of birth, and mother's maiden name could result in identity theft. This demonstrates why protecting the information of our program participants is so important.

B. <u>Requirements.</u> Federal law, OMB Guidance, and Departmental and WDBVC polices require that PII and other sensitive information be protected. WDBVC has examined the ways its contractors/subrecipients, as stewards of Federal funds, handle PII and sensitive information and has determined that to ensure WDBVC compliance with Federal law and regulations, contractors/subrecipients must secure transmission of PII and sensitive data developed, obtained, or otherwise associated with WDBVC funded grants.

In addition to the requirement above, all contractors/subrecipients must also comply with all the following:

- To ensure that such PII is not transmitted to unauthorized users, all PII and other sensitive data transmitted via e-mail or stored on CDs, DVDs, thumb drives, etc., must be encrypted using a Federal Information Processing Standards (FIPS) 140-2 compliant and National Institute of Standards and Technology (NIST) validated cryptographic module.[2] Contractors/subrecipients must not e-mail unencrypted sensitive PII to any

[2] For more information on FIPS 140-2 standards and cryptographic modules, contractors/subrecipients should refer to FIPS PUB 1402, located online at: http://csrc.nist.gov/publications/fips140-2/fips1402.pdf.

entity, including WDBVC or contractors.

- Contractors/subrecipients must take the steps necessary to ensure the privacy of all PII obtained from participants and/or other individuals and to protect such information from unauthorized disclosure. Contractors/subrecipients must maintain such PII in accordance with the WDBVC standards for information security described in this policy and any updates to such standards provided to the contractor/subrecipient by WDBVC. Contractors/subrecipients who wish to obtain more information on data security should contact the WDBVC.

- Contractors/subrecipients shall ensure that any PII used during the performance of their grant has been obtained in conformity with applicable Federal and state laws governing the confidentiality of information.

- Contractors/subrecipients further acknowledge that all PII data obtained through their WDBVC grant shall be stored in an area that is always physically safe from access by unauthorized persons and the data will be processed using contractor/subrecipient issued equipment, managed information technology (IT) services, and designated locations approved by WDBVC. Accessing, processing, and storing of WDBVC grant PII data on personally owned equipment, at off-site locations e.g., employee's home, and non-contractor/subrecipient managed IT services, e.g., Yahoo mail, is strictly prohibited unless approved by WDBVC.

- Contractors/subrecipients employees and other personnel who will have access to sensitive/confidential/proprietary/private data must be advised of the confidential nature of the information, the safeguards required to protect the information, and that there are civil and criminal sanctions for noncompliance with such safeguards that are contained in Federal and state laws.

- Contractors/subrecipients must have their policies and procedures in place under which contractor/subrecipient employees and other personnel, before being granted access to PII, acknowledge their understanding of the confidential nature of the data and the safeguards with which they must comply in their handling of such data as well as the fact that they may be liable to civil and criminal sanctions for improper disclosure.

- Contractors/subrecipients must not extract information from data supplied by WDBVC for any purpose not stated in the grant agreement.

- Access to any PII created by the WDBVC grant must be restricted to only those employees of the grant recipient who need it in their official capacity to perform duties in connection with the scope of work in the grant agreement.
- All PII data must be processed in a manner that will protect the confidentiality of the records/documents and is designed to prevent unauthorized persons from retrieving such records by computer, remote terminal, or any other means. Data may be

downloaded to, or maintained on, mobile or portable devices only if the data are encrypted using NIST validated software products based on FIPS 140-2 encryption. In addition, wage data may only be accessed from secure locations.

- PII data obtained by the contractor/subrecipient through a request from WDBVC must not be disclosed to anyone but the individual requestor except as permitted by the WDBVC.

- Contractors/subrecipients must permit WDBVC to make onsite inspections during regular business hours for the purpose of conducting audits and/or conducting other investigations to assure that the contractor/subrecipient is complying with the confidentiality requirements described above. In accordance with this responsibility, contractors/subrecipients must make records applicable to this Agreement available to authorized persons for the purpose of inspection, review, and/or audit.

- Contractors/subrecipients must retain data received from WDBVC only for the period required to use it for assessment and other purposes, or to satisfy applicable Federal records retention requirements, if any. Thereafter, the contractor/subrecipient agrees that all data will be destroyed, including the degaussing of magnetic tape files and deletion of electronic data.

A contractor's/subrecipient's failure to comply with the requirements identified in this policy, or any improper use or disclosure of PII for an unauthorized purpose, may result in the termination or suspension of the grant, or the imposition of special conditions or restrictions, or such other actions as the WDBVC may deem necessary to protect the privacy of participants or the integrity of data.

C. <u>Recommendations.</u> Protected PII is the most sensitive information that you may encounter in the course of your grant work, and it is important that it stays protected. Contractors/subrecipients are required to protect PII when transmitting information but are also required to protect PII and sensitive information when collecting, storing and/or disposing of information as well. Outlined below are some recommendations to help protect PII:

- Before collecting PII or sensitive information from participants, have participants sign releases acknowledging the use of PII for grant purposes only.

  Whenever possible, WDBVC recommends the use of unique identifiers for participant tracking instead of SSNs. While SSNs may initially be required for performance tracking purposes, a unique identifier could be linked to each individual record. Once the SSN is entered for performance tracking, the unique identifier would be used in place of the SSN for tracking purposes. If SSNs are to be used for tracking purposes, they must be stored or displayed in a way that is not attributable to a particular individual, such as using a truncated SSN.

- Use appropriate methods for destroying sensitive PII in paper files (i.e., shredding or using a burn bag) and securely deleting sensitive electronic PII.
- Do not leave records containing PII open and unattended.
- Store documents containing PII in locked cabinets when not in use.
- Immediately report any breach or suspected breach of PII to the WDBVC.

ACTION

Establish or revise local oversight and monitoring plans, policies, and procedures in accordance with the requirements of this directive. Bring this directive to the attention of all appropriate staff.

INQUIRIES

Inquiries regarding this policy can be addressed to the WDBVC at 805-477-5306.

/S/ Rebecca Evans, Executive Director
Workforce Development Board of Ventura County

ATTACHMENT:

Attachment I - Appendix: Applicable Federal Laws and Policies Related to Data Privacy, Security and Protecting Personally Identifiable and Sensitive Information

APPENDIX

FEDERAL LAWS AND POLICIES RELATED TO DATA PRIVACY, SECURITY AND PROTECTING PERSONALLY IDENTIFIABLE AND SENSITIVE INFORMATION

- Privacy Act of 1974 (the Privacy Act) – Governs the collection, maintenance, use, and dissemination of personally identifiable information about individuals maintained in systems of records by Federal agencies. The Privacy Act prohibits the disclosure of information from a system of records without the written consent of the individual, unless the disclosure is permissible under one of twelve statutory exceptions. The Privacy Act also provides individuals with a way to seek access to and amendment of their records and establishes various agency record-keeping requirements. The Privacy Act does not generally apply to personally identifiable information collected and maintained by grantees.

- Computer Security Act of 1987 – Passed to improve the security and privacy of sensitive information in Federal computer systems and created a means for establishing minimum acceptable security practices for such systems. It required agencies to identify their computer systems that contained sensitive information, create computer security plans, and provide security training of system users or owners on the systems that house sensitive information. It was repealed by the Federal Information Security Management Act (FISMA).

- FISMA – Enacted as Title III of the E-Government Act of 2002, FISMA required each Federal agency to develop and implement an agency-wide program to safeguard the information and information systems that support the operational assets of the agency, including the assets managed by other agencies or contractors.

- On May 22, 2006, the Office of Management and Budget (OMB) issued M-06-15, *Safeguarding Personally Identifiable Information*. In this memorandum, OMB directed Senior Officials for Privacy to conduct a review of agency policies and processes and to take necessary corrective action to prevent intentional or negligent misuse of, or unauthorized access to, PII.

- On July 12, 2006, OMB issued M-06-19, *Reporting Incidents Involving Personally Identifiable Information and Incorporating the Cost for Security in Agency Information Technology Investments*. In this memorandum, OMB provided updated guidance for reporting of security incidents involving PII.

- On May 10, 2006, Executive Order 13402 established the President's Task Force on Identity Theft. The Task Force was charged with developing a comprehensive strategic plan for steps the Federal government can take to combat identity theft and recommending actions which can be taken by the public and private sectors. On April 23, 2007, the Task Force submitted its report to the President, titled "Combating Identity Theft: A Strategic Plan." This report is available at www.idtheft.gov.

- On May 22, 2007, OMB issued M 07-16, Safeguarding Against and Responding to the Breach of Personally Identifiable Information. In this memorandum, OMB required agencies to implement a PII breach notification policy within 120 days.

- NIST SP 800-122, Guide to Protecting the Confidentiality of PII – Released by NIST in April 2010, this document is a guide to assist Federal agencies in protecting the confidentiality of PII in information systems. The guide explains the importance of protecting the confidentiality of PII in the context of information security and explains its relationship to privacy. The document also suggests safeguards that may offer appropriate levels of protection for PII and provides recommendations for developing response plans for incidents involving PII.