

December 22, 2014

UK Colleagues,

One of our most important values as a university is ensuring that a culture of compliance exists across our campus. It's the idea that we are all accountable to one another and to ensuring that everyone who acts on our behalf does so with the highest levels of integrity.

Against that backdrop, Congress has enacted many whistleblower protection statutes to encourage employees to report fraud, waste, and abuse. All University of Kentucky employees working on federal grants or contracts should be aware of the latest whistleblower protection statute that went into effect July 1, 2013. The statute (41 U.S.C. §4712) applies to all contractors, grantees, subcontractors and subgrantees on federal grants and contracts.

The implementation of this "Pilot Program for Enhancement of Employee Whistleblower Protections" by the National Defense Authorization Act (NDAA) states that an "employee of a contractor, subcontractor, grantee (or subgrantee) may not be discharged, demoted, or otherwise discriminated against as a reprisal for 'whistleblowing.'" In addition, whistleblower protections cannot be waived by any agreement, policy, form or condition of employment.

Specifically, the statute requires all grantees, their sub-grantees, and subcontractors to:

1. Inform their employees working on any federal award that they are subject to the whistleblower rights and remedies of the pilot program;
2. Inform their employees in writing of employee whistleblower protections under 41 U.S.C. §4712 in the predominant native language of the workforce; and,
3. Contractors and grantees will include such requirements in any agreement made with a subcontractor or subgrantee.

The requirement to comply with, and inform all employees of the "Pilot Program for Enhancement of Contact Employee Whistleblower Protections" is in effect for all grants, contracts, subgrants, and subcontracts issued beginning July 1, 2013 through January 1, 2017.

We all take these policies and requirements seriously.

The University of Kentucky's policy outlining these issues can be found at <http://www.uky.edu/regsg/files/gr/gr14.pdf>.

According to topic #16 under the Code of Conduct "it is a violation of university policy to retaliate against an individual because she or he has made, in good faith, a disclosure of noncompliance or has participated in an investigation, proceeding or hearing involving noncompliance of any of the above."

More specifically, whistleblowing is defined as making a disclosure "that the employee reasonably believes" is evidence of any of the following:

- Gross mismanagement of a federal contract or grant;
- A gross waste of federal funds;
- An abuse of authority relating to a federal contract or grant;
- A substantial and specific danger to public health or safety; or,
- A violation of law, rule, or regulation related to a federal contract or grant (including the competition for, or negotiation of, a contract or grant).

To qualify under the statute, the employee's disclosure must be made to:

- A member of Congress, or a representative of a Congressional committee;
- An Inspector General;
- The Government Accountability Office;
- A federal employee responsible for contract or grant oversight or management at the relevant agency;
- A court or grand jury; or,
- A management official or other employee of the contractor, subcontractor, grantee, or subgrantee who has the responsibility to investigate, discover or address misconduct.

For more information about this policy and notice, please feel free to contact Deborah Davis, director of the UK Office of Sponsored Projects Administration, at 859-257-8311 or ddavis@uky.edu.

Bill Thro
UK General Counsel