

the institution wishes USDOL deferral to continue, the Appropriate USDOL Agency may want to ask the institution to provide periodic status reports.

(b) Informing the Appropriate USDOL Agency if an initial inquiry supports a formal investigation.

(c) Keeping the Appropriate USDOL Agency informed during such an investigation.

(d) Completing any investigation and reaching a disposition within a reasonable time, preferably within 180 days of the initiation of the investigation. If completion of an investigation is delayed, but the institution wishes USDOL deferral to continue, the Appropriate USDOL Agency may ask the institution to submit periodic status reports.

(e) Providing the appropriate USDOL Agency with the final report from any investigation.

(3) USDOL believes it is in the public interest that if during an investigation into research misconduct, any individuals or groups of individuals become aware of any of the following they should follow the guidelines in the Federal Policy:

(a) Public health or safety is at risk;

(b) USDOL's resources, reputation, or other interests need protecting;

(c) There is reasonable indication of possible violations of civil or criminal law;

(d) Research activities should be suspended;

(e) Federal action may be needed to protect the interests of a subject of the investigation or of others potentially affected; or

(f) The scientific community or the public should be informed.

(4) To facilitate awareness of the USDOL Policy among contract and grant research recipients, Agency Heads should consider working with their contract and grant officers to insert language into contract and grant documents that makes Awardee institutions aware of the USDOL Policy and of the Federal Policy. For example, the language could include informational references to the Federal Policy as stated in the **Federal Register** Vol. 65, No. 235, December 6, 2000 and to the Department of Labor Manual Series (DLMS) Chapter 800.

Investigations

(1) When an awardee institution or the OIG or a Federal agency other than the Appropriate USDOL Agency, has promptly initiated its own inquiry and investigation, the Appropriate USDOL Agency may wish to defer its own inquiry or investigation until it receives the results of that external inquiry and

investigation. If the Appropriate USDOL Agency does not receive the results of the external inquiry within what it believes to be a reasonable time, the Appropriate USDOL Agency should proceed with its own inquiry and, if warranted, its own investigation. It will often be appropriate for the Agency to proceed with its own inquiry if it does not receive the results of the external inquiry within 90 days and to proceed with its own investigation if it does not receive the results of an external investigation within 180 days.

(2) If the Appropriate USDOL Agency decides to initiate an investigation, it should be conducted with fairness. Among the fair procedures that agencies should consider are giving prompt written notice to the individual or institutions to be investigated where such notice would not prejudice the investigation or relate to a criminal investigation that is underway or under active consideration. Where notice is delayed, agencies should consider the need to give the notice as soon as it will no longer prejudice the investigation or contravene requirements of law or Federal law-enforcement policies.

(3) If a criminal investigation by the Department of Justice, the Federal Bureau of Investigation, or another Federal agency is underway or under active consideration by these agencies, the Appropriate USDOL Agency should decide what information, if any, may be disclosed to the subject of the investigation or to other USDOL employees.

(4) An investigation by the Appropriate USDOL Agency may include:

(a) Review of award files, reports, and other documents already readily available at USDOL or in the public domain;

(b) Review of procedures or methods and inspection of data, laboratory materials, and records at awardee institutions;

(c) Interviews with subjects or witnesses;

(d) Review of any documents or other evidence provided by or properly obtainable from parties, witnesses, or other sources;

(e) Cooperation with other Federal agencies; and

(f) Opportunity for the subject of the investigation to be heard.

(5) The Appropriate USDOL Agency may wish to contract with or invite outside consultants or experts to participate in a USDOL investigation.

(6) The Appropriate USDOL Agency should make every reasonable effort to complete a USDOL investigation and to report its recommendations, if any, to

the Assistant Secretary of Labor for Administration and Management promptly. It will often be possible to complete such investigation within 180 days after initiating it, and, within 60 days after completing the investigation, to submit the investigative report along with a recommended disposition to the Assistant Secretary for Administration and Management.

(7) The subject of the investigation may wish to hire legal representation to assist in responding to allegations.

(8) In many cases, Agency Heads will be relying on outside inquiries and investigations, e.g., those being conducted by awardee institutions or by the OIG, or by another federal agency. However, there may be cases when Agency Heads have no alternative but to conduct their own inquiry and, if necessary, their own investigation. One possible way to proceed is to contract out the inquiry and/or investigation to an institution with expertise in research misconduct issues, for example, a large research university or professional organization. Another way would be to proceed with the inquiry and/or investigation using a panel of experts, both internal and external to USDOL to review all documents and interview all participants to the dispute and the allegation and to produce a report. The agency head should call upon whatever assistance can be provided by USDOL contract and grant officers and by the USDOL Office of the Solicitor as it proceeds.

Interim Administrative Actions

(1) After an inquiry or during an external investigation or an investigation by the Appropriate USDOL Agency, the Assistant Secretary of Labor for Administration and Management or other appropriate USDOL official may recommend that interim actions be taken to protect Federal resources or to guard against continuation of any suspected or alleged research misconduct. The Assistant Secretary or other appropriate USDOL official should consider making such recommendation when requested by the Agency Head of the Appropriate USDOL Agency, and should consult with the appropriate USDOL Grant or Contract Officer and the Office of the Solicitor of the USDOL.

(2) When suspension of a grant or contract or other award is believed to be appropriate, the official responsible for making decisions should be legally authorized to take such actions and should ordinarily be the appropriate USDOL Grant or Contract Officer.

(3) Officials should consider taking such interim actions whenever