

March 22, 2002

Mr. Elliot P. Lewis
Acting Deputy Inspector General for Audit
U.S. Department of Labor
Office of Inspector General
Office of Audit
200 Constitution Avenue, N.W.
Room S5518
Washington, DC 20210

Dear Mr. Lewis;

Attached is a copy of the Proteus written response addressing findings and recommendations contained in Draft Report No. 21-02-003-03-365 that was prepared by Harper, Rains, Stokes & Knight, P.A., under contract with the U.S. Department of Labor, Office of Inspector General.

We would be interested in knowing the proposed timetable for further action regarding this audit report.

If there are any questions regarding the written response, please contact me.

Sincerely,

Terry Y. Meek
Executive Director

**Response to Draft Report #21-02-003-03-365
By the Grantee, Proteus, Inc.**

**Audit Report on U.S. Department of Labor Grant #AC-10750-00-55
Financial and Performance Audit
for
Program Year July 1, 2000 through June 30, 2001**

Proteus takes this opportunity to make written comments as its response to the Draft Report prepared by Harper, Rains, Stokes & Knight, P.A., under contract with the U.S. Department of Labor, Office of Inspector General.

In the response you will find documentation that Proteus, Inc. management and staff acknowledge findings relating to eligibility, based on the fact that they were unaware that the previous process was not acceptable pursuant to the DOL interpretation of the official federal guidelines. Since the time of the initial DSFP monitoring visit and resulting report, Proteus, Inc. has taken appropriate steps to make corrections to its policies, systems and processes of participant eligibility determination.

The OIG Draft Report findings by the auditors related only to eligibility therefore, this was the irregularity cited. No other material findings were reported relating to any other financial or programmatic performance.

Just recently, on March 13-14, 2002, DSFP staff revisited Proteus and provided technical assistance. During the visit, ample time was spent by the DSFP representatives interacting with staff and allowing them to ascertain that Proteus is making a bona fide and vigorous attempt to move forward in making appropriate changes as previously recommended.

Proteus will continue to pursue every possible opportunity to follow instructions and guidance as provided by the funding source. Proteus is committed to doing what is necessary to remain a grantee for the WIA, Section 167 NFJP program so that services can be provided to Iowa's eligible farmworkers.

Finding No. 1: Refugees and other ineligible participants were enrolled in the National Farmworker Jobs Program.

Comments regarding Proteus serving refugee clients with foreign farmwork

- When Proteus was told in the DSFP Monitoring Visit Report that the refugees were ineligible and that any current clients that were determined eligible based upon foreign farmwork should be terminated; Proteus acted accordingly and terminated all such clients.

- Proteus implemented training and requested technical assistance to assure that it came into compliance with corrective action.
- Proteus has restructured its programming, and has closed the Education Center. One class of ESL/GED students has been maintained at the Central Office location—all of the current students performed their farmwork in the United States or Puerto Rico.
- Proteus has not enrolled any further participants with foreign farmwork, since receiving the DSFP Monitoring Visit Report.
- The Workforce Investment Act, the WIA Regulations and the July 1, 2000 DSFP Eligibility Policy Guidance do not take a position regarding foreign farmwork. A preliminary draft DSFP Policy Guidance that is not officially approved and issued to the grantees was used by the auditors in reviewing eligibility. This preliminary draft does stipulate that qualifying farmwork must be performed in the United States or Puerto Rico.
- DOL had not monitored Proteus' JTPA or WIA NFJP program since 1991.
- In the 1991 Monitoring visit _____, a DOL representative, was aware of and did acknowledge that Proteus was working with refugees. His recommendations regarding the practice revolved around making sure that there was an employee-employer relationship, that wages were earned, that money exchange rates were verifiable, and that staff were excluding farmwork performed at a refugee camp. His awareness, conversations, and report did not indicate that Proteus should stop serving individuals with foreign farmwork. Quite the contrary, his interest motivated recommendations for enhancing the processes of service delivery to the refugee clients through a recommendation that Proteus consider hiring additional staff representative of the many different nationalities represented in the client population. The auditors were given a copy of this monitoring report, the Proteus response and notes from a follow-up telephone call with _____.
- During field work, the auditors made contact with _____, who now works in the Region VII DOL Kansas City office. The auditors told the Proteus Executive Director that _____ had told them that it was his opinion that the foreign farmwork was not a barrier to enrollment.
- In the period prior to the 1991 monitoring visit, Proteus had been visited periodically by other DSFP monitors—_____. After reviewing client files as well as touring Proteus offices and training sites, all of these monitors would have been aware that Proteus was serving refugees who had conducted their qualifying farmwork in a foreign country. None of them ever told any Proteus

representative that there was any problem with this practice.

- Prior to 1982 when Proteus went through novation to become an organization on its own, the then State Director, _____, received what he felt was authorization from DSFP to serve refugees, using foreign farmwork as qualifying farmwork with the use of a self-affidavit for verification.

Comments regarding Proteus serving other ineligible (children of farmers, dependent college students, etc.)

- When Proteus was told that children of non farmworkers and dependent students were ineligible and that any current clients with such characteristics should be terminated; Proteus acted accordingly and terminated all such clients.
- Proteus implemented training and requested technical assistance to assure that it came into compliance with corrective action regarding this classification of ineligible participant.
- Proteus has not enrolled any children of non farmworkers or dependent students since receiving the DSFP Monitoring Visit Report.
- The Workforce Investment Act, the WIA Regulations and the July 1, 2000 DSFP Eligibility Policy Guidance do not take a position regarding dependency, student status, etc. A preliminary draft DSFP Policy Guidance that is not approved and issued to the grantees was used by the auditors in reviewing eligibility. This draft does stipulate that otherwise dependent individuals must have a farmworker parent in order to qualify and that student eligibility must be considered very carefully.
- Until the October, 2000 monitoring visit, DOL had not monitored Proteus' JTPA or WIA NFJP program since 1991. The 1991 monitoring visit did not have any recommendations regarding the practice of qualifying dependent children of non farmworkers or students.
- In the period prior to the 1991 monitoring visit, Proteus had been visited periodically by other DSFP monitors— _____ and _____. All of these monitors would have been aware that Proteus was serving seasonal farmworkers that were dependents of non-farmworkers, and farmworkers that were students at the time of enrollment. None of them ever told any Proteus representative that there was any problem with this practice.
- In the early 1980s the then federal representative, _____, assisted Proteus by arranging with another Midwest grantee, Rural Missouri, Inc. (RMI), to provide technical assistance. This technical assistance was to assist Proteus in learning to

increase its work with seasonal farmworkers and to learn how to maximize the use of On-the-Job Training as a training model. RMI instructed Proteus in the implementation of processes to outreach young seasonal farmworkers (usually dependents of non-farmworkers and students) who they had been working with successfully for some time.

Summary Statement regarding the serving of ineligible clients

Proteus acknowledges serving the identified clients, although at the time the grantee and its staff were not aware that the eligibility determinations were inappropriate based upon previous understandings and knowledge. Proteus was working in good faith and attempting to operate an employment and training program for farmworkers based on fiscal and programmatic integrity. Both DSFP and the auditors were given a copy of the detailed Proteus response to the Monitoring Visit Report. This response provides additional documentation as to why Proteus was doing what it was doing prior to the monitoring visit.

The audit found no evidence that Proteus deliberately or knowingly misappropriated federal funds. The audit validated, except for the two findings, Proteus' strong financial and programmatic systems for operating federally funded programs.

The field work by the audit firm collaborates that Proteus is no longer serving any clients with foreign farmwork and is following processes that allow for much more thorough examination of seasonal farmworker eligibility following the guidelines and principles established by DSFP. The program is moving forward and steadily locating and enrolling additional eligible farmworkers into its programs.

Comments regarding the calculation of \$233, 988 in questioned costs on the ineligible clients

1. The auditors assessed a prorated Average Program Cost that accounted for the overhead expenses associated with the in-house operation of the Education Center against each ESL student that was determined ineligible. However, 13 of these participants never attended the Education Center and should not be assessed for that particular Program Cost. Proteus paid tuition for these students at another training site, and the tuition was already accounted for in the questioned cost spread sheet.

Attachment #1 is a spread sheet displaying the amount of \$17,009.99 that Proteus determines should be deducted from the total questioned costs.

2. The auditors determined that _____, was ineligible based upon the fact that her step-father who was the farmworker, self attested, and appeared to be self-employed. Proteus was unable to further substantiate this part of

eligibility during the time that the auditors were present conducting their field work.

Since that time the Proteus worker was able to meet with the family, and with their cooperation obtain additional information that supports the original eligibility determination regarding .

, told us that he was employed by Landscaping in , Cagua, Puerto Rico from September 6, 1999 through February 14, 2000. was not actually aware of any relationship between himself and the owner of the landscaping firm. Proteus later learned through other family members that the owner of Landscaping was a cousin. There was an employer-employee relationship. His job entailed various sod farming duties—planting grass seeds and cutting sod. Originally at the time of intake, concrete verification was unobtainable since the owner had since passed away.

In late November and early December of 2001, called relatives in Puerto Rico and was finally able to make contact with , the brother of the deceased owner. worked with the original owner and was the supervisor or “boss” for when he was working for Landscaping.

Proteus staff spoke with , obtaining verification that was, in fact, employed by Landscaping during the period in question, earning \$, and working days.

Substantiating Progress Notes and a Verification Form can be found at Attachment #2. Proteus determines that \$1,186 should be deducted from the total questioned costs.

Finding No. 2: Job Placements reported to ETA included participants who were employed prior to and after training in substantially the same job.

Since the auditors had not provided Proteus with a Statement of Fact during the exit conference regarding this particular finding, Proteus’ Executive Director contacted the auditor for additional documentation. Please see Attachment #3 for the e-mail exchange regarding this finding. In this e-mail the auditor stated that the finding was primarily a sub-set of the first finding since the six placements were being questioned because the participants were ineligible refugees.

Under WIA, it has been Proteus’ customary practice to “document” placements only on participants that have located substantially different jobs as a result of core, intensive or training services. Under JTPA, there was a specific category designated as “enhancement only,” that allowed for individuals receiving skill enhancements to be terminated in a different manner. The six participants cited by the auditors were all participants that received intensive services (ESL) rather than

training services that would have provided them with new job skills leading to a significant upgrade or different job. Their Individual Employment Plans (IEP) specified that they would be enhancing their English-speaking skills, and did not address the acquisition of new vocational or occupational skills that would lead to another job.

Proteus acknowledges that one of its case managers did, in fact, make an error in reporting placements on the three participants in question since the goal set in these cases and resulting major outcome was learning English rather than placement in a job. The placements reported in these three cases were not substantially different from those held at the time of intake.

Partially, the resulting errors may have been the result of the transition process and becoming familiar with new forms, definitions and processes under a new reporting system for the new WIA program.

At the time of the DSFP Monitoring Report, Proteus was not instructed to reconsider or adjust its outcomes for the entire program year. Instead, Proteus was instructed to terminate any existing ineligible participants, designating them as, "Other" outcomes. Proteus acted upon this instruction.

Proteus will clarify with staff regarding the appropriate designation of exit/outcome paperwork so that this type of error is not made in the future.