



**STATE OF NEW YORK
DEPARTMENT OF LABOR**
Administrative Finance Bureau
Building 12, Room 465
Governor W. Averell Harriman State Office Building Campus
Albany, New York 12240

March 03, 2003

Mr. Robert Wallace
Regional Inspector General for Audit
U. S. Department of Labor
Office of the Inspector General
61 Forsyth Street SW
Atlanta, Georgia 30303-3104

Dear Mr. Wallace:

We received your letter dated February 12, 2003 which included draft report 04-03-014-03-340 regarding the closeout of the Job Training Partnership Act grants awarded by the U.S. Department of Labor. The following are written comments on items two and seven of your report that we would like included in the appropriate sections of the final report.

Procedures and Findings

2. Determine if the JTPA grants awarded to the State were closed on a timely basis in accordance with ETA instructions.

OIG ISSUE:

The State requested and received a six-month extension until June 30, 2001 for the closeout of PY 1997, 1998 and 1999 JTPA grants. The State did not submit the closeout package until August 15, 2001.

NYS DOL RESPONSE:

The State submitted the closeout package on August 15, 2001 using June 2001 financial reports. This time period coincides with the normal submission of June reports. These reports are due 45 days after the quarter-end which is within the allotted timeframe.

OIG ISSUE:

ETA reviewed the closeout package and disallowed Economic Dislocation and Worker Adjustment Assistance Act (EDWAA) time distribution adjustments and expenditures on Project No 5528 (EDWAA Reapportioned Department Administration), decreasing the allowable costs by \$45,023,129. Because of the adjustments, the State will have to revise the closeout package and resubmit it to ETA.

NYS DOL RESPONSE:

A revised closeout package was submitted on December 12, 2002. This closeout package included an expenditure adjustment for Project 5528 in the amount of \$5,023,129. This figure represents the amount of disallowed costs based on the ETA review. The amount stated above, \$45,023,129, appears to be a typographical error.

Telephone (518) 457-3624

Fax (518) 485-8581

OIG ISSUE:

At our exit conference on March 28, 2002, State officials could not provide an estimated date the closeout will be resubmitted. In additions, the original closeout dated August 15, 2001 did not include the required documents such as:

- Government Property Closeout Inventory Certification
- List of possible Claimants for unclaimed checks canceled or payment stopped, if applicable.
- Refund checks(s) with letter of explanation
- Aggregate of unclaimed wages/other outstanding check with explanation
- Interest earned or owed on Government funds with explanation
- Other refunds with explanation

Each item listed above is required to be covered, if applicable and must be explained fully if omitted. State officials were aware of the requirement to submit these forms with the final closeout package.

NYS DOL RESPONSE:

A final revised closeout package was submitted on December 12, 2002. This package included those documents listed above that were applicable to the Department. We have attached a copy of the closeout package for your reference.

7. Determine if the single audit reports identified reportable conditions, material weaknesses, report qualifications, or any other unresolved audit issues pertaining to JTPA grants.

OIG ISSUE:

The State's annual single audit report for SFY 2000 (most recent available) included on finding relevant to the JTPA program which was reported as a material weakness and considered unresolved as of November 17, 2000. The auditors found that the State notified subrecipients of Federal award information through the Notice of Obligational Authority (NOA); however, the NOAs did not identify the CFDA numbers of the programs within the JTPA cluster. The auditors also noted that the State used their subrecipients' OMB Circular A-133 audits as a component of their subrecipient monitoring process. They concluded that the state did not perform an adequate desk review of the OMB circular A-133 reports to ensure that submitted reports were performed in accordance with OMB Circular A-133.

NYS DOL RESPONSE:

The following response was submitted to the auditors who conducted the NYS Single Audit and the finding was dropped from the Single Audit report the following year.

With regard to identifying the CFDA numbers of the programs within the JTPA cluster, the Department provides Federal award information by issuing SDA Bulletins and Technical Advisories to the SDAs. Bulletins and Advisories have been issued in the hundreds over the life of the JTPA program. Further informal communication through phone calls and meetings has provided information to the SDAs.

The Department provided the individual Title II CFDA #17.250 and the Title III CFDA #17.246 under the JTPA program cluster. However, on some "Schedule of Expenditures of Federal Awards" the SDAs failed to list the Title III CFDA #17.246 while listing only the Title II CFDA #17.250. While the JTPA program has been replaced by the current WIA program, the Department has issued a new Technical Advisory notifying our sub-recipients of all CFDA numbers and that this information must be included on the "Schedule of Federal Expenditures".

With regard to the Department not performing an adequate desk review of the A-133 reports to ensure that submitted reports were performed in accordance with OMB Circular A-133, the auditors fail to and have refused to include a critical component of the finding, the condition found. As such, no specific information has been provided as to exactly what is inadequate or deficient with the Department's procedures for ensuring that our sub-recipients have met the audit requirements of A-133. Moreover, the Department's procedures, which have not changed during

this current audit period, have always been found acceptable in past single audits. It should be noted that the Department shared this finding with OMB and they concurred with our position.


In addition, the auditors are not entirely correct when stating that the Department uses sub-recipient OMB Circular A-133 reports as a component of our sub-recipient monitoring process. The Department uses an A-133 audit report as part of our sub-recipient monitoring process when that report contains a finding relative to our Federal award program. However, under the recently amended OMB Circular A-133, a sub-recipient is not required to submit an audit report to a pass-through entity when the schedule of findings and questioned costs disclosed no audit findings relating to the Federal award that the pass-through entity provided. In this situation, a sub-recipient may provide written notification to the pass-through entity that an audit of the sub-recipient was conducted in accordance with A-133.

The files reviewed by the auditors contained no finding relative to Federal awards that the Department provided and therefore, as no report submission was required, it follows that a report review was not required by the Department. Therefore, not only have the auditors failed to inform the Department what is inadequate or deficient with the Department's procedures, the auditors are basing this judgment on a procedure that the Department was not even required to perform under the circumstances.

Based on the above, it is the Department's position that we are in compliance with the pass-through entity's responsibilities as stated under Section 400(d) of OMB Circular A-133.

Please let me know if you need any additional information.

Sincerely,


Lewis D. Stein
Director of Finance

Attachments