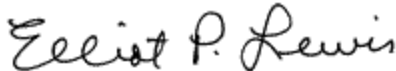


March 5, 2003

MEMORANDUM FOR: EMILY STOVER DeROCCO
Assistant Secretary for
Employment and Training



FROM: ELLIOT P. LEWIS
Assistant Inspector General
for Audit

SUBJECT: WIA-Louisiana Training Provider Eligibility Process
Management Letter No. 06-03-004-03-390

SUMMARY

The Office of Inspector General (OIG), Dallas Regional Audit Office conducted an evaluation of the Louisiana Department of Labor's (LDOL) and Louisiana Workforce Investment Board (LWIB) #40's processes for determining training provider eligibility as it relates to a complaint regarding M&D Enterprises (M&D) and (LWIB) #40.

Our evaluation was conducted in response to a complaint filed by LWIB #40. The complaint alleged that M&D submitted invoices that were above the approved training tuition price, filed fraudulent PEC certificates signifying completion of safety training (PEC certificates are recognized by oil companies for employment) and counted participants as being placed, though they were never hired. Based on these and other complaints, the LWIB #40 Administrator sought to have M&D removed from the statewide list of approved providers.

In response to LWIB #40's allegations, M&D Enterprises complained to the LDOL that LWIB #40 and Acadiana One-Stop (the one-stop that has made almost all safety training referrals to M&D) have ceased referring students to M&D.

Our evaluation objective was to determine if the allegations made by either LWIB #40 or M&D have merit. We concluded that M&D's complaint that the company is being treated unfairly has merit; i.e., M&D is not receiving referrals even though M&D is still an approved training provider. We concluded that all the allegations made by LWIB #40 against M&D have reasonable explanations, with the exception of untimely payment or nonpayment of bills. Complaints regarding M&D's untimely payment or nonpayment of

financial obligations are consistent with documentation we obtained from LWIB #40. However, since untimely payment and/or non-payment of bills are not criteria of being an eligible training provider, the local board cannot use this as a basis to stop referring students to M&D.

We recommend the Assistant Secretary for Employment and Training notify both LDOL and LWIB #40 that, if safety training funds are available, eligible students cannot be prohibited from being referred to M&D Enterprises so long as it remains as one of two State-approved companies offering these classes.

BACKGROUND

M&D is an approved training provider in Louisiana that provides offshore safety training to Workforce Investment Act (WIA) eligible participants seeking job placement working with oil rigs. Training takes place in locations throughout south Louisiana. M&D was first approved in Program Year (PY) 2000 and placed on the State's list of approved providers to offer safety training classes. M&D is a training broker and provides no actual training. M&D contracted with a vendor, Petroleum Education Council (PEC), to conduct the training. M&D remained on the list of approved service providers for PYs 2001, 2002, and 2003. Beginning in PY 2001, PEC was approved and placed on the State's list of approved providers to conduct safety training for the years 2001; i.e., PEC is no longer a vendor of M&D. PEC was also approved as a service provider for PYs 2002 and 2003.

The Complaint

M&D complained that LWIB #40 and Acadiana One-Stop (the one-stop that has made almost all safety training referrals to M&D) have ceased referring students to M&D. LWIB #40 representatives indicated funds are no longer available for safety training and hence student referrals have been stopped.

M&D further complained that other safety-training providers (e.g., PEC) continue to receive student referrals for safety training and that LWIB #40 has gone directly to the LDOL asking to have M&D removed from the approved provider list.

LWIB #40's Allegations

LWIB #40 alleged that M&D:

- submitted invoices that were above the approved training tuition price;
- filed fraudulent PEC certificates signifying completion of safety training (PEC certificates are recognized by oil companies for employment);

- counted participants as being placed, though they were never hired;
- provided training time that was less than that posted on Louisiana Occupational Informational System (LOIS); and
- classified individuals as independent contractors rather than employees and did not withhold Federal/state income taxes, Medicare, Social Security, or pay unemployment insurance taxes.

LWIB #40 further stated that it had received complaints about M&D suppliers not being paid, M&D employees not receiving wages, and students being disillusioned by M&D.

The Louisiana State OIG initially looked into the above allegations. Then, the USDOL, OIG, Office of Labor Racketeering and Fraud Investigations (OLRFI), reviewed the circumstances to determine if any fraud was involved. Neither of these reviews determined that any fraud had been committed. Subsequent to these offices' reviews, the OIG, Dallas Regional Audit Office looked into the aforementioned complaint letter.

OBJECTIVE

Our evaluation objectives were to determine if the complaint(s) filed by either the LWIB #40 or M&D have merit. The evaluation was not designed to produce an opinion on the performance of the overall WIA program or Individual Training Account contracts.

SCOPE

Our evaluation was limited to the following procedures. We:

- Reviewed WIA program guidelines.
- Examined the State of Louisiana and LWIB #40 approval processes for providers -- specifically M&D Enterprises and PEC -- that seek individual training account (ITA) funds under WIA grants.
- Reviewed correspondence related to allegations involving M&D.
- Met with LDOL officials on August 20, 2002, and LWIB #40 officials on August 22, 2002.

CONCLUSIONS

We concluded that M&D's complaint that the company is being treated unfairly has merit; i.e., M&D is not receiving referrals even though M&D is still an approved training provider.

We concluded that all the allegations made against M&D have reasonable explanations, with the exception of untimely payment or nonpayment of bills. Complaints regarding M&D's untimely payment or nonpayment of financial obligations are consistent with documentation we obtained from LWIB #40. However, since untimely payment and/or

non-payment of bills are not criteria of being an eligible training provider, the local board cannot use this as a basis to stop referring students to M&D. Our conclusion is in concert with the LDOL attorney's position on these matters.

In a December 13, 2001, e-mail, the LDOL attorney provided the following summary of the issues in LWIB #40's allegations:

Eligible Training Providers may be only removed from a State-Wide list in accordance with Federal Regulations. Under 20 CFR §663.565, the only criteria for termination of subsequent eligibility are limited to: not meeting performance levels, intentionally submitting inaccurate information, and noncompliance with WIA and its regulations. None of the actual information submitted to LDOL satisfies any of the requirements listed under 20 CFR §663.565. The allegations made do not include evidence sufficient for LDOL to legally justify removal of M&D from the statewide list. M&D has actually exceeded the minimum performance levels. . . . Addressing the issue of 'intentionally submitting inaccurate information,' the Commentary to the Federal Regulations indicates that this situation arises if a State or Local Board asks for information about the training providers accreditation status or compliance with laws. If the training provider intentionally provides inaccurate information in response to the inquiry, there may be grounds for removal from the statewide list. LDOL has no evidence that M&D intentionally submitted inaccurate information under these circumstances. Finally, LDOL has no evidence that M&D is in noncompliance with the WIA law or its regulations.

Accordingly, under WIA, LDOL may not remove M&D from the State-Wide eligible training provider list. [LWIB #40] complains that the retention rate of those trained by M&D is low, and has refused to approve any additional student's request for training from M&D.

Unless [LWIB #40] provides additional competent evidence that is in compliance with 20 CFR §663.565 to justify LDOL removing M&D from the State-Wide list, M&D must be allowed to remain as an eligible training provider in LWIA #40.

In his January 24, 2002, response to LWIB #40, the LDOL attorney stated:

Because of the numerous complaints [against M&D], an audit of the WIA accounts may be accomplished. Should evidence of a misuse of WIA funds be uncovered, or any other violation of the WIA or regulations, a basis for revisiting M&D's inclusion on the (ETPL) Eligible Training Provider List may be established.

According to LWIB #40, after receiving some complaints from M&D's vendors, the board members voted to have the financial records of M&D reviewed. LWIB #40 engaged Going, Sebastien, Fisher, Le Bouef, Inc., to perform a special review of M&D Enterprises. M&D has not allowed full access to or provided all financial records requested by the firm.

LWIB #40 continued not referring students to M&D Enterprises for safety training. The reasons given were that M&D has not allowed access to or provided all financial records requested, and M&D has been criticized for not paying its obligations.

Although both the LDOL and the State Office of Inspector General have informed LWIB #40 that not referring participants to M&D for these reasons is not consistent with current WIA guidelines, the workforce board has not made any student referrals to M&D.

In an October 17, 2002, response to a Statement of Facts we issued as a result of our evaluation, LWIB #40 stated: "[The] Workforce Investment Board (WIB) does not feel that any further referrals should be made to M&D until all accounting and payment issues are resolved to our satisfaction."

M&D's unwillingness to allow LWIB #40 full access to all of its financial records appears to be consistent with documentation we obtained from LWIB #40. However, since access to these items is not a criterion for being an approved training provider, the local board cannot use this as a basis to not refer students to M&D.

RECOMMENDATION

We recommend the Assistant Secretary for Employment and Training notify both LDOL and LWIB #40 that, if safety training funds are available, eligible students cannot be prohibited from being referred to M&D Enterprises so long as it remains as one of two State-approved companies offering these classes.

If you have any questions, please contact John F. Riggs, Regional Inspector General for Audit, Dallas, TX, at (214) 767-6980.