

AGENCY RESPONSE TO DRAFT REPORT

U.S. DEPARTMENT OF LABOR
OFFICE OF THE DEPUTY SECRETARY
WASHINGTON, D.C.
20210

August 8, 2005

The Honorable Gordon S. Heddell
Inspector General
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, D.C. 20210

Dear Mr. Heddell:

Thank you for the opportunity to comment on the Office of Inspector General's (OIG) audit report concerning the National Emergency Grant to New York State following the terrorist attacks of September 11, 2001. As you note, this audit was initiated in response to an anonymous complaint that was received by the Office of the Secretary and referred to your office for further review. The allegations in that complaint were determined to be without merit, but in the course of your audit, the OIG identified other concerns that are the principal subject of this report.

We concur with the recommendations of the OIG pursuant to this audit and appreciate the tremendous amount of work performed by the OIG staff in connection with this report.

Although the audit report identifies procedural and perceptual problems that need to be corrected – and in fact many already have been addressed – it also concludes that the actions taken by Department of Labor regional staff were “prompted by good intentions: the need to respond to the enormous economic and psychological impact the events of September 11, 2001, had on Chinatown and New York City.” All of us who served our nation during that time still can vividly recall the pervasive atmosphere of urgency, “can-do” improvisation, broad generosity, and concern for those who were suffering. All of us in government, including the Department of Labor, were faced with new challenges and problems that demanded immediate results – and generally, those results were delivered.

Nevertheless, departmental grants must be in compliance with Federal procurement and ethics rules at all times, and the audit report recommends appropriate action to ensure that this standard is fully upheld. Specifically, the report found that, because of certain staff actions in New York, “the Department placed itself in a situation of having contributed to actions taken by [the New York State Department of Labor] and [Chinatown Manpower, the grant contractor] that ultimately were inconsistent with Federal procurement rules and regulations for which the Department is responsible for ensuring compliance.” Although these events were likely shaped by the unprecedented circumstances in which they took place, it is common for regional staff to be closer to, and more connected with, potential grantees and other beneficiaries of departmental programs. Therefore, we will provide

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specialized training in Federal procurement and ethics rules to the Department's regional appointees, to ensure that Federal procurement rules and other safeguards on the grant-making process are always carefully observed, even in emergency situations.

The OIG audit report also recommends that the roles and responsibilities of personnel in various departmental offices be more clearly delineated with respect to the grant process, especially in emergency situations. As you know, the Department's Employment and Training Administration (ETA) follows detailed, written procedures for each of its grants (including the National Emergency Grant to New York State), and continuously upgrades these safeguards to strengthen the integrity of the grant-making process. After reviewing the challenges of responding to September 11, ETA implemented new procedures and controls that address the OIG's recommendation. In April 2003, ETA issued ET Order 1-03, which clarifies the roles and responsibilities within ETA for grant administration, including new Grant Officer responsibilities for Regional Administrators. In February 2005, ETA also issued internal guidance to define roles and responsibilities for National Emergency Grant (NEG) awards, covering all phases of the administrative process.

Under the revised procedures, ETA's Office of National Response (ONR) has principal authority to: develop policies and procedures for the NEG program; specify application submission requirements and application review guidelines; lead the evaluation of NEG requests; and – jointly with ETA's Office of Grants and Contracts Management (OGCM) – recommend NEG awards. NEG recommendations are communicated by memorandum, prepared by ONR, for review and decision by the Assistant Secretary for Employment and Training and the Secretary of Labor.

If a NEG application receives final approval, ONR is responsible for preparing a Grant Award Letter for the Grant Officer's signature that includes all approved provisions of the grant award, including the incremental funding amount and any criteria that must be met to obtain additional funding. ONR also transmits a Procurement Action Request to the Budget Office to initiate grant award actions. Only after all grant award steps are completed, *and entirely separate from the grant administration process*, notifications of NEG awards are made to the media and Members of Congress by the Office of Public Affairs and the Office of Congressional and Intergovernmental Affairs, respectively.

ETA's revised procedures make clear that ETA grant administration staff is responsible for interacting with prospective grantees and awardees in each phase of the process. This helps rectify any lack of clarity which may have contributed to the irregularities with the New York State NEG. Specialized career staff in ETA's regional offices are responsible for engaging with applicants during pre-submission, guiding them through the application process, and evaluating the quality of applications. Regional ETA career staff are also authorized to help NEG applicants develop potentially approvable applications and offer

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recommendations to ONR regarding incremental funding levels or special conditions to be included in any Decision Memorandum or Award Letter.

Grant administration integrity is further enhanced by separating the career regional office staff – who are authorized to participate in extensive pre-award interactions with grantees – from interactions with grantees in connection with the actual grant award. Once a grant application receives final approval, OGCM takes the lead role in notifying the applicant through a Grant Award letter, executing NEG agreements and any needed modifications with the grantee, and ensuring that proper official records are established. At every step throughout the process, all contacts with applicants and grantees during the grant-making process are conducted by trained, specialized career ETA staff.

Finally, the OIG audit report recommends more systematic record-keeping regarding all discussions and decisions by departmental officials that affect how, and to whom, grant funds are distributed. Effective record-keeping enhances the transparency of the grant-making process and reduces the potential for grant decisions to be influenced by factors and individuals outside the designated procedures and criteria. ETA's February 2005 internal guidance substantially enhances record-keeping procedures related to grant administration, in furtherance of these objectives. Nearly every aspect of ETA's grant-making process is recorded, much of it through e-communications. For example, ONR, OGCM and relevant regional offices of ETA all receive electronic notifications when grant applications are received, and have electronic access to the documents. If further contact with an applicant is required, to obtain added information or justification, ONR has sole authority to communicate with the applicant, by e-mail that is copied to both the relevant regional office and ETA's Grants Office. Applicants are required to submit any requested clarifications or information by electronically revising the grant application.

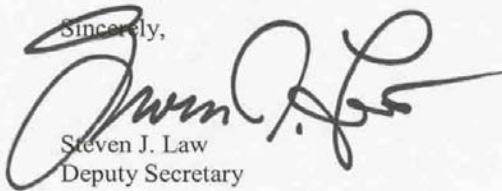
Once the application file is complete, ONR prepares a written funding recommendation and submits it to OGCM; and OGCM's concurrence is communicated back to ONR via e-mail. These views are then presented in a written decision memorandum that is sent to the Secretary, through OGCM and the Assistant Secretary of Employment and Training. Additional clearances of the decision memorandum by Office of the Secretary staff, prior to the Secretary's review and decision, are individually recorded and presented with the memorandum by the Executive Secretary. The Secretary's decision becomes part of the permanent record in connection with the grant; and signed approval of the memorandum by the Secretary constitutes authorization to execute a grant award to the applicant.

These enhanced record-keeping measures ensure that the roles and actions of Department officials involved in the grant-making process are fully transparent. These measures also reinforce the principle that no official should take actions intended to influence the award or distribution of grant funds that are external to this systematized, transparent process.

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Thank you for presenting a thorough report that offers constructive recommendations to improve the Department's grant-making process. Although the events that gave rise to this audit occurred at a time of great urgency and strain for our nation, we have been able to use the intervening period to make many of these improvements. We look forward to working with you to assess and enhance the effectiveness of these measures in the future.

Sincerely,

A handwritten signature in black ink, appearing to read "Steven J. Law", written in a cursive style.

Steven J. Law
Deputy Secretary