Texas Workforce Commission

A Member of Texas Workforce Solutions

September 26, 2007

Mr. Dwight Gates
Acting Audit Director
U.S. Department of Labor, Office of the Inspector General
61 Forsyth Street SW
Atlanta, GA 30303

Re: Texas National Emergency Grant Audit (Report Number 04-70-007-03-390)

Dear Mr. Gates:

The Texas Workforce Commission (TWC) appreciates the opportunity to respond to the U.S. Department of Labor (DOL), Office of the Inspector General (OIG), audit of Texas' Hurricane Katrina Evacuee/Rita Workforce Investment Act (WIA) National Emergency Grant (NEG) program. TWC must, however, express disappointment in the characterization of TWC's reporting and response. First, TWC believes that the executive summary does not present an accurate portrayal of the scale of these state-wide disasters; OIG's statement that "many thousands of people were evacuated to Texas" grossly under-represents the true nature of these back-to-back, unprecedented natural disasters. Furthermore, the executive summary simply fails to recognize Texas as an affected state and, consequently, neglects the services provided to Texans with NEG funds.

As the OIG is well aware, Hurricanes Katrina and Rita were not typical national emergencies. Just as the events surrounding these disasters were extraordinary, so was Texas' response. Consequently, TWC urges OIG to reconsider the characterization of these events and of Texas' response. Without the proper characterization of the events, the draft report fails to demonstrate just how well DOL and Texas responded to these national crises. To do less, is to make DOL and Texas' actions insubstantial when, in fact, these actions were swift, effective, and carried out on a scale that was unprecedented.

To be accurate, more than 480,000 Katrina impacted individuals evacuated to Texas. Within a few short weeks, tens of thousands were displaced by Hurricane Rita. As the largest state adjacent to Louisiana, Texas absorbed the most evacuees of any state. More than 480,000 people sought assistance from the Federal Emergency Management Agency (FEMA) in Texas. In addition, TWC handled nearly 400,000 Unemployment Insurance-related phone calls on behalf of Louisiana claimants.

Within 30 days of the influx of over 480,000 evacuees, Hurricane Rita destroyed southeast Texas and sent waves of Texans seeking shelter while scattering the Katrina evacuees. In other words, Katrina evacuees were re-evacuated to dozens of cities and communities across Texas, some as far away as El Paso and Lubbock. Katrina evacuees were uprooted just as they were poised to use workforce services effectively as their basic needs for shelter, food, and communication were stabilized.

While the NEG program originally may have been intended to serve Hurricane Katrina evacuees, Texas—as an eligible state—sought authorization to use the NEG funds for Hurricane Rita. For the next five months, TWC administered two completely different disaster programs.

Because the Flexibility for Displaced Workers Act of 2005 granted Katrina victims special consideration under the NEG program and caused a disparity in services between Texans affected by Hurricane Rita and evacuees who had taken shelter in Texas, Texas was compelled to seek relief from the U.S. Congress. Congress recognized Texas' barriers to service and took specific action to remedy the disparity. As many of the evacuees were both Katrina- and Rita-impacted, identifying whether they were eligible under one disaster or the other in order to limit the services that were available to them was not always a simple task. Many of these Katrina evacuees were unable to complete the process to secure identification they had lost or left behind in their passage to Texas. Congress, therefore, allowed Texas to serve Katrina and Rita evacuees similarly.

In the October 2005 request to waive siloed WIA reporting requirements, TWC cited its development of system-wide, integrated performance measures that were based on the federal Common Measures. TWC operated the NEG program in the context that we would be held fully accountable for reporting on the full spectrum of NEG-funded services provided in any context: in Texas Workforce Centers, in mobile units, over the Internet and in Red Cross shelters. TWC notes that in June 2007, before the Subcommittee on Higher Education, Lifelong Learning, and Competitiveness, Committee on Education and Labor (House of Representatives), Mr. Sigurd R. Nilson, Director of the Government Accountability Office, offered testimony critical of DOL's approach to recording self-service participants:

> WIA performance data do not include information on all customers receiving services....WIA excludes job seekers who receive core services that are self-service or informational in nature from being included in the performance information.... *Customers who use self-services are estimated to be the largest portion of those served under WIA.* [emphasis added]

DOL has consistently recognized Texas for furthering DOL's long-standing goals of promoting integration of service delivery and improving reporting on all one-stop customers. Is OIG now officially contradicting the GAO's characterization of WIA customers as including those who are self-service participants? If so, this is a wholesale change to WIA services that Congress could never have intended. TWC's approach to tracking customers and reporting on their outcomes is consistent with the GAO's call for complete information on WIA customers and reflects the policy principles articulated under the federal Common Measures.

The inclusion of participants who self-served or received informational services under the NEG is not an over-statement of the numbers of participants served. Texas' count is accurate. The implication of the draft report is that serving these individuals under the NEG was somehow improper. That result entirely undercuts DOL's effectiveness in responding to the disasters. The report, as it is currently written, turns its back on the thousands of impacted individuals desperate for NEG assistance for which they were legally entitled. Furthermore, reporting self-service customers in the "footnote" section of a quarterly performance report does not recognize the tremendous effort, coordination, and public service provided to evacuees in the temporary Workforce Centers set up in shelters, disaster recovery and other locations accessible only to them across the state—services that Texas was able to fund solely by virtue of the directing NEG funds to these activities. As a result, TWC disagrees with the December 2006 guidance that directed TWC to exclude self-service participants and contends that self-service participants should be included in the total number of participants served by the NEG.

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It is important to emphasize that, in the midst of the humanitarian crisis, efforts to document eligibility through a "case file" system would have been rightly perceived as a bureaucratic waste of time and resources. *Every evacuee in the Red Cross shelters or FEMA disaster recovery centers where Boards co-located their services was eligible for NEG-funded services.* OIG would no doubt have criticized Texas for not quickly serving these impacted individuals because their "file was not complete." In fact, TWC believes that by establishing a basis for future electronic record matching with FEMA participant records as well as other states' UI records, WorkInTexas.com provided a best practice for capturing services that are provided under extremely challenging conditions. We, likewise, request that you take into account Congress' actions in regard to Texas' unique challenges when serving both Katrina and Rita impacted individuals.

Enclosed is TWC's complete response to the audit objectives. We request that OIG amend the executive summary to depict the true scale of these disasters and to provide context for the programmatic challenges imposed on states when operating NEGs outside of the federal Common Measures.

If you have questions, please contact Laurence M. Jones, Director, Workforce Development Division, at (512) 936-0697 or larry.jones@twc.state.tx.us.

Sincerely,

Larry E. Temple
Executive Director

Enclosure

cc: Diane Rath, Chair and Commissioner Representing the Public, TWC
Ron Lehman, Commissioner Representing Employers, TWC
Ronald G. Congleton, Commissioner Representing Labor, TWC
H. E. "Gene" Crump, Deputy Executive Director, TWC

TWC Response to Audit Objectives for Texas' NEG

- **Were the NEG expenditures allowable, reasonable, allocable, and reported accurately?**

TWC appreciates OIG's determination that tested grant expenditures were allowable, reasonable, properly allocated, and accurately reported.

- **Were the NEG activities and outcomes reported accurately?**

TWC disagrees with OIG's determination regarding the accuracy of NEG reporting.

Issue One: Participant Eligibility

TWC issued directives to establish temporary Texas Workforce Centers at major hurricane shelters, FEMA disaster recovery centers, and shelters or centers established by other governmental entities to provide a *one-stop experience* for disaster assistance. These on-site centers benefited evacuees by allowing them to file for Unemployment Insurance (UI) benefits, receive career and professional counseling, conduct job searches, or prepare résumés. Employers wanting to recruit hurricane evacuees were allowed to set up recruitment tables inside the temporary Texas Workforce Centers. Employers used banks of computers installed inside temporary Texas Workforce Centers to post jobs, and recruited and interviewed potential hires on the premises.

For both logistical and practical purposes, TWC directed that the services and activities in these locations be tracked through WorkInTexas.com. Given evacuees' circumstances following these disasters, promoting the use of WorkInTexas.com allowed evacuees to establish an early connection to Texas' labor market and provided them with the ability to reconnect to job seeker services from any location throughout Texas or the nation. As a result, TWC provided robust, portable, highly valued services.

As TWC's NEG-funded Employer Hotline strategy began yielding a significant number of job postings, TWC immediately launched an extensive outreach campaign to promote the use of WorkInTexas.com to evacuees in Texas and to Louisiana employers. During the first three program quarters, the number of WorkInTexas.com self-service-only customers reflects the results of these NEG-funded efforts.

NEG Participants		
Quarter Ending	Staff-Assisted	WorkInTexas.com Self-Service Only
Sep. 06	**20,814**	3,470
Dec. 06	**45,100**	11,097
Mar. 06	**53,740**	15,729

NOTE: Totals are cumulative.

TWC took the following steps to track NEG participants who received services in temporary shelters and disaster recovery centers:

- Provided guidance on appending "Katrina" or "Rita" to last names until automation changes were completed; and
- Modified WorkInTexas.com to allow individuals to self-attest to their eligibility.

TWC converted all WorkInTexas.com records to a hurricane-flagged record.

Upon receipt of FEMA participant data and with a data-sharing agreement in place with Louisiana UI, TWC conducted an exhaustive effort to cross-reference each prospective NEG participant from all available data resources and transmitted this information to the Local Workforce Development Boards (Boards). TWC continued its attempts to obtain updated FEMA participant data as the original files shared with TWC contained addresses such as "the Houston Astrodome." TWC even tracked returned mail. The chart below summarizes the application of the data by TWC and the Boards.

Data Source	Variables, Frequency	Match To	Produces	Distribution
Louisiana (LA) UI	SSN; Name; Address; City; State; ZIP code. Two types: All and Active (weekly)	WorkInTexas.com	Not in WorkInTexas.com	1. LA UI outreach list to local workforce development area (workforce area)
			In WorkInTexas.com	2. LA UI (document WorkInTexas.com Hires)
		TWIST (NEG)	In Temporary Employment	3. LA UI (document wages received in NEG) 4. Workforce area outreach on behalf of LA UI (to ensure LA UI claimants reporting wages)
		TWIST (all)	Served in other programs	5. LA DOL (document services from TWC)
		Mailing	Returned mail	6. LA UI – returned mail list 7. LA UI – updated addresses 8. Workforce area outreach to LA UI claimants updates – no further outreach possible
FEMA	SSN; Name; Workforce Area; Address; City; State; ZIP code; Disaster Number; Location: Hotel/Motel, Family/Friend, Mass Shelter, Damaged Dwelling,	WorkInTexas.com	WorkInTexas.com outreach	9. FEMA outreach list to workforce areas
		TWIST (all)	Workforce area outreach list	

TWC Response to OIG Audit Objectives for Texas' NEG 2

	N/A, Other; E-mail; Phone Number; # of Dependents; Where they originated from (e.g., Orleans Parish)			
LA Repatriation Project—FEMA Austin Joint Field Office	FEMA Registration Number; Applicant Name; Last four digits of SSN; Does applicant want to return to LA?; Will applicant live in a travel trailer?; Is applicant a homeowner or renter?; Damaged property address; Current mailing address; Current phone number	WorkInTexas.com	In WorkInTexas.com	10. Workforce area _99 to outreach for LA employers
			Not in WorkInTexas.com	11. Workforce areas for WorkInTexas.com registration
		TWIST (NEG)	In Temporary Employment	12. Workforce Area _99 to outreach for LA employers
		TWIST (all)	In NEG or other	13. Workforce areas to outreach for LA employers

TWIST: The Workforce Information System of Texas; workforce area: local workforce development area; Workforce area_99: TWC Employer Hotline temporary staff

Issue Two: Self-Service Participants

As OIG notes, TWC engaged DOL in April 2006 to obtain definitions and specifications for report production and performance reporting, as these are not provided by DOL in the *Federal Register* NEG Quarterly Progress Report Definitions of Performance Factors for Common Measures. Based on the anticipated approval of TWC's October 2005 WIA performance reporting waiver request, TWC vetted these discussions on NEG reporting within the Employment and Training Administration (ETA), Office of National Response, with the assistance of the Office of Performance and Technology.

TWC never asserted that WorkInTexas.com self-service-only participants were determined eligible and enrolled in the NEG program. However, TWC did assert—by virtue of including these individuals in the participant counts—that these individuals were hurricane-affected and received NEG-funded one-stop services. Consequently, it is misleading to state that TWC did not report NEG activities and outcomes accurately. TWC maintains that the inclusion of self-service participants in the NEG participant

count is consistent with the guidance to states in TEGL 17-05 and ensures the uniform application of ETA policy.

In Training and Employment Guidance Letter (TEGL) No. 17-05, DOL articulates that one purpose for the introduction of Common Measures is "to more accurately reflect the true number of individuals who benefit from the One-Stop system." It is ETA's intended purpose to "provide Congress, the public, and other interested stakeholders with more complete and accurate information on participation levels and types of services being provided through the nation's workforce investment system, *including data on customers who access services via electronic technologies*." [emphasis added]

Specifically, TEGL 17-05, Attachment D, directs states to assist Boards in making these determinations:

> In accordance with policy principles articulated in the TEGL, if a participant is served by a specific funding stream, he/she will be counted as a participant in that funding stream's reporting system and/or performance calculations. For example, Wagner-Peyser Act funds are often used to support and maintain One-Stop Career Center operations, electronic tools, job banks, and workforce information services. In these situations, it would be appropriate to include participants who accessed or received Wagner-Peyser Act-funded services in the Wagner-Peyser Act performance accountability system. Where WIA program funds are used in similar ways, participants who receive self-service or informational activities would only be included in the WIA participant and services counts, but would not be counted in the WIA performance measures.
>
> *State workforce agencies are in the best position to assist local workforce investment boards and One-Stop Career Centers in making these determinations and are accountable for assuring uniform application of ETA policy.* [emphasis added]

Under Common Measures, states are encouraged to report on participants—i.e., all individuals who receive services within the one-stop environment funded by that program—but only include program participants in program performance measures. OIG narrowly construes the term "participant" to have the same meaning as "program participant"—that is, an individual determined eligible and enrolled in a program. Therefore, OIG uses the terms "participant" and "program participant" interchangeably, which is misleading because Texas was an early implementer of federal Common Measures.