# APPENDIX B: ETA RESPONSE TO THE REPORT

**U.S. Department of Labor**

Employment and Training Administration
200 Constitution Avenue, N.W.
Washington, D.C. 20210

SEP 2 5 2018

MEMORANDUM FOR: ELLIOT P. LEWIS
Assistant Inspector General for Audit

FROM: MOLLY E. CONWAY
Principal Deputy Assistant Secretary

SUBJECT: Response to the Office of Inspector General (OIG) Draft Audit Report No. 26-18-002-03-360, *Experience Works, Inc Misused More Than $4 Million in SCSEP Grant Funds*

Thank you for the opportunity to respond to the draft audit report related to the misuse of federal funds by Experience Works, Inc. (EW). The Employment and Training Administration (ETA) is committed to the integrity of our programs and welcomes the opportunity to address these recommendations.

In 2015, ETA conducted a financial compliance review of three Senior Community Service Employment Program (SCSEP) grants awarded to EW. The purpose of the review was to verify that EW's management was complying with the financial and administrative requirements governing the grants. ETA conducted the review after complaints about potential fraud and abuse were filed against EW in 2014. During this review, ETA also detected potential fraud and abuse. In both instances, ETA immediately notified the OIG and requested assistance, which resulted in the OIG beginning this audit in 2016.

The draft audit report makes five recommendations related to specific corrective actions related to the grants to EW. ETA has listed each of these five recommendations directly below, followed by one ETA response that is applicable to all of them:

**<u>OIG Recommendation 1</u>: Require EW to return $1.3 million to its employee leave account, and pay $294,577 of that amount in lump-sum annual leave payouts owed to former employees who separated from EW from December 2016 through December 2017.**

**<u>OIG Recommendation 2</u>: Require EW to provide an updated accounting of its leave funds, including the leave liability for current employees and leave amounts owed to separated employees, as well as its payment plan to make these individuals whole, for ETA's review and approval.**

**OIG Recommendation 3: Require EW to use non-grant funds to reimburse DOL for $1.83 million in unallowable costs, which overlaps many of the disallowed costs noted in ETA's Monitoring Report issued December 2015 and follow-up response issued in August 2016.**

**OIG Recommendation 4: Require EW to continue to improve internal controls to adequately safeguard federal resources.**

**OIG Recommendation 5: Ensure EW's corrective actions to address recommendation nos. 1 - 4 above are adequate to safeguard federal resources.**

ETA Response to Recommendations 1 – 5: ETA agrees with these recommendations and the Audit Resolution Unit (ARU) in the Office of Grants Management's Division of Policy Review and Resolution will implement these recommendations. Initial and final determinations will be issued according to the process outlined in the Department of Labor Manual Series (DLMS) 8 Chapter 500. We will ensure that EW's corrective actions adequately address the OIG's recommendations.

As previously mentioned, ETA issued a monitoring report in December 2015 on EW's program and financial operations. In response to ETA's official notification of the findings, EW provided responses that included more than 1,000 pieces of documentation. ETA will continue its review of those documents, along with any additional documentation received as a result of the OIG's report. To support ETA's resolution process, ETA respectfully requests documentation after the issuance of the OIG's final report that supports the amount of unallowable costs ($1.3 million, $294,577, and $1.83 million) identified by the OIG.

**OIG Recommendation 6: Improve its monitoring of SCSEP grant funds to ensure grantee operations are consistent with the agency mission, in compliance with laws and regulations, and with minimal potential for waste, fraud, and mismanagement. This includes providing monitoring staff guidance and training to perform effective risk assessments and monitoring reviews.**

ETA Response: ETA agrees with this recommendation. Since the 2015 on-site monitoring review of EW, ETA has issued Training and Employment Guidance Letter 23-15, *The Process for Making High Risk Determinations after Award and the Associated Risk Mitigation Procedures* (https://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=6330), which describes the ETA process of assessing risk and how to mitigate it. ETA has also developed a revamped Core Monitoring Guide (CMG) to reflect the changes in federal statue, regulations, and program policies. The goal of the CMG is to provide ETA's reviewers with a tool to perform an on-site review of a grant recipient's core activities and evaluate the management and administration of the grant(s). ETA's national and regional staff are in the early stages of developing training on the new CMG. In addition, Federal Project Officers (FPO) have access to other technical assistance tools to assist them with grant management, including pre-recorded training modules on many Uniform Guidance subjects. These resources are found at www.WorkforceGPS.org.

During the course of this audit, the OIG also issued an interim report that included two additional recommendations. According to this draft audit report, ETA's corrective actions were sufficient to resolve and close the first interim recommendation; however, the second interim

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recommendation remains open. The remaining interim recommendation is listed below, followed by additional information for the OIG to consider in evaluating this recommendation for closure:

**OIG Interim Recommendation 2: Ensure future grant solicitations' award criteria provide for appropriate assessment of financial stability, quality of management systems, and history of performance.**

ETA Response: ETA agrees with this recommendation and has taken steps that ETA believes fully address this recommendation. Since the interim report, ETA has implemented a recent enhancement in our Funding Opportunity Announcements (FOAs) requesting additional financial information from our applicants. The Grant Officer will use this additional information in the Risk Review Process prior to making selections. An example of this implementation in ETA's FOAs may be found in the recent Scaling Apprenticeship Through Sector-Based Strategies FOA at https://www.doleta.gov/grants/docs/FOA-ETA-18-08.pdf, starting on page 57.

In addition, ETA would also like to provide additional clarification on two items contained in the OIG's draft audit report for the OIG's consideration when issuing the final audit report. First, on page 18, the OIG indicates that ETA "allowed the promotion" of an unqualified individual. ETA did not specifically approve of this individual assuming the role of Chief Executive Officer (CEO). ETA approved a grant modification to allow organizational changes to the field structure of the grantee. While it is true that a resume for this individual was included in this modification request, the OIG acknowledged that the resume provided to ETA inflated this individual's experience. Further, a copy of the job description that the OIG compared the resume against to make the determination that this individual was not qualified for the CEO position was not included as part of the modification request.

Second, on page 19, it appears that the OIG is attributing ETA's reduction of the cap on SCSEP grant award sizes to EW's actions, based on the placement of this bullet in the draft audit report. That decision was not dependent on the EW findings. While what occurred at EW was a factor in the decision-making process, it was not the only factor. As the bullet itself indicates, ETA took this step to reduce the financial risks inherent with large grants; it was not a direct result of EW's actions. Since this section of the draft audit report is a listing of the impacts of EW's actions, ETA suggests that the OIG delete the reference to ETA's prudent reduction of grant sizes and focus on the impact of EW's actions on their own situation, as follows: *Reduced SCSEP Grant Award* – EW's financial stability resulted in it losing a sizable amount of its former service areas when ETA assessed the risks involved in EW's new SCSEP application. Specifically, EW's direct SCSEP grant award was reduced from $84 million to $11.5 million.

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## APPENDIX C: EW RESPONSE TO THE REPORT

ExperienceWorks
Formerly Green Thumb

September 25, 2018

To: Elliot P. Lewis
Assistant Inspector General for Audit

From: Sally Boofer
President and CEO, Experience Works *Sally Boofer*

Subject: OIG Report Number 26-18-002-03 360: "Experience Works Misused Over $4 Million in SCSEP Grant Funds"

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Experience Works (EW) appreciates the opportunity to respond to the Office of Inspector General's (OIG) report, *Experience Works Misused Over $4 Million in SCSEP Grant Funds.* EW takes seriously the OIG's report, and for the reasons outlined below, disagrees that it misused over $4 million in grant funds.

Prior to the beginning of the audit, the EW board members elected in 2015 discovered many improprieties by the previous leadership team and took action: the then-EW board chair and leadership team were removed and an entirely new board and executive management team were installed. Under the new board and executive management team, EW has implemented more stringent controls and procedures and deployed new management systems to ensure strong compliance and stewardship of SCSEP. EW's current board and management team are committed to resolving all outstanding issues with the Federal government, fully compensating its employees and former employees, and continuing to serve its SCSEP participants.

The OIG report (page 3) states that from 2012 to 2015 EW misused $4.2 million in four areas: (1) employee leave funds; (2) executive compensation; (3) severance payments; and (4) travel and other expenses. EW disagrees with this conclusion and provides a response for each area.

1. **Employee Leave Funds.** EW recognizes that it is responsible for compensating its current and former employees for annual leave due. The current board and leadership inherited an Employee Annual Leave Fund (EALF) with insufficient funds to cover its liabilities when EW needed to terminate 175 employees from late 2016 through 2017 due to an 85% budget reduction by DOL-ETA. The OIG report misstates the amount of unfunded leave. As of September 19, 2018, EW's total liability for unpaid employee leave is $700,113 (including estimated fringe benefits), not the $2,348,788 shown on Figure 1, page 3 or the amount of $1.3 million indicated in recommendation 1.

The current board and leadership team is fully committed to making EW's former employees whole. To this end, EW is in constant communication with the former employees and continues to pay them their leave when unrestricted funds are available. The most recent payment occurred in October 2017.

As part of its leave discussion, the OIG report highlights the role of SWIFT. SWIFT is a subsidiary of EW that the previous board and management established to purchase and manage the JobReady program. JobReady is and was EW's integrated, online assessment, individual employment plan and training platform. EW began using the JobReady program in 2007 and worked with the then owner to customize it for EW. At the time of purchase, JobReady included more than 19,500 Individual Employment Plans for over 12,000 SCSEP participants and, most importantly, it was required by EW's SCSEP grant.

EW purchased JobReady in 2014 when its then owner planned to discontinue the maintenance and support of JobReady. By establishing SWIFT and purchasing JobReady, EW preserved its ongoing operations, continued to comply with its SCSEP grant, and protected its investment in the customization. No federal funds were used for the purchase. Further, JobReady costs were less than other available tools that could meet EW's SCSEP grant and operational needs.

EW's audited Consolidated Financial Report for the period ending June 30, 2014, indicates that EW had unrestricted net assets of $1,893,895, more than seven times the purchase price of JobReady. Had it been necessary at the time, EW could have liquidated its assets and fully paid its employees their annual leave and paid for the JobReady program. The overspending of the grant occurred in the program year subsequent to purchasing JobReady.

2. **Executive Compensation**. The $759,875 questioned by the OIG report covers the entire salaries of the CEO for 2½ years of employment, the Director of Operations for two years, and the Chairman for the five months when he served as interim CEO. This questioned amount represents an annual average salary of approximately $155,000, which is below the average pay for similar positions in similar-sized nonprofit organizations. During this period EW performed well, achieving all six of its SCSEP performance goals in PY13-14 and PY14-15. Insofar as the CEO, Director of Operations, and Chairman when acting as interim CEO performed services on behalf of the organization, it is unreasonable to disallow these salaries during a period when the organization was a top performing SCSEP grantee.
3. **Severance Pay.** The $659,094 severance amount that the report questions is inflated. EW agrees that in a few cases the former management paid severances that exceeded Schedule A of its DOL-approved severance policy and may have been excessive under

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the circumstances. With these few exceptions, however, EW followed its DOL-approved severance policy – which is not acknowledged in the OIG report.

4. **Travel & Other Expenses.** The OIG report questions $392,197 in travel and other expenses based on a sampling of transactions during the period of May 2012-January 2016. It is important to note that none of the questioned transactions occurred after EW installed its new board and management team.

   Many of the questioned transactions are allowable and supported by proper documentation. For example, the report questions $47,599 (approximately 90%) of the former Board Chairman's travel including $15,578 for trips to EW headquarters. The report questions the headquarters travel for "... no documentation to show a business purpose." During this time period, the Board convened 14 times at EW's headquarters with minutes documenting the meeting and the Board Chair's presence. Additionally, the Board Chairman met with funders, attended staff conferences, and conducted other pertinent business. The questioned costs for travel and other expenses in the OIG report is significantly overstated.

**Conclusion**

During the period of the audit in PY14/15, EW used $1.3 million of its unrestricted funds and annual leave fund to support grant operations, 87% of which went for participant wages and benefits. EW's payment of allowable costs with its own unrestricted funds exceeds any reasonable calculation of questioned costs identified in the audit. Once the unpaid leave amounts are restored, there will be no payment due to the DOL as any remaining questioned costs will be more than offset by EW's use of its other funds for grant purposes.

The OIG makes six recommendations to the Assistant Secretary for Employment and Training, four of which require action on the part of EW.

- OIG Recommendation 1. Return $1.3 million to its employee leave account, and pay $294,577 of that amount in lump-sum annual leave payouts owed to former employees who separated from EW from December 2016 through December 2017.

  EW Response. EW disagrees with the amounts specified in the OIG recommendation. EW intends to fully pay its current and former employees for their annual leave and has already made payments to this end.

- OIG Recommendation 2. Provide an updated accounting of its leave funds, including the leave liability for current employees and leave amounts owed to separated employees, as well as its payment plan to make these individuals whole, for ETA's review and approval.

  EW Response. EW has and will continue to track all monies owed to current and former employees, and pay them as funds become available.

- OIG Recommendation 3. Use non-grant funds to reimburse DOL for $1.83 million in unallowable costs, which overlaps many of the disallowed costs noted in ETA's Monitoring Report issued December 2015 and follow-up response issued in August 2016.

  EW Response. EW disagrees with the $1.83 million in the OIG report. EW will work with ETA to identify and resolve all legitimate questioned costs.

- OIG Recommendation 4. Continue to improve internal controls to adequately safeguard federal resources.

  EW Response. EW has implemented new controls, procedures and systems to safeguard federal funds and will continue to monitor their effectiveness and strengthen them as appropriate.

The last two recommendations are directed to ETA specifically so EW is not commenting on them.

The current EW board and management looks forward to fully resolving these matters with DOL, making whole its employees and former employees, and focusing its full attention on providing SCSEP participants and other stakeholders the highest service possible.