

APPENDIX B: AGENCY'S RESPONSE TO THE REPORT


U.S. Department of Labor

Assistant Secretary for
Employment and Training
Washington, D.C. 20210



December 16, 2020

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

FROM: JOHN PALLASCH 
Assistant Secretary for Employment and Training

SUBJECT: Response to the Office of Inspector General Draft Report Number
02-21-002-03-391 – *ETA Needs to Improve Its Disaster National
Dislocated Worker Program*

Thank you for the opportunity to respond to the Office of Inspector General (OIG) draft report, *ETA Needs to Improve Its Disaster National Dislocated Worker Program*. The draft report provides the OIG's conclusions regarding the Employment and Training Administration's (ETA) administration of National Dislocated Worker Grants (DWG) for cleanup and restoration and for career and supportive services for people affected by an emergency or major disaster. The draft report focuses on Disaster Recovery DWGs for hurricane and wildfire cleanup and evacuee assistance funded under the Bipartisan Budget Act of 2018.

ETA appreciates the OIG's recommendations and is committed to continuous improvement of the DWG program. ETA recently published Training and Employment Guidance Letter (TEGL) 12-19, Change 1, clarifying that DWG recipients' past performance will be taken into account during the review of incremental and supplemental funding requests. In addition, ETA has implemented increased technical assistance procedures to support states and other grant recipients with DWGs to address the COVID-19 pandemic to help them resolve challenges or concerns early in the life of their grants to promote more rapid implementation and enrollment of participants.

Before addressing the six audit recommendations, feedback is provided below on a few themes in the draft report. ETA is hopeful that the OIG will find the feedback helpful and will make revisions in the final report to provide a more accurate characterization of the program for the public.

As ETA previously shared with the OIG, the start date for the calculation used to assess the time elapsed to provide DWG services by a grant recipient is the date of the grant award, not the date of the disaster declaration made by the Federal Emergency Management Agency (FEMA). A state has to officially receive a grant award before it can begin to provide DWG services. ETA agrees with the OIG's underlying premise and will work with grant recipients to provide services as quickly and effectively as possible after a disaster. That said, the OIG's use of the disaster declaration date as the starting point for this metric leads to inaccurate statements, such as the following on page 4 of the draft report: "There was no criteria or guidance on when services to participants should have begun after a disaster declaration," and "...was the result of the lack of criteria specifying how long services should have begun after a disaster declaration." Until a

grant award is made, the emergency services of the grant cannot be offered. There are innumerable instances of disaster declarations being issued in which a state does not apply for a DWG. For example, a storm may not actually impact a state that receives a disaster declaration, or the damage from the storm could be minimal and not severe enough to require DWG assistance. However, ETA agrees that services should be delivered quickly once a state determines a DWG is necessary and receives an award. ETA works with any state where a disaster declaration is received to assist it in determining whether to submit a Disaster Recovery DWG application, which also prepares ETA to respond in a timely manner if the state decides to submit an application.

ETA also recommends the OIG reconsider the discussion in the *\$2.5 Million in Funds that Could Have Been Put to Better Use* section of the draft report prior to issuing the final report. Specifically, ETA suggests striking the statement that “Puerto Rico obligated \$2.5 million that was not necessary for Hurricanes Irma and Maria,” and the OIG’s determination on pages 12 and 13 of the draft report that the initially approved mobile unit costs are “...not allowable because it was not directly related to the consequences of Hurricanes Irma and Maria, as required by grant management regulations, policies, and procedures.”

ETA approved the mobile unit purchase based on the Commonwealth’s justification that the American Job Centers “suffered significant damage to their infrastructure” and did not have appropriate facilities for the provision of workforce services. The mobile units would have assisted with service continuity in the storms’ aftermath, as well as enabled service delivery to rural locations. After the grant’s period of performance, these mobile units would have continued to sustain workforce development services to remote areas, as the Commonwealth’s request also noted that Hurricane Irma destroyed two of their mobile units that were used to serve remote areas.

On February 5, 2020, the Federal Project Officer for this grant notified the Grant Officer that the Commonwealth had not completed the mobile unit procurement process two years after the hurricane and one year after the equipment approval. The Grant Officer subsequently reconsidered the equipment approval and determined that this delay made the proposed cost of the mobile units no longer necessary and reasonable, per Uniform Administrative Requirements, Cost Principles and Audit Requirements at 2 CFR 200. Further, Employment and Training Order 2-17 stipulates:

Recipients may not purchase equipment in the last funded year of performance, which is defined as full program service delivery (not follow up activities), which may not be the same as the last twelve months of the period of performance. Even with prior approval, recipients may not purchase equipment in the last funded year of program operations, except under limited circumstances that are subject to a joint review by the National and Regional Grant Officer. If any approved acquisition has not occurred (i.e. the procurement has been executed) prior to the last funded year of performance, approval for that item(s) is rescinded.

Based on the application of the aforementioned regulations and policy, it was determined these costs, which would have been allowable if they had been incurred much earlier in the grant's period of performance, were no longer reasonable in early 2020, with the DWG ending on September 30, 2020. Consequently, the Grant Officer rescinded approval for the mobile units on March 5, 2020. As Puerto Rico's purchase of the mobile units was not timely, the funding approved for this expenditure will be returned to the Treasury. ETA agrees that this unliquidated obligation could have been put to better use by addressing other allowable DWG activities.

Finally, ETA disagrees with the OIG's characterization that minimal oversight of the states was provided. As ETA shared with the OIG during the course of this audit, ETA dedicated a significant amount of resources to providing oversight of Puerto Rico. ETA's Boston Regional Office held weekly technical assistance calls with Puerto Rico to aid the State's implementation of the grant. In addition, ETA also monitored Puerto Rico twice, on-site in late 2017 and via a hybrid on-site/remote review in early 2018, to assess its implementation of their DWG. ETA's Atlanta Regional Office monitored Florida's DWG in early 2019. An on-site review was conducted at Ft. Lauderdale Career Source as a part of this monitoring.

The OIG made the following recommendations based on its audit. ETA's response follows each of the recommendations.

OIG Recommendation 1: Establish written timelines for when disaster relief should be begin providing relief to those impacted by a disaster.

Response: ETA agrees that the need for funding by states is immediate following a federal disaster declaration. DWG emergency funding enables states to quickly employ eligible individuals in disaster-relief positions to address the related cleanup and humanitarian assistance needs. ETA has established a new metric to track how quickly Disaster Recovery DWG recipients operationalize their projects and uses this metric in its reviews of grant recipient operations. ETA is collecting data to establish a baseline and tailored target goals for Disaster Recovery DWGs to have all agreements and services in place and deliver services after receiving an award. The tracking of this metric involves the close monitoring of every grant's enrollments, additional technical assistance for any first-time grant recipients unfamiliar with disaster-relief subsidized employment, and increased emphasis and technical assistance regarding accelerating enrollments. ETA plans to use this data to set performance goals for timeframes for serving participants, which may vary by type of DWG.

ETA, however, does not plan to establish a single timeline for all Disaster Recovery DWG awards, because grants serving Department of Health and Human Services-declared public health emergencies, such as the COVID-19 pandemic and the opioid crisis, are very different from awards made in response to a FEMA natural disaster declaration, and states may apply for grants at varying lengths of time after a disaster. The type of disaster and its extenuating circumstances affect the timing of the DWG application submission, the subsequent award, and ultimately, the provision of grant services. For instance, states may not be able to submit an immediate application in the event of severe flooding, as initial damage cannot be assessed until flood waters recede. In addition, some states prefer to forgo submitting an emergency application and, instead, take the time to thoroughly assess damages and submit a full application

containing a budget and implementation plan. Although ETA does not plan to establish a single metric, ETA does conduct regular technical assistance for grant cohorts, holding separate meetings and developing separate materials for each DWG type that speak to the specific requirements of those projects. ETA uses this technical assistance to address expectations for operationalizing the projects and to provide an assistance framework for monitoring against grant-specific timetables.

OIG Recommendation 2: Develop a strategy to continuously work with state grantees to ensure local areas maximize the use of disaster relief funds, and that states are sufficiently monitoring subrecipients.

Response: ETA agrees that assisting states awarded Disaster Recovery DWGs can provide value to those grant recipients in creating and sustaining successful Disaster Recovery DWG projects and has been adjusting monitoring and technical assistance to accomplish that goal. For instance, ETA has developed tools to more closely monitor grant implementation timelines and provides direct support to each applicant for COVID-19-related DWGs to encourage more rapid implementation of the grants.

ETA adjusts its technical assistance to Disaster Recovery DWG recipients as the impact of disaster events vary by type and disaster location. ETA works one-on-one to support states as they develop their applications, as well as throughout the lifecycle of the grant as challenges are identified. In some cases, ETA sets up peer-to-peer discussions between states that have had success in particular aspects of their grant (such as recruitment) with states struggling with a similar challenge. Where possible, ETA identifies common challenges across various Disaster Recovery DWGs to share information with the states. ETA also provides individualized technical assistance to state grant recipients to address the specific identified needs they are experiencing in implementing their DWG. Through the provision of this technical assistance, ETA works with grant recipients on their outreach and enrollment challenges and assists grant recipients in addressing any issues they may experience with training and placement of participants and analyzing the utilization of their grant resources.

In cases where a disaster declaration may be more widespread than a fire or a storm (such as the opioid crisis or COVID-19), ETA can and does provide more consistent support for applicants and grant recipients, as there are common themes and consistent challenges across states. Upon publication of the National Health Emergency (NHE) TEGL 4-18 announcing the availability of grants to address the opioid crisis, ETA conducted technical assistance calls to assist potential applicants and to help them address the complicated requirements in their application. ETA continues to hold regular technical assistance calls and webinars for NHE DWG recipients to share promising practices, address identified challenges, and promote peer-sharing related to common challenges, including recruitment, eligibility determination, disaster-relief employment opportunities, grant performance, etc.

As with the NHE DWG recipient cohort, ETA intends to provide extensive technical assistance to COVID-19 Disaster Recovery DWG recipients. In its continuing efforts to provide timely technical assistance, ETA has already hosted several webinars and recorded podcasts, including a peer-to-peer webinar on November 5, 2020, focused on highlighting successes in implementing

COVID-19 Disaster Recovery DWGs to support the goal of ensuring resources are reaching eligible participants more quickly. ETA plans additional technical assistance efforts to support COVID-19 Disaster Recovery DWG recipients in the coming months. An online Community of Practice to share peer-to-peer promising practices and resources is also currently under development. ETA also plans to hold regular conference or video calls with grant recipients throughout the life of the grants to focus on peer sharing, technical assistance, and identifying and addressing any challenges faced by grant recipients. ETA has also developed multiple tools that will be used to monitor quarterly grant progress for all DWGs towards various outcomes, including participant enrollments and performance indicators.

When the COVID-19 disaster was declared, ETA developed a new suggested Disaster Recovery DWG application form and detailed instructions designed to ensure applicants were able to provide the necessary information as quickly and easily as possible so they could receive the requested funding to address the overwhelming health and economic impacts of the pandemic. The suggested form includes fields for applicants to describe the impact of COVID-19 on their communities, the kinds of disaster-relief employment they plan to create to address those impacts, and what steps the grant recipient plans to take to ensure they have established clear and effective strategies for oversight and management of subrecipients. ETA subsequently hosts technical assistance calls with grant recipients to ensure they fully understand the expectations and requirements of the grant. This technical assistance includes a review and discussion of the applicant's proposed plan for oversight and management of subrecipients. ETA is also in the process of planning a technical assistance training series for state grant recipients on monitoring of subrecipients to be provided in Fiscal Year 2021. In addition to providing technical assistance to grant recipients, as part of its monitoring of DWGs, ETA also monitors grant recipients' oversight and monitoring of their subrecipients.

OIG Recommendation 3: Evaluate ETA's monitoring of grantees and technical assistance provided to ensure grantees have greater opportunities to achieve key performance goals.

Response: ETA agrees with this recommendation, and regularly considers how its monitoring and technical assistance could provide grant recipients greater opportunities to achieve program performance goals. In designing the monitoring and technical assistance to support the COVID-19 DWGs, ETA examined prior monitoring and technical assistance efforts and initiated additional and more intensive supports than provided for typical DWGs, as described in the response to Recommendation 2 above. ETA will also continue to execute its core responsibilities in monitoring of DWG awards. Every DWG award is monitored at least once during its lifecycle; many reviews are conducted on-site, but some are desk reviews when budgets or other factors, such as the COVID-19 pandemic, do not permit travel. When monitoring reveals problems with a grant, ETA continues to follow up on issues during the lifecycle of the grant, including noting findings that require formal resolution.

ETA has also taken additional steps to ensure that grant recipients have greater opportunities to achieve performance goals. ETA reviews a grant recipient's performance as part of a determination on the release of incremental or supplemental funding, as requested by the grant recipient. To ensure that all grant recipients fully understand this process, ETA recently released

Change 1 to TEGL 12-19, which clarifies how increased scrutiny of grant recipient performance is a consideration in additional funding decisions.

Further, ETA recently updated the approved Quarterly Narrative Reports that all DWG grant recipients are required to submit. This update adds new clarifying instructions for DWG grant recipients on how to best report on the progress made under the grant. In addition, ETA has developed new tools that will enable regional offices to better use information from Quarterly Performance Reports to monitor the progress of DWGs towards established program performance goals. ETA updates these tools on a quarterly basis and uses the tools as a part of its regular technical assistance efforts.

OIG Recommendation 4: To the extent feasible, consider having grantees verify participant eligibility when self-certifications were used to expedite the eligibility process, as required by the grant agreement.

Response: Use of self-attestation is an option that many states and local areas allow in cases when there may be no other information available to determine an individual's eligibility, such as following a major disaster that destroys the homes and documents of individuals who may be eligible to participate in the Disaster Recovery DWG. Self-attestation is an allowable method of determining participant eligibility in many states and local areas; those entities may have additional supporting information that is required based on state or local policy.

In March 2020, ETA published TEGL 12-19, which contained updated DWG guidance requiring grant recipients to gather additional eligibility information for individuals who used self-attestation at initial enrollment. ETA also established data validation requirements in TEGL 23-19, some of which align with reporting elements related to information used in eligibility determinations and impose certain documentation requirements on grant recipients. The data validation requirements for DWGs are aligned to the WIOA core programs (WIOA Dislocated Worker, in particular), as appropriate.

OIG Recommendation 5: Ensure that on future awards that include self-certification processes, regular eligibility verification is performed.

Response: DWG recipients make eligibility determinations at the time of enrollment in the program, based on DWG eligibility requirements. Based on ETA's updated DWG guidance in TEGL 12-19, grant recipients are required to gather additional eligibility information for those who used self-attestation at initial enrollment. Once a participant's eligibility has been determined and documented, ETA does not require grant recipients to conduct "regular eligibility verification" by repeatedly reviewing the same documentation used to determine eligibility. Grant recipients can continue to serve eligible participants until they exit the program and also provide follow-up services after exit, where needed.

Further, ETA monitors grant recipient processes used to verify participant eligibility. Each grant recipient retains participant files that are reviewed during a monitoring event. If ETA determines in its monitoring that grant recipient files are lacking appropriate documentation or data, ETA

will require such information be added to the file or may question the costs associated with serving an individual who does not clearly meet eligibility requirements.

OIG Recommendation 6: Recover \$1,988,627 in questioned costs.

Response: ETA's Audit Resolution Unit in the Office of Grants Management's Division of Policy Review and Resolution will be tasked to resolve this recommendation. Following the issuance of the OIG's final report, ETA respectfully requests an itemized list of the components that comprise the identified questioned costs. Initial and final determinations will be issued to the grant recipients in question, in accordance with Department of Labor Manual Series 8-300, to determine if there are disallowed costs and any amounts subject to repayment.

ETA takes questioned costs very seriously and views monitoring and enforcement of these costs as a core function. ETA welcomes the opportunity to work with the OIG on more efficient and effective ways of recovering questioned costs.

ETA appreciates the opportunity to respond to your draft report and its recommendations. If you have any questions, please contact Kimberly Vitelli, Administrator, Office of Workforce Investment, at (202) 693-3639.