

APPENDIX B: AGENCY'S RESPONSE TO THE REPORT

U.S. Department of Labor

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



September 28, 2021

MEMORANDUM FOR: CAROLYN R. HANTZ
Assistant Inspector General for Audit

FROM: ANGELA HANKS **AH**
Acting Assistant Secretary

SUBJECT: Response to the Office of Inspector General Draft Audit Report No. 05-21-004-03-375, *ETA Did Not Sufficiently Plan and Execute the American Apprenticeship Initiative Grant Program*

Thank you for the opportunity to respond to the above-referenced Office of Inspector General (OIG) draft audit report. The draft audit report provides the Employment and Training Administration (ETA) the opportunity to reflect on how the H-1B American Apprenticeship Initiative (AAI) grants have been designed and implemented, as well as how future H-1B grants can be improved.

In reviewing the OIG's draft audit report, ETA acknowledges that there is always an opportunity to improve its processes related to the planning of Funding Opportunity Announcements (FOA) and the execution of awards. Furthermore, ETA shares the OIG's view that metrics that directly measure the success of each grant program should be clear, verifiable, and aligned with the broad goals of the grant program.

It is also apparent that ETA did not fully convey its expectations for targeted industries and occupations in the AAI FOA language and/or scoring elements to help reduce America's need for foreign workers under the H-1B visa program. ETA is committed to providing clarity related to H-1B occupations and/or industries in future H-1B FOAs and has been focused on continuously improving and clarifying the intent of H-1B grants in the five years since the AAI grants were awarded.

Response to the OIG Recommendations

The OIG made recommendations based on its review of various aspects of ETA's planning and execution of the AAI grant program, AAI data in the grant recipient performance system through the quarter ending March 31, 2019, and related aspects of the Registered Apprenticeship program. Each of the OIG's recommendations contained in the draft audit report are stated below, followed by ETA's response to each.

OIG Recommendation 1: Improve funding opportunity announcements for discretionary grant programs by:

- a. Evaluating program goals using the SMART concept or a similar approach, and including required metrics that directly measure the success of each program goal, are clear, and are easily verifiable;

- b. Having a scoring element covering completeness of applicant proposals for items requested in the announcement that reduces in points when the proposal is missing an element(s), significantly changes the wording of an element(s), or incorrectly addresses an element(s); and**
- c. Identifying targeted occupations in the FOA language and/or scoring elements, or requiring submission of the career pathway to an H-1B occupation as support during apprenticeship program registrations or apprentice registrations.**

ETA Response: ETA agrees that the FOAs for discretionary grants should continually be improved. Per the AAI FOA, ETA’s intent for the AAI initiative was much broader, multifaceted, and not exclusively limited to helping reduce America’s need for foreign workers under the H-1B visa program. The grant program goals described in the AAI FOA are:

- Support the expansion of quality and innovative American Apprenticeship training programs into high-growth occupations and industries for which employers are using H-1B visas to hire foreign workers and the related activities necessary to support such training (see Appendix A or Foreign Labor Certification Data Center at <http://www.foreignlaborcert.doleta.gov/performance/data.cfm>);
- Create career pathways that encompass American Apprenticeship programs and align American Apprenticeship with post-secondary education through innovative partnerships that leverage high-quality training and classroom-education opportunities;
- Utilize strategies that offer innovative approaches to significantly increase apprenticeship opportunities for all American workers, particularly underrepresented populations in apprenticeship (including women and minorities); low-skilled populations; and veterans, including transitioning service members, to prepare for and successfully enter careers that provide long-term employment and family-sustaining wages in high-skill, high-growth industries;
- Implement new and innovative public policies (at the regional, state, and local levels) or public-private partnerships that increase demand for American Apprenticeship; and
- Ensure that innovation forms the basis for broader change and sustainability that encourages employers to adopt and offer American Apprenticeship opportunities.

ETA agrees that the metrics that directly measure the success of each grant program should be clear and verifiable and aligned with the broader grant program goals. ETA has been using the Specific, Measurable, Achievable, Relevant, and Timely (SMART) model for developing grant outcomes and outputs for FOAs subsequent to the publication of the AAI FOA.

With regard to the portion of the recommendation related to having a scoring element covering completeness of applicant proposals, this is just one approach ETA is currently using. Depending on the requirements of the FOA, ETA assigns point values to all scoring factors within each of the scoring sections; this is the case with most H-1B FOAs. For example, the H-1B One Workforce Grant Program (FOA-ETA-20-13,¹ published on September 24, 2020) provided points for each of the factors and sub-factors within each scoring criterion. Another approach that ETA currently uses, depending on the FOA requirements, is an enhanced pre-screen process to remove an application from further consideration in the initial stage of the review process if a critical application component is missing.

¹ https://www.dol.gov/sites/dolgov/files/ETA/grants/pdfs/H-1B_OneWorkforceGrantProgram_FOA-ETA-20-13.pdf

Finally, with regard to the last portion of the OIG’s recommendation—that ETA identify targeted occupations in the FOA language and/or scoring elements or require submission of the career pathway to an H-1B occupation as support during apprenticeship program registrations or apprentice registrations—ETA is committed to ensuring clarity in future H-1B FOAs related to H-1B occupations and/or industries. ETA has focused on continuously improving and clarifying the occupational training intents in more recent years’ H-1B FOAs. For example, in the following excerpt from the *Apprenticeships: Closing the Skills Gap* (FOA-ETA-19-09,² published on June 24, 2019), ETA clearly defines what it means for applicants to train individuals for H-1B industries and occupations and specifies two options for grant recipients to use to ensure training supports allowable occupations and industries that may be served through the grant, including specific guidance for aligning their training activities with those occupations and industries for which employers are requesting H-1B visas. Under this FOA, applicants could propose occupations that aligned with one of the two options outlined below:

- **Option 1:** *Occupations in an H-1B industry – Applicants may choose to expand apprenticeships in an H-1B industry. An H-1B industry is an industry in which the Department has certified H-1B visas for occupations in that industry. The list of H-1B industries that are acceptable for applications is found in Appendix A. These industries are the information technology (IT) and IT-related industries, healthcare, and advanced manufacturing. Applicants may propose occupations across one or more H-1B industries, target multiple occupations within an H-1B industry, or narrow their focus to a specific occupation within an H-1B industry.*
 - *If using Option 1, applicants that do not clearly identify they are serving one of the H-1B industries identified in Appendix A will be found non-responsive and will not be considered.*

- **Option 2:** *H-1B occupations – Applicants may choose to target a specific H-1B occupation(s) for which a significant number of H-1B visas have been certified, even if that occupation is not in one of the identified H-1B industries listed in Appendix A. If this occupation is not within the H-1B industries identified in Appendix A, the application must provide data showing that the H-1B occupation is one for which a significant number of H-1B visas have been certified. Applicants must use verifiable data to make this demonstration, such as data provided by [the U.S. Department of Labor’s (Department)] Foreign Labor Certification Data Center. Applicants may propose to serve more than one H-1B occupation. The Department is particularly interested in expanding apprenticeships in cybersecurity and [Artificial Intelligence] occupations.*
 - *If using Option 2, applicants that do not demonstrate they are proposing to serve an H-1B occupation and provide justification for a specific H-1B occupation(s) on the application will be found non-responsive and will not be considered.*

More recently, with the H-1B One Workforce Grant Program (grants awarded in January 2021), ETA refined the list of H-1B industries to align with the goals of the grant program by narrowing the focus further than what is required under statute, stating in Appendix A of the FOA:

For the purposes of this FOA, applicants will identify occupations within H-1B industries that are using a significant number of visas to hire foreign workers. Applicants should review the below list of industries that are using H-1B visas to hire foreign workers to

² <https://www.dol.gov/sites/dolgov/files/ETA/grants/pdfs/FOA-ETA-19-09.pdf>

assist your program alignment. These jobs can fall within a single H-1B industry, or may cross more than one H-1B industry.

These are the H-1B industries that we have identified as permissible for applicants to target under this grant competition:

- *IT and IT-related industries*
- *Advanced Manufacturing;*
- *Professional Services (encompassing engineering and surveying occupations)*

With these improvements to its H-1B FOAs, ETA believes that it has fully addressed the OIG's recommendation and respectfully requests that the OIG consider this recommendation for closure.

As ETA continues to provide more context and clarification on allowable H-1B occupations, it is also important that ETA maintains the flexibility to focus within particular in-demand industries that rely on H-1B visas to ensure that ETA is providing training that is adaptive to the needs of employers and industries. ETA will continue to support this work through technical assistance to grant recipients.

OIG Recommendation 2: Develop standard operating procedures for discretionary grant programs, which include internal controls resulting in ETA:

- a. **Identifying information needed from grantees for participant level data, quarterly reporting, or program evaluation, prior to submitting the information collection request to OMB;**
- b. **Having a complete system and supporting documentation (e.g., user guide, data dictionary, business rules) ready by day one of the grant program with appropriate system controls;**
- c. **Obtaining OMB approval numbers for any new information collections prior to collecting information from grantees, verifying the reporting system fields correlate to the approved OMB information collection request, and submitting violations timely to OMB; and**
- d. **Conducting compliance reviews prior to awarding grants; using the review results to change applicant scoring or include a condition of award in applicable grants; awarding each grant prior to or on the start of each grantee's period of performance; and accurately reporting to the public on the grant program.**

ETA Response: ETA agrees that, ideally, reporting requirements and systems would be in place on day one of a grant program. However, this typically is not feasible given the requirement to rapidly develop and obligate grant funds before the obligation period expires while also needing to seek comprehensive and multi-level clearance for the development of performance reporting requirements for new discretionary grant programs and develop the corresponding reporting system.

That said, ETA is committed to process improvements related to the timely development of grant recipient reporting systems. As a part of these efforts, ETA has developed and implemented a new reporting system—the Workforce Integrated Performance System (WIPS)—that officially launched on October 1, 2016. WIPS includes extensive data validation edit checks to ensure complete and accurate data is reported. ETA has since received Office of Management and Budget (OMB) approval to allow all Office of Apprenticeship grants to report quarterly grant

performance data to ETA through WIPS. This ensures that a grant recipient reporting system is in place for new H-1B grants and apprenticeship grant programs in a timely manner. Further, as part of the WIPS rollout, ETA has been able to develop extensive technical assistance materials (e.g., reporting handbooks, data element validation rules, trainings, etc.) to support H-1B grant recipients in understanding performance reporting requirements from the start of their grant period of performance (see https://h1bskillstraining.workforcegps.org/resources/2017/06/08/12/17/H-1B_Performance_Reporting_Resources for an example of recent WIPS performance reporting technical assistance materials).

In addition and since the AAI grants were awarded, ETA has made significant improvements in the compliance review process for new grant programs to ensure that all grants awarded comply with the FOA and other applicable regulations. This includes reviewing targeted H-1B occupations and industries proposed in grant applications, checking that minimum participant service levels meet FOA requirements, reviewing other key grant requirements, and placing appropriate conditions of award on grants when compliance issues are identified. ETA will continue to work towards ensuring compliance reviews are conducted in a timely manner, to the extent possible, given funding cycles and other announcement priorities. Compliance reviews will take place as early as possible during the grant period of performance; however, due to the need to obligate grant funds in a timely manner, it will rarely be prior to the award of the grants. ETA will make every effort to award grants prior to the start of the grant period of performance and ensure that outcomes publicly announced reflect the numbers shown in the grant applications.

IG Recommendation 3: Delete duplicate apprentice and pre-apprentice records in the AAI reporting system, and populate missing or correct inaccurate Social Security numbers and contact information if the contractor can still use updated information for its AAI grant program evaluation.

ETA Response: ETA respectfully disagrees with this finding. ETA does not and should not edit or delete data certified by grant recipients upon submission of their quarterly reports. However, ETA agrees that additional data checks could be incorporated into the grant recipient reporting system to support more accurate reporting. In fact, during the life of the AAI grants, ETA did implement numerous data checks in the AAI reporting system to ensure valid and required data was reported. Further, while ETA cannot view or access any Personally Identifiable Information reported by grant recipients, such as Social Security numbers (SSN), upon notification that some grant recipients were not reporting SSNs in accordance with the grant requirements, ETA's Federal Project Officers (FPO) followed up with the grant recipients to ensure this data was updated and reported accurately.

ETA is committed to process improvement and will continue to provide technical assistance to grant recipients on reporting all required data accurately in quarterly reports, as well as implementing and improving data checks in grant recipient reporting systems. As mentioned in ETA's response to Recommendation 2, as a part of these efforts, ETA has developed and implemented a new reporting system—WIPS—that officially launched on October 1, 2016. WIPS includes extensive data validation edit checks to ensure complete and accurate data is reported. ETA has since received OMB approval to allow all Office of Apprenticeship grants to report quarterly grant performance data to ETA through WIPS.

OIG Recommendation 4: Provide training to ETA personnel on the key requirements and expected timeframes in submitting information collection requests to OMB.

ETA Response: By the end of Fiscal Year 2022, ETA will ensure its Paperwork Reduction Act (PRA) points of contact receive training, which will cover an overview of the requirements for PRA, including the expected timeframes in submitting timely information collection requests (ICR) to OMB.

OIG Recommendation 5: Submit ETA’s violation of the Paperwork Reduction Act to OMB in the annual information collection budget for OMB control number 1205-0528.

ETA Response: Prior to the OIG bringing this concern to ETA’s attention, ETA believed it was following proper PRA protocol, as ETA was transparent in its intent to collect performance information in the AAI FOA (FOA-ETA-15-02³), as well as in the ICR package for OMB Control Number 1205-0528, both of which were approved by OMB.

The FOA informed applicants that grant recipients would be required to submit quarterly reports within 45 days after the end of each calendar year quarter, which was followed by the ICR performance reporting package ETA submitted for the AAI grants in 2017. The ICR supporting statement referenced that the OMB-approved AAI FOA (approved in 2015—OMB Control Number 1225-0086) outlined that, in applying for an AAI grant, grant recipients agreed to submit participant-level data and aggregate reports on apprentices and on participants in pre-apprenticeship programs and other outcomes related to the FOA to the Department on a quarterly basis.

However, after further review of the OIG’s reasoning, ETA now agrees with the OIG that there once was a PRA violation, although this situation has since been rectified by a currently active OMB approval for this data collection. Prior to the end of Calendar Year 2021, ETA will submit this past PRA violation to the Office of the Chief Information Officer, which manages PRA for the Department, for inclusion in the Annual Information Collection Budget to OMB.

OIG Recommendation 6: Develop a process to perform data analysis and other sufficient checks to verify completeness and accuracy of data in ETA systems and achievement of desired outcomes during grant programs.

ETA Response: ETA agrees that a process to perform data analysis and other sufficient checks to verify completeness and accuracy of data in ETA systems and the achievement of desired outcomes during grant programs is essential to effective grants management. As noted in the responses to Recommendations 2 and 3 above, subsequent to the AAI grants, ETA has developed and implemented a new reporting system—WIPS—that officially launched on October 1, 2016. WIPS includes extensive data validation edit checks and systems to ensure complete and accurate data is reported. ETA has since received OMB approval to allow all Office of Apprenticeship grants to report quarterly grant performance data to ETA through WIPS.

Additionally, ETA has improved internal processes to ensure that grant performance data is reviewed and analyzed on a regular basis. Improvements include the establishment of grant performance teams who actively work on identifying technical changes to WIPS to improve the

³ <https://www.dol.gov/sites/dolgov/files/ETA/grants/pdfs/FOA-ETA-15-02.pdf>

accuracy and completeness of performance data submitted by grant recipients; providing on-going performance reporting technical assistance to grant recipients; and reviewing the performance outcomes of programs and individual grant recipients on a quarterly basis to identify any data issues that need to be addressed either by specific grant recipients or the program as a whole.

OIG Recommendation 7: Establish internal controls to verify participant eligibility, verify submitted ETA Forms 671 (Program Registration and Apprenticeship Agreement) are the current OMB approved version and completed correctly, and encourage use of interim credentials when the form indicates a competency or hybrid model apprenticeship.

ETA Response: ETA agrees that ensuring grant recipients determine participant eligibility appropriately under AAI grants is important. ETA has provided guidance to AAI grant recipients on eligibility requirements and routinely reviews grant recipient documentation related to participant eligibility when ETA conducts grant monitoring. ETA has a Core Monitoring Guide, which includes an indicator on participant eligibility/enrollment (Indicator 1.e.3) that FPOs and other reviewers can include in the scope of their monitoring review to ensure grant recipients adhere to eligibility requirements when enrolling participants.

Further, ETA will ensure that when existing forms are updated—including the Program Registration and Apprenticeship Agreement (ETA Form 671)—grant recipients who also serve as program sponsors are notified to ensure they are using the most up-to-date approved forms for program registration.

Finally, ETA agrees with the OIG’s statement that the use of interim credentials as part of Registered Apprenticeship programs can be beneficial and encourages program sponsors to incorporate them into Registered Apprenticeship models, as appropriate, for the specific occupation. However, ETA notes that interim credentials were not a required outcome for the AAI grant program.