

MEMORANDUM FOR:     EMILY STOVER DeROCCO  
                          Assistant Secretary for  
                          Employment and Training

FROM:                    JOHN J. GETEK  
                          Assistant Inspector General  
                          for Audit

SUBJECT:                Audit of Loring Job Corps Center  
                          Final Audit Report Number 02-01-212-03-370

The attached subject final report is submitted for your resolution action. We request a response to this report within 60 days.

You are responsible for transmitting a copy of this report to Training and Development Corporation officials for resolution. However, we are providing a courtesy copy directly to Charles G. Tetro, President and CEO of Training and Development Corporation.

If you have any questions concerning this report, please contact Richard H. Brooks, Regional Inspector General for Audit, at (212) 337-2566.

Attachment

cc: Richard Trigg, Office of Job Corps  
      Charles G. Tetro, Training and Development Corporation

**AUDIT OF  
LORING JOB CORPS CENTER  
FOR THE PERIOD  
JULY 1, 1998 THROUGH JUNE 30, 1999**

U.S. DEPARTMENT OF LABOR  
OFFICE OF INSPECTOR GENERAL

REPORT NO.: 02-01-212-03-370  
DATE: September 28, 2001

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## ACRONYMS

ETA	Employment and Training Administration
G&A	General and Administrative
LDA	Loring Development Authority
LJCC	Loring Job Corps Center
OIG	Office of Inspector General
OMB	Office of Management and Budget
PRH	Policy and Requirements Handbook
TDC	Training and Development Corporation
USDOL	U. S. Department of Labor

## EXECUTIVE SUMMARY

The U.S. Department of Labor (USDOL), Office of Inspector General (OIG) conducted an audit of expenses claimed by Training and Development Corporation (TDC) to operate the Loring Job Corps Center (LJCC) under contract number 1-JC-616-23 for the period July 1, 1998 through June 30, 1999. The audit objective was to determine if the *Consolidated Schedule of Center Expenses* was presented fairly in accordance with Federal requirements.

### Audit Results

In our opinion, except for questioned costs, the *Consolidated Schedule of Center Expenses* (Exhibit) presents fairly, the results of LJCC's operations in accordance with applicable laws and regulations for the period July 1, 1998 through June 30, 1999. For the audit period, TDC claimed expenses of \$6,760,594 for LJCC, of which we question \$83,005 or 1 percent. Total questioned costs in this report are \$691,220. As discussed below, we question site utilization fees paid during the period of the contract, May 1, 1996 through April 30, 2001.

	7/1/98 - 6/30/99	Other Periods	Total Questioned
Unallowable Site Utilization Fees	\$22,511	\$573,788	\$596,299
Excess Fringe Benefit Allocations	55,795	0	55,795
Subtotals	\$78,306	573,788	\$652,094
Applicable G&A (6%)	\$4,699	\$34,427	\$39,126
Total Questioned Costs	<u>\$83,005</u>	<u>\$608,215</u>	<u>\$691,220</u>

- < We question site utilization fees of \$596,299 paid over the period of the contract, despite at the bidders=conference Job Corps' instructions to TDC and other potential contractors to budget for site utilization fees that would be charged by the Loring Development Authority (LDA) for municipal services. Site utilization fees are not allowable because they are not based on the value of services received, but are property taxes which LJCC, as Federal property, was exempt from paying.
  
- < We question \$55,795 of fringe benefits allocated to LJCC. TDC did not have controls in place to reconcile estimated fringe benefits to actual costs and detect errors, such as including accrued vacation which is not allowable. We calculated fringe benefits using actual fringe benefits and salaries for the audit period.
  
- < We also question \$39,126 in applicable general and administrative expenses (G&A) associated with the above questioned costs.

## **Recommendations**

We recommend that the Assistant Secretary for Employment and Training recover question costs of \$691,220 and ensure that TDC:

- < discontinues paying site utilization fees based on square footage rather than the value of actual services received;
- < establishes sufficient controls to provide for consistent application of allocation methodology; and
- < monitors allocation control accounts to reconcile estimated fringe benefits to actual costs and detect allocation errors.

## **TDC Response**

The Vice President for Finance of TDC responded to our draft report on August 30, 2001. He disagreed with our finding related to site utilization fees and concurred with questioned fringe benefits. The response has been incorporated in the report with our comments and is also included in its entirety as an Appendix.

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# INTRODUCTION

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## BACKGROUND

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Job Corps was established in 1964 and is presently authorized under Title I, Subtitle C of the Workforce Investment Act of 1998. The overall purpose of the program is to provide economically disadvantaged youths aged 16 to 24 with the opportunity to become more responsible, employable citizens. With annual funding over \$1 billion, Job Corps is the largest Federal youth employment and training program. Job Corps provides total support for participants including basic education and vocational classes; dental, medical and eye care; social skills training; meals; recreational activities; counseling; student leadership activities; and job placement services.

The Employment and Training Administration (ETA), awarded contract number 1-JC-616-23 to TDC to operate LJCC for the period May 1, 1996 through April 30, 2001. The total contract award was \$33,580,788.

TDC is a not-for-profit corporation with headquarters in Bucksport, Maine. During the audit period, TDC primarily operated USDOL employment and training programs for adults, youth, dislocated workers, and migrants and seasonal farmworkers. Under contracts with USDOL, TDC operated two Job Corps centers in Maine which accounted for \$13 million (68 percent) of TDC's \$19 million of revenue for the period.

LJCC is located on the former Loring Air Force Base in Maine. When the Air Force base closed in 1994, the Defense Department deeded 47 acres and 11 buildings to USDOL to establish a Job Corps Center. The Defense Department also conveyed 3,600 acres to the LDA which was responsible for management of the former base, currently known as the Loring Commerce Center. LDA is public municipal corporation created by the State of Maine. It provides municipal services including water and wastewater treatment, fire and emergency services, police protection and general roadway maintenance.

LDA supports its efforts through Federal and state funding, water and sewer fees, and site utilization fees. Site utilization fees were assessed annually on all Loring Commerce Center occupants at a rate of \$.50 per square foot of facility space.

**AUDIT OBJECTIVE**

The objective was to determine if the *Consolidated Schedule of Center Operation Expenses* reported by TDC for LJCC was presented fairly in accordance with Federal requirements.

**AUDIT SCOPE AND METHODOLOGY**

We audited expenses of \$6,760,594 claimed under contract number 1-JC-616-23 for the period July 1, 1998 through June 30, 1999. We expanded the audit of site utilization fees to include the entire contract period, May 1, 1996 through April 30, 2001. We obtained an understanding of TDC's internal controls through inquiries with appropriate personnel, inspection of relevant documentation, and observation of operations. The nature and extent of our testing were based on the risk assessment.

We examined center operation expenses, public vouchers, general ledgers and supporting documentation including vouchers and invoices. We used judgmental sampling techniques to test individual account transactions. We sampled \$1,620,274 or 24 percent of reported expenses. We did not audit performance measurements of LJCC.

The audit was performed using criteria we considered relevant in evaluating the reasonableness, allowability and allocability of claimed expenses. Criteria included Title 20 of the Code of Federal Regulations, Circular A-122 from the Office of Management and Budget (OMB), and the Job Corps Policy and Requirements Handbook (PRH). Also, other requirements in the contract were used as criteria in evaluating the allowability of claimed expenses.

We conducted our audit in accordance with generally accepted auditing standards and standards applicable to financial statements contained in *Government Auditing Standards*, issued by the Comptroller General of the United States. We conducted fieldwork from January 23, 2001 to February 9, 2001, at LJCC located in Limestone, Maine. We held an exit conference with TDC on August 8, 2001.



Emily Stover DeRocco  
Assistant Secretary for Employment and Training  
U.S. Department of Labor  
200 Constitution Avenue, N.W.  
Washington, DC 20210

## **ASSISTANT INSPECTOR GENERAL'S REPORT**

We audited the accompanying *Consolidated Schedule of Center Expenses* (Exhibit) for the period July 1, 1998 through June 30, 1999, under USDOL contract number 1-JC-616-23. Expenses claimed are the responsibility of TDC management. Our responsibility is to express an opinion on the reported expenses based on our audit.

We conducted our audit in accordance with generally accepted auditing standards and *Government Auditing Standards* issued by the Comptroller General of the United States. These standards require that we plan and perform the audit to obtain reasonable assurance about whether reported expenses are free of material misstatements. An audit includes examining, on a test basis, evidence supporting the reported expenses. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall presentation of the reported expenses. We believe our audit provides a reasonable basis for our opinion.

The *Consolidated Schedule of Center Expenses* was prepared in conformity with accounting practices prescribed by the Job Corps Policy and Requirements Handbook, Chapter 9, Financial Management, which is a comprehensive basis of accounting other than generally accepted accounting principles. Allowable costs are established by Federal regulations.

### **Opinion on Financial Statement**

As discussed in the Finding and Recommendations section, unallowable site utilization fees, and excessive fringe benefit resulted in questioned costs of \$83,005 or 1 percent of reported expenses. ETA is responsible for resolving these questioned costs. The total effect of ETA's determination cannot be estimated at this time.

In our opinion, except for the matter discussed in the preceding paragraph, the *Consolidated Schedule of Center Expenses* presents fairly, in all material respects, the results of LJCC's operations in accordance with applicable laws and regulations for the period July 1, 1998 through June 30, 1999.

## **Report on Internal Control**

In planning and performing our audit, we considered TDC's internal control over financial reporting in order to determine our auditing procedures for the purpose of expressing our opinion on reported expenses and not to provide assurances on the internal control over financial reporting. However, we noted certain matters involving the internal control over financial reporting and its operation that we consider to be reportable conditions. Reportable conditions involve matters coming to our attention relating to significant deficiencies in the design or operation of the internal control over financial reporting that, in our judgement, could adversely affect TDC's ability to record, process, summarize, and report financial data consistent with the assertions of management in the financial statements. Reportable conditions are described in the Finding and Recommendations section of this report.

A material weakness is a condition in which the design or operation of one or more of the internal control components does not reduce to a relatively low level of risk that misstatements in amounts that would be material in relation to the financial statements being audited may occur and not be detected within a timely period by employees in the normal course of performing their assigned functions. Our consideration of the internal control over financial reporting would not necessarily disclose all matters in the internal control over financial reporting that might be reportable conditions and, accordingly, would not necessarily disclose all reportable conditions that are also considered to be material weaknesses. However, we believe that none of the reportable conditions described in the Finding and Recommendations section of this report are material weaknesses.

## **Report on Compliance with Laws and Regulations**

Compliance with laws, regulations, and grant agreement provisions is the responsibility of TDC. As part of obtaining reasonable assurance about whether reported expenses are free of material misstatement, we performed tests of TDC's compliance with certain provisions of laws, regulations, and the contract. However, our objective was not to provide an opinion on overall compliance with such provisions. Accordingly, we do not express such an opinion. The results of our tests disclosed an instance of noncompliance that is required to be reported under *Government Auditing Standards* and which is described in the Finding and Recommendations section of this report.

This report is intended solely for the information and use of TDC and ETA, and is not intended to be and should not be used by anyone other than these specified parties.

John J. Getek  
Assistant Inspector General  
for Audit

February 9, 2001

# FINDINGS AND RECOMMENDATIONS

## QUESTIONED COSTS - \$691,220

Overall, expenses claimed by TDC were reasonable, allocable and allowable. For the audit period, TDC claimed expenses of \$6,760,594 of which we question \$83,005 or 1 percent. Total questioned costs in this report are \$691,220. We question site utilization fees that were paid throughout the LJCC contract.

	7/1/98 - 6/30/99	Other Periods 1	Total Questioned
Unallowable Site Utilization Fees	\$22,511	\$573,788	\$596,299
Excess Fringe Benefit Allocations	55,795	0	55,795
Subtotals	<u>\$78,306</u>	<u>573,788</u>	<u>\$652,094</u>
Applicable G&A (6%)	<u>\$4,699</u>	<u>\$34,427</u>	<u>\$39,126</u>
Total Questioned Costs	<u><u>\$83,005</u></u>	<u><u>\$608,215</u></u>	<u><u>\$691,220</u></u>

### **Site Utilization Fees**

TDC paid \$596,299 in site utilization fees which were in essence property taxes. Despite Job Corps' instructions at the bidders-conference to TDC and other potential contractors to include site utilization fees in their budget proposals, the purpose of which was to cover municipal services charged by LDA, we believe these fees were property taxes. These fees were paid over the duration of the LJCC contract and are unallowable under Federal law and Comptroller General decisions because they are not based on the value of services actually received, but are property taxes which LJCC, as a Federal property, was exempt from paying.

Site utilization fees of \$135,001 were paid annually by TDC to LDA for municipal services. LJCC is owned by USDOL and is exempt from property taxes under specific statutory prohibitions. The prohibition was found in JTPA, section 437(c) and is now in the Workforce Investment Act, section 158(d), which states:

*. . . Such an operator or service provider shall not be liable to any State or subdivision of a state to collect or pay any sales, excise, use, or similar tax imposed on the sale to or use by such operator or service provider of any property, service, or other item in connection with operation of or provision of services to a Job Corps center.*

<sup>1</sup> Represents the periods April 1, 1996 to June 30, 1998 and July 1, 1999 to March 31, 2001.

LDA's method of assessing site utilization fees on a square footage basis is equivalent to a tax based upon the value of property. GAO's Principles of Federal Appropriations Law, Chapter 4, Section C, Part 15c, states in part:

*. . . Any assessment which is . . . computed on a square footage basis, is not payable on the grounds that it is a tax . . . The method of computation is the primary means of determining whether the charge represents the fair value of service received . . . only when it is clearly shown that the specified method of computation is based purely on the value of the particular services rendered to the government, may any payment be made. . . .*

While Federal courts and the Comptroller General have upheld that a municipality may be compensated on a quantum meruit basis for the fair and reasonable value of the services actually received by the United States, LDA did not provide us with detailed documentation to establish the fair value of services rendered.

### **TDC Response**

Training and Development Corporation disagrees with our finding. It believes that our assertion that the site utilization fees are taxes is incorrect when all of the relevant legal and regulatory provisions are considered:

*As a further consideration as to the legality of the municipal services fee, we note that the entire premise of the finding in your report rests in excerpts taken from the GAO's Principles of Federal Appropriations Law. No assertion is made that this text carries the force of law and regulation. If it does not, then there is no basis for the assertion that the fee, which is allocated on a per-square-foot basis, is a tax, when all other facts in the matter argue to the contrary. It is, in fact, a requirement (of OMB Circulars A-87 and A-110) for organizations receiving federal funds to allocate costs to benefiting objectives using the allocation base that is most appropriate for the type of cost being allocated. Viewed as a cost allocation, the municipal fee is most appropriately allocated on a pre-square-foot basis, as the LDA has done.*

*It is worthy of note that the excerpt from the Principles of Federal Appropriations Law refers only to the manner by which the charge is assessed, and not the allowability of the underlying cost. This leads to the conclusion that if the LDA had chosen to allocate municipal costs on a less appropriate basis than that of square footage, the cost would have been allowable.*

## OIG Comment

GAO's Principles of Appropriations Law are a compilation of judicial decisions and Comptroller General decisions. Under various federal statutes, the Comptroller General does have the authority to settle all claims by and against the government and to review the disbursement of federal funds. The Comptroller General decisions, as well as various judicial decisions clearly draw the distinction between fees based upon square footage or similar measurements, which are taxes, and fees based upon the value of actual services received.

Moreover, in this case, there are specific statutory provisions in JTPA and WIA which prohibit the payment of such taxes. As a result, our finding remains unchanged.

### **Excess Fringe Benefit Allocations**

Excess fringe benefits of \$55,795 were allocated to LJCC. TDC did not have controls in place to reconcile estimated fringe benefits to actual costs and detect errors, such as including accrued vacation which is not chargeable to Job Corps. We calculated fringe benefits using total fringe benefits and salaries for the audit period, and questioned \$55,795 of fringe benefits.

OMB's Circular No. A-122, Costs Principles for Nonprofit Organizations, Attachment A, Section A, Part 2, states to be allowable, costs must be accorded consistent treatment and be adequately documented. Part 4 states that a cost is allocable to a particular cost objective in accordance with the relative benefit received.

TDC's policy is to allocate fringe benefits monthly based on payroll distribution. TDC used different allocation methods to allocate actual fringe benefits by payroll distributions. In its response, TDC noted that it allocated fringe benefits costs to Job Corps and other programs by applying either a predetermined fixed percentage or the actual fringe benefit rate to salaries.

However, TDC did not have controls in place to reconcile estimated fringe benefits to actual costs and detect errors. We examined the fringe benefit allocations for May and June 1999, and found the following:

- < In May, TDC allocated fringe benefits using a predetermined fixed rate (25 percent for Job Corps and 28 percent for non-Job Corps programs and activities) which was set by the finance department based on an estimate of what the rate would be. The resulting allocations exceeded actual costs by \$80,774 for the month.
- < In June, TDC allocated fringe benefits using the same rate (26 percent) for Job Corps as for non-Job Corps programs and activities. TDC did not exclude accrued vacation of \$19,059 in determining the Job Corps rate and, as a result, inappropriately allocated accrued vacation to LJCC. PRH, Chapter 9, Appendix 901, Section D-5, requires: *AEarned but unpaid leave will not be accrued,*

*reported as expense nor vouchered.*

As a result, Job Corps was charged more than its fair share of fringe benefit costs while other governmental programs were charged less than their fair share and TDC's non-governmental activities ended up having a negative fringe benefits. We calculated fringe benefits for the audit period using actual total fringe benefits and salaries for the year. We determined LJCC was overcharged \$55,795 in fringe benefits and \$3,348 in applicable G&A, as shown below.

<b>Personnel Expense Categories</b>	<b>Questioned Costs</b>
Education	\$7,094
Vocational	8,756
Social Skills	19,918
Support Service	5,367
Administration	8,531
Facility Maintenance	2,559
Security	3,570
<b>Subtotal</b>	<b>\$55,795</b>
<b>Applicable G&amp;A at 6 percent</b>	<b>\$3,348</b>
<b>Total Questioned Costs</b>	<b>\$59,143</b>

### **TDC Response**

TDC agrees with our finding, but does not fully agree with the explanation. TDC indicated it reduced fringe benefits by \$55,795 along with the corresponding general and administrative expenses to the contract on the ETA 2110 report for April 2001.

### **OIG Comment**

TDC did not include documentation in its response of actions taken. As a result, this finding remains unchanged.

### **Recommendations**

We recommend that the Assistant Secretary for Employment and Training recover question costs of \$691,220 and ensure that TDC:

- < discontinues paying site utilization fees based on square footage rather than the value of actual services received;
- < establishes sufficient controls to provide for consistent application of allocation methodology; and
- < monitors allocation control accounts to reconcile estimated fringe benefits to actual costs and detect allocation errors.

**EXHIBIT**

**Loring Job Corps Center  
Consolidated Schedule of Center Expenses  
Reported, and Questioned  
July 1, 1998 to June 30, 1999**

<u>Expense Categories</u>	<u>Reported Expenses</u>	<u>Amount Questioned</u>	<u>Totals Per Audit</u>
Education Personnel	\$448,381	\$7,094	\$441,287
Other Education	20,087	0	20,087
Vocational Personnel	568,064	8,756	559,308
Other Vocational	142,305	0	142,305
Social Skills Personnel	1,245,951	19,918	1,226,033
Other Social Skills	92,977	0	92,977
Food	386,134	0	386,134
Clothing	119,810	0	119,810
Support Service Personnel	330,265	5,367	324,898
Other Support Services	92,812	0	92,812
Medical/Dental Personnel	355,970	0	355,970
Other Medical/Dental	100,707	0	100,707
Administrative Personnel	522,883	8,531	514,352
Other Administration	113,685	0	113,685
Indirect Administration (G&A)	340,820	4,699	336,121
Facility Maintenance Personnel	156,932	2,559	154,373
Other Facility Maintenance	148,758	0	148,758
Security Personnel	223,827	3,570	220,257
Other Security	7,899	0	7,899
Communications	47,801	0	47,801
Utilities and Fuel	346,948	22,511 <sup>2</sup>	324,437
Insurance	25,211	0	25,211
Motor Vehicle	77,454	0	77,454
Travel and Training	105,463	0	105,463
Contractors Fee	307,834	0	307,834
<b>Net Center Operations</b>	<b>\$6,328,978</b>	<b>\$83,005</b>	<b>\$6,245,973</b>
Construction/Rehabilitation	\$104,773	\$0	\$104,773
Equipment/Furniture	145,693	0	145,693
GSA Vehicles Rental	94,805	0	94,805
VST	86,345	0	86,345
<b>Total Center Expenses</b>	<b>\$6,760,594</b>	<b>\$83,005</b>	<b>\$6,677,589</b>

<sup>2</sup> Questioned utilities and fuel costs represent the unallowable property taxes expensed during the audit period.