U.S. Department of Labor

Office of Inspector General—Office of Audit

EMPLOYMENT AND TRAINING ADMINISTRATION

AUDIT OF A COMPLAINT INVOLVING THE COMMUNITY PRESERVATION AND DEVELOPMENT CORPORATION'S H-1B TECHNICAL SKILLS TRAINING GRANT

Date Issued: March 30, 2007

Report Number: 03-07-001-03-321

U.S. Department of Labor
Office of Inspector General
Office of Audit

BRIEFLY…

Highlights of Report Number: 03-07-001-03-321, to the Assistant Secretary for Employment and Training

WHY READ THE REPORT

The Office of Inspector General (OIG) performed an audit resulting from a complaint of an H-1B Technical Skills Training Grant awarded by DOL's Employment and Training Administration (ETA) to the Community Preservation and Development Corporation (CPDC) located in Washington, DC. The complainant alleged that CPDC:

1. allocated salary expenses to the grant for staff not directly involved in providing H-1B services;
2. used grant funds, intended for DC residents only, to provide services to out-of-state residents;
3. reported outcome data that were dubious;
4. did not meet its matching funds requirement;
5. used grant funds to develop CPDC's website; and
6. spent proceeds from certain properties to purchase surplus equipment to be used at other properties.

WHY OIG DID THE AUDIT

The purpose of our audit was to answer the following questions:

1. Did CPDC ensure that costs charged to the grant were reasonable, allowable, and allocable?
2. Were the reported participant outcome data valid and reliable?
3. Did CPDC meet the $2.6 million matching funds requirement according to the grant agreement?

We did not perform specific audit work on allegations 2, 5, and 6. For allegation 2, the grant did not limit services to Washington, DC residents. For allegations 5 and 6, the complainant could not provide specific information, and nothing came to our attention to indicate that the allegations could be substantiated.

READ THE FULL REPORT

To view the report, including the scope, methodology, and CPDC's response, go to:

http://www.oig.dol.gov/public/reports/oa/2007/03-07-001-03-321

March 2007

Audit of a Complaint Involving the Community Preservation and Development Corporation's H-1B Technical Skills Training Grant

WHAT OIG FOUND

We found that CPDC did not accurately report, allocate, and support salary costs, and CPDC charged indirect costs to the grant without an approved indirect cost plan. These conditions occurred because CPDC did not have adequate internal controls in place. As a result, CPDC charged $870,821 in salary and indirect costs to the DOL grant that did not meet the Office of Management and Budget (OMB) Circular A-122 cost principle requirements for Federal grants by nonprofit organizations.

CPDC's reported participant outcome data were not valid and reliable. CPDC overstated the reported number of participants trained and placed in employment, and who received promotions and/or wage gains. This occurred because CPDC did not have internal controls in place to ensure that it had a management information system that accurately tracked participant activity, maintained evidence to support participant outcome data, and accurately reported it to ETA. As a result, CPDC overstated its participant outcome data and did not meet the outcome goals of the grant.

CPDC met the required matching fund contribution for the grant.

WHAT OIG RECOMMENDED

We recommend that the Assistant Secretary for Employment and Training:

1. Recover the $870,821 in questioned salary and indirect costs charged to the grant.
2. Require CPDC to re-submit the final grant close-out package with revised outcomes.
3. Prior to awarding future grants to CPDC, perform a review to ensure CPDC has: a financial accounting system that meets Federal requirements; internal accounting controls; a Federally approved indirect cost plan; and a management information system to ensure that reported performance data is accurate, supportable, and reliable.

CPDC agreed to re-submit a final grant close-out package with revised outcomes. With regard to questioned costs related to salary and indirect costs charged to the grant, CPDC disagreed with the report's conclusions and related recommendation.

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Executive Summary

As a result of a complaint, the U.S. Department of Labor (DOL), Office of Inspector General (OIG), audited an H-1B Technical Skills Training Grant awarded by DOL's Employment and Training Administration (ETA) to the Community Preservation and Development Corporation (CPDC) located in Washington, DC.

Authorized by the Immigration and Nationality Act of 1992 H-1B program's purpose was to respond to demands from industries that were experiencing skill shortages in areas such as information technology. The American Competitiveness and Workforce Improvement Act of 1998 authorized H-1B Technical Skills Training Grants. The goals of the grants was to raise the technical skill levels of American workers in order to fill specialty occupations presently filled by temporary workers admitted to the United States under the provisions of the H-1B nonimmigrant visa. The grants were financed by a user fee paid by employers to bring foreign workers into the U.S. under an H-1B nonimmigrant visa.

In May 2002, ETA awarded CPDC a $2,594,488 H-1B Technical Skills Training Grant. The grant covered the period May 1, 2002 to December 31, 2004. CPDC is a non-profit Corporation that builds affordable housing in low-income communities. The agency also operates community development programs to improve the lives of low-income residents.

In June 2004, the OIG received a letter alleging the misuse of H-1B Technical Skills Training Grant funds by CPDC. The complainant alleged that CPDC:

1. allocated salary expenses to the grant for staff not directly involved in providing H-1B services;

2. used grant funds, intended for Washington, D.C. residents, to provide services to out-of-state residents;

3. reported outcome data that were dubious;

4. did not meet its matching funds requirement;

5. used H-1B grant funds to develop CPDC's website; and

6. spent proceeds from certain properties to purchase surplus equipment to be used at other properties.

We did not perform specific audit work on allegation numbers 2, 5, and 6. For allegation number 2, we found the grant did not limit services to Washington, DC residents. The grant agreement specifically stated that areas affected by the project were Washington, DC, Montgomery County Maryland, and Northern Virginia. For allegation numbers 5 and 6, the complainant could not provide specific information, and nothing came to our attention during our audit to indicate that the allegations could be substantiated.

The audit objectives were to answer the following questions:

1. Did CPDC ensure that costs charged to the grant were reasonable, allowable, and allocable?

2. Were the reported participant outcome data valid and reliable?

3. Did CPDC meet the $2.6 million matching funds requirement according to the grant agreement?

Results

CPDC did not ensure that costs charged to the grant were allowable and allocable. We found that CPDC did not accurately report, allocate, and support salary costs and CPDC charged indirect costs to the grant without an approved indirect cost plan. Although our testing of contractor expenses identified exceptions, we found unclaimed costs that offset the amount of exceptions. Therefore, CPDC incurred a sufficient amount of costs to support the amount contractor expenses charged as a Federal share to the grant. Nothing came to our attention to question the reasonableness of costs we tested. These conditions occurred because CPDC did not have adequate internal controls in place. As a result, CPDC charged $870,821 in salary and indirect costs to the DOL grant that did not meet the cost principle requirements established by Office of Management and Budget (OMB) Circular A-122 for costs charged to Federal grants by nonprofit organizations.

CPDC's reported participant outcome data were not valid and reliable. CPDC overstated the reported number of participants trained and placed in employment, and who received promotions and/or wage gains. This occurred because CPDC did not have internal controls in place to ensure that it had a management information system that accurately tracked participant activity, maintained evidence to support participant outcome data, and accurately reported it to ETA. As a result, CPDC overstated its participant outcome data and did not meet the outcome goals of the grant.

CPDC met the required matching fund contribution for the grant.

CPDC Response

On behalf of CPDC, CPDC's legal counsel responded to the draft report. Concerning the report's finding that CPDC did not accurately report salary costs, CPDC responded that the questioned costs represented contractors who provided services to CPDC instead of employees. For the salary costs questioned because they were allocated to the grant based on pre-determined rates, CPDC responded that these costs were for activities directly related to the grant. For the salary costs questioned for unsupported timesheets, CPDC stated that in order to respond, they need to be provided the audit working papers that supported the finding. They responded that time sheets not signed by at least the employee or supervisor should be acceptable because OMB Circular A-122 does not require that both the employee and supervisor sign the timesheet as long as one of them signs it. CPDC also requested the audit working papers that supported other questioned salary costs.

Concerning the questioned indirect costs, CPDC responded that failure to have an indirect cost rate is not sufficient to disallow the indirect costs charged to the grant. They stated that the grant agreement provided that an indirect cost rate was not applicable. Additionally, CPDC stated that DOL's One-Stop Comprehensive Financial Management Technical Assistance Guide provided numerous methods for allocating costs and stated that indirect costs are usually recaptured through an indirect cost rate. CPDC responded that if an indirect cost rate was mandatory, then the Technical Assistance Guide would not have contained this qualified language.

CPDC responded that they will re-submit a final grant close-out package with revised outcomes.

Concerning the recommendation that the Assistant Secretary for Employment and Training perform a review of CPDC's internal controls, CPDC stated it would be an unnecessary diversion of CPDC's resources because they had taken corrective action on internal controls.

See Appendix D for the complete response from CPDC.

OIG Conclusion

CPDC's response did not change our findings and recommendations. For the overstated salary and wages costs, it will be the decision of ETA's Grant Officer to allow the grants funds budgeted for salary and wages to be used to pay for contractor costs. If ETA's Grant Officer allows CPDC to use the grant funds budgeted for salary and wages to pay for contractor costs, then ETA's Grant Officer will have to consider how this would affect our audit results on contractor costs and matching fund costs. CPDC's response did not provide any information to change our conclusion that employee costs were charged to the grant based on predetermined rates. We do not agree with CPDC's interpretation that timesheets not signed by both the employee performing the work and the supervisor responsible for ensuring the work was performed, are acceptable according to OMB Circular A-122. OMB Circular A-122 requires that salaries and wage charges be based on documented payrolls approved by a responsible official(s) of the organization. Concerning CPDC's request that we provide them the audit working papers to support our findings, we provided CPDC detailed documentation on the cost items that we reviewed and questioned at the end of our field work in July 2006.

We disagree with CPDC's position that the grant agreement did not require them to obtain an approved indirect cost rate before charging indirect costs to the grant. The grant agreement required that CPDC comply with OMB Circular A-122. The Circular requires that a nonprofit organization submit its initial indirect cost proposal immediately after the organization is advised an award is made. Additionally, the Technical Assistance Guide cited by CPDC cannot be used as criteria because CPDC is not a One-Stop operator under the Workforce Investment Act.

Finally, we disagree with CPDC's position that a review of their internal controls is unnecessary because they already took corrective action. In the audit report, we acknowledged corrective action CPDC took to address internal control weaknesses. However, the corrective action took place outside the scope of our audit and we did not evaluate the newly implemented internal controls. Therefore, we continue to recommend a review of CPDC's internal controls to verify that they are operating and effective.

Recommendations

We recommend that the Assistant Secretary for Employment and Training:

1. Recover the $870,821 in questioned salary and indirect costs charged to the grant.

2. Require CPDC to re-submit the final grant close-out package with revised outcomes.

3. Prior to awarding future grants to CPDC, perform a review to ensure:

- CPDC has implemented a financial accounting system sufficient to track costs and meet Federal accounting and reporting standards;
- CPDC has in place adequate internal accounting controls to ensure the integrity and accuracy of financial data;
- CPDC has a Federally approved indirect cost plan; and

CPDC had implemented a management information system to ensure that reported performance data is accurate, supportable, and reliable.

U.S. Department of Labor

Office of Inspector General
Washington, DC 20210

Assistant Inspector General's Report

Ms. Emily Stover DeRocco
Assistant Secretary for Employment and Training
U. S. Department of Labor
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The U.S. Department of Labor (DOL), Office of Inspector General (OIG), conducted an audit of a complaint involving an H-1B Technical Skills Training Grant awarded by DOL's Employment and Training Administration (ETA) to the Community Preservation and Development Corporation (CPDC).

In June 2004, OIG's Complaints Analysis Office received a letter alleging the misuse of H-1B Technical Skills Training Grant funds by CPDC. The complainant alleged that CPDC:

1. allocated salary expenses to the grant for staff not directly involved in providing H-1B services;

2. used grant funds, intended for Washington, D.C. residents, to provide services to out-of-state residents;

3. reported outcome data that were dubious;

4. did not meet its matching funds requirement;

5. used H-1B grant funds to develop CPDC's website; and

6. spent proceeds from certain properties to purchase surplus equipment to be used at other properties.

We did not perform specific audit work on allegation numbers 2, 5, and 6. For allegation number 2, we found the grant did not limit services to Washington, DC residents. The grant agreement specifically stated that areas affected by the project were Washington, DC, Montgomery County Maryland, and Northern Virginia. For allegation numbers 5 and 6, the complainant could not provide specific information and nothing came to our attention during the audit to indicate the allegations were substantiated. Therefore, our objectives were to answer the following questions:

1. Did CPDC ensure that costs charged to the grant were reasonable, allowable, and allocable?

2. Were the reported participant outcome data valid and reliable?

3. Did CPDC meet the $2.6 million matching funds requirement according to the grant agreement?

We conducted our audit in accordance with Generally Accepted Government Auditing Standards for performance audits. Our objectives, scope, methodology, and criteria are detailed in Appendix B.

Objective 1 – Did CPDC ensure that costs charged to the grant were reasonable, allowable, and allocable?

Results

CPDC did not ensure that costs charged to the grant were allowable and allocable. We found that CPDC did not accurately report, allocate, and support salary costs and CPDC charged indirect costs to the grant without an approved indirect cost plan. Although our testing of contractor expenses identified exceptions, we found unclaimed costs that offset the amount of exceptions. Therefore, CPDC incurred a sufficient amount of costs to support the amount contractor expenses charged as a Federal share to the grant. Nothing came to our attention to question the reasonableness of costs we tested. These conditions occurred because CPDC did not have adequate internal controls in place. As a result, CPDC charged $870,821 in salary and indirect costs to the DOL grant that did not meet the cost principle requirements established by Office of Management and Budget (OMB) Circular A-122 for costs charged to Federal grants by nonprofit organizations. (See Exhibit A).

Salary Costs

CPDC did not ensure that salary costs charged to the grant were allowable and allocable. We found that CPDC:

a. overstated the salary costs reported on the Financial Status Report (FSR) by $572,709;

b. used pre-determined rates to allocate $29,915 of salary costs for employees who charged time to more than one grant or project; and

c. could not adequately support 151 of the 155 randomly sampled payroll entries we audited which represented unsupported salary costs charged to the grant totaling $92,140.

These problems occurred because CPDC did not have adequate internal controls in place to ensure costs charged to the grant were allowable and allocable. Specifically, CPDC used electronic spreadsheets (Detail Support Schedules) to accumulate grant related costs and report quarterly FSRs. CPDC used these Detail Support Schedules because its general ledger did not have the capability to provide detailed costs at the grant or project level. Also, CPDC used predetermined rates to allocate salary costs because CPDC officials believed it would be too difficult to track actual time spent on the grant for administrative positions. Finally, CPDC did not have controls to ensure that payroll costs were adequately documented until it implemented a new web-based payroll system in June 2005, after the grant period ended. As a result, CPDC charged $694,764 in salary costs that did not meet OMB Circular A-122 standards.

The complaint alleged questionable time charges and allocations to the H-1B grant involving the Office of The President (OTP) and the Office of the Director (OTD). We obtained and analyzed listings of all personnel who worked in the OTP during the grant period and found no direct time charges. Our audit procedures for salary costs focused on 17 employees. We did not include salary costs for Career and Skills Enhancement (CSE) employees because they were not cited in the complaint and we determined that the risk was low that these employees spent time on activities not related to the grant. Our results pertaining to this allegation are detailed in further under items b. and c.

The following are details of our audit of salary costs.

<u>a. CPDC Overstated Salary Costs Reported on the FSR</u>

According to the final FSR, CPDC reported $1,855,449 for Salaries and Wages; however, the Detail Support Schedules showed only $1,282,739, a difference of $572,709. Therefore, the Salary and Wages on the FSR were overstated by $572,709. In response to our questions, CPDC concurred with the difference and explained that the cause may be contractor costs were mixed with salary costs. (See Exhibit B for final costs).

Title 29 of the Code of Federal Regulations (CFR) part 95 provides the uniform administrative requirements for non-profit organizations. Section 95.21(b), requires that the recipient's financial management systems provide the following:

- Accurate, current, and complete disclosure of the financial results of each Federally-sponsored project or program in accordance with the reporting requirements set forth in Section 95.52.

- Records that identify adequately the source and application of funds for Federally-sponsored activities. These records shall contain information pertaining to Federal awards, authorizations, obligations, unobligated balances, assets, outlays, income and interest.

- Effective control over and accountability for all funds, property and other assets. Recipients shall adequately safeguard all such assets and assure they are used solely for authorized purposes.

- Written procedures for determining the reasonableness, allocability and allowability of costs in accordance with the provisions of the applicable Federal cost principles and the terms and conditions of the award.

- Accounting records including cost accounting records that are supported by source documentation.

Because CPDC's accounting system did not adequately identify the source and application of funds for Federally-sponsored activities, it did not meet all the required financial standards. CPDC did not use its general ledger to report grant costs on the FSR because it was not capable of separating costs by funding source. Instead, CPDC used manually prepared electronic spreadsheets as their Detail Support Schedules. We performed tests and confirmed that CPDC did not report the costs on these Detail Support Schedules to projects funded by other grants. We concluded that manually prepared reports increase the risk of errors and inaccurate reporting. Additionally, CPDC did not have a formal policies and procedures manual for determining the reasonableness, allowability, and allocability of costs in accordance with the provisions of the applicable Federal cost principles and the terms and conditions of the award.

<u>b. CPDC Used Predetermined (Budgeted) Rates to Allocate Salary Costs to the Grant</u>

To determine if salary costs were based on actual time, we reviewed payroll documentation for non-CSE employees who had time charged to the H-1B grant. In addition to 14 OTD and information technology (IT) employees, we examined the salary costs for 3 employees from the Department of Youth Development and Department of Empowerment who performed H-1B program functions and charged some time to the grant. The salary costs for these employees totaled $453,892. For 5 of the 17 employees, we found that CPDC charged $29,915 in salary costs to the grant based on pre-determined rates. CPDC properly used actual time for the balance of the salary costs charged to the H-1B grant for the 17 employees tested.

OMB Circular A-122, Attachment B, paragraph 7.m -Support of salaries and wages, requires the following:

(1) Charges to awards for salaries and wages, whether treated as direct costs or indirect costs, will be based on documented payrolls approved by a responsible official(s) of the organization. The distribution of salaries and wages to awards must be supported by personnel activity reports, as prescribed in subparagraph (2), except when a substitute system has been approved in writing by the cognizant agency. (See subparagraph E.2 of Attachment A.)

(2) Reports reflecting the distribution of activity of each employee must be maintained for all staff members (professionals and nonprofessionals) whose compensation is charged, in whole or in part, directly to awards. In addition, in order to support the allocation of indirect costs, such reports must also be maintained for other employees whose work involves two or more functions or activities if a distribution of their compensation between such functions or activities is needed in the determination of the organization's indirect cost rate(s) (e.g., an employee engaged part-time in indirect cost activities and part-time in a direct function). Reports maintained by non-profit organizations to satisfy these requirements must meet the following standards:

- The reports must reflect an *after-the-fact* determination of the actual activity of each employee. Budget estimates (i.e., estimates determined before the services are performed) do not qualify as support for charges to awards.

- Each report must account for the total activity for which employees are compensated and which is required in fulfillment of their obligations to the organization.

- The reports must be prepared at least monthly and must coincide with one or more payroll entries.

For the 17 employees we reviewed the Detail Support Schedules to determine if CPDC used predetermined rates to charge their costs to the grant. We identified payroll entries in which CPDC used a formula to allocate hours. For each employee, we examined the timesheets to confirm that CPDC used a formula to charge salaries rather than actual hours. We found $29,915 in salary costs that CPDC charged to the grant using pre-determined rates.

CPDC's timekeeping system did not consistently track hours for employees who worked on H-1B and other projects. CPDC officials stated that it would be too difficult to track the actual hours spent on the grant for administrative staff. As a result, CPDC could not support the pre-determined rates were accurate.

<u>c. CPDC Could Not Adequately Support 151 of the 155 Payroll Entries Audited</u>

We tested a random sample of 155 payroll entries for 14 OTD and IT staff. Our statistical projection of the errors found in our testing, showed that CPDC could not support at least $92,140 in salary costs, with a 95 percent confidence level, charged to the grant.

OMB Circular A-122, Attachment B, paragraph 7. m. (1), states charges to awards for salaries and wages, whether treated as direct costs or indirect costs, will be based on documented payrolls approved by a responsible official(s) of the organization.

We found errors with 151 out of the 155 payroll entries tested. These errors represented differences between the supporting timesheet and the amounts CPDC charged to the grant and resulted in an overstatement of salary costs of $26,443.[1] Our statistical projection of the errors showed salary costs of at least $92,140, with a 95 percent confidence level, that CPDC charged to the grant were not adequately supported. Also, our attribute testing of the same 155 randomly selected payroll entries found10 timesheets were not in the file, 52 timesheets were not signed by the employee, and 43 timesheets were not signed by the supervisor.

CPDC officials stated that in 2002 and 2003, there was not much emphasis on documentation in general. However, controls are now in place with the implementation of a web-based payroll system. For example, payroll is not processed unless a supervisor approves it.

Indirect Cost

CPDC did not have a Federally approved indirect cost rate to charge indirect costs to the grant. This occurred because CPDC officials believed that an approved rate was not necessary as long as the amounts charged to the grant were within the budget. Additionally, CPDC could not provide adequate support of the methodology used to charge indirect costs to the grant. Therefore, we questioned the $176,057 in indirect costs CPDC charged to the grant.

OMB Circular A-122, Attachment A, paragraph A.4.a states that a cost is allocable to a particular cost objective, such as a grant, contract, project, service, or other activity, in accordance with the relative benefits received. Also, OMB Circular A-122, Attachment A, section D.1.b states:

> Where an organization has several major functions that benefit from its indirect costs in varying degrees, allocation of indirect costs may require the accumulation of such costs into separate cost groupings which then are allocated individually to benefiting functions by means of a base that best measures the relative degree of benefit. The indirect costs allocated to each function are then distributed to individual awards and other activities included in that function by means of an indirect cost rate(s).

OMB Circular A-122, Attachment A, paragraph E.2.b, requires that a nonprofit organization which has not previously established an indirect cost rate with a Federal agency shall submit its initial indirect cost proposal immediately after the organization is advised an award will be made, and in no event, later than 3 months after the effective date of the award.

The grant closeout package showed the grant budget for indirect costs was $114,006 and the final FSR showed CPDC charged $176,057.

[1] Of the 151 errors; 104 were over $5 and the remaining 47 were less than $5. The $26,443 represents the total overstatement of salary costs from the 151 errors.

CPDC officials stated they did not submit an indirect cost proposal because they were not aware that an approved indirect cost rate was required. They believed indirect costs were included in the detail grant budget approved by ETA. Additionally, CPDC officials told us they consulted with the independent public accountant that conducted their OMB Circular A-133 Audit and were advised the amount charged to the grant would be acceptable if it was in the grant budget.

The independent accountant's management letter for the FY 2004 OMB Circular A-133 audit report reported that CPDC's allocation methods were labor intensive, not easily understood and changed yearly.

We question the $176,057 of indirect costs CPDC charged to the grant because CPDC did not have the required approved indirect cost plan.

Contract Expenses

Although our testing of contractor expenses found $218,402 in exceptions, CPDC incurred a sufficient amount of costs they did not claim to offset these exceptions. Therefore, CPDC incurred reasonable, allowable and allocable contract expenses to support the $343,238 reported as the Federal share on the FSR.

Although CPDC's Detail Support Schedules showed it incurred $1,247,661 in contractor expenses for the grant, CPDC charged $343,238 as the Federal share to the grant. This amount represented the budget for contractual services in the grant and appeared as an adjusting entry on its Detail Support Schedules. CPDC could not provide us the specific contract expenses that supported the $343,238 charged to the grant. Therefore, we audited the amount of contactor expenses on the Detail Support Schedules. The following provides the tests performed and the results.

We tested all 25 contract charges over $4,000, which totaled $154,361. The results identified three exception categories totaling $41,550.

- CPDC made five payments to a contractor, totaling $35,459, for fund raising activities which is not an allowable direct cost. According to OMB Circular A-122, dated June 1998, Attachment B, Selected Items of Cost, 23 - Interest, Fund Raising, and Investment Management Costs, paragraph b, costs of organized fundraising, solely to raise capital or obtain contributions are unallowable.

- CPDC paid $5,941 staffing services for which there was no contract.

- One contactor overcharged CPDC $150 for information technology services.

We tested a random sample of 120 contract charges for less than $4,000, excluding invoices under $100. The charges tested totaled $86,462. We found 39 exceptions totaling $22,431. The following table provides the number, reason, and costs for the exceptions found.

Number of Exceptions	Reason	Costs
24	No contract for services provided.	$14,254
9	Services provided were not according to the contract or for the hours worked.	$6,367
3	No Invoice to support cost.	$1,000
3	Services were not related to the grant.	$810

We statistically projected the exceptions and concluded they resulted in an overstatement of contractor expense of at least $172,652 with a 95 percent confidence level.

We tested contractors in our sample of 120 contract charges that provided personal services to determine if the invoice amount agreed with the amounts reported on the IRS Form 1099. We found one contractor in which the amount charged to H-1B exceeded the amount shown on the IRS Form 1099 by $4,200. CPDC officials confirmed that the 1099 was correct and the Detail Support Schedule was overstated. Therefore, we concluded CPDC overstated contactor expenses by $4,200.

Although our testing of contractor expenses found $218,402 in exceptions, CPDC incurred a sufficient amount of costs not charged to the grant to offset the exceptions. We concluded that the actual contractor service costs were $1,029,259 and not the $1,247,661 on the Detail Support Schedules. Since CPDC only charged the budgeted amount of $343,238, we concluded that the remaining balance of $686,021 can be reported as part of the grant's matching fund requirement. See results under Objective 3.

* * * * * * *

We concluded the above conditions occurred because CPDC had inadequate internal controls to ensure that costs charged to the grant were allowable and allocable. We found that CPDC did not have comprehensive accounting policies and procedures, adequate accounting staff, nor an adequate accounting system.

CPDC did not have comprehensive written accounting policies and procedures. Instead, the accounting policies and procedures consisted of a series of e-mails and memorandums issued to the staff. We reviewed the e-mails and memorandums and concluded they were inadequate because they did not provide details on how to report H-1B grant costs on the Detail Support Schedules and how to prepare the FSR.

According to CPDC officials, they did not have sufficient accounting staff during the grant. CPDC officials told us they experienced significant staff turnover during the grant, and the accounting department only consisted of a controller, senior accounting staff and an accounts payable clerk. Most accounting officials during the audit period were not employed during the grant period. CPDC has added a Chief Financial Officer position and an additional Senior Accountant position.

CPDC did not track H-1B grant related costs separately in the general ledger, but instead included the costs as part of CSE costs. Therefore, CPDC maintained manually prepared electronic spreadsheets to keep track of the H-1B costs until June 2004 even though they implemented a new general ledger system in October 2003. CPDC used a manual time keeping until June 2004 when they implemented an internally developed web-based time keeping system. In June 2005, after the H-1B grant period ended, CPDC changed to a contractor developed web-based time keeping system.

Objective 2 – Were the reported participant outcome data valid and reliable?

Results

CPDC's reported participant outcome data were not valid or reliable. We found CPDC overstated the reported number of participants trained, placed in employment, and received promotions and/or wage gains. This occurred because CPDC did not have internal controls in place to ensure that it had a management information system that accurately tracked participant activity, maintained evidence to support participant outcome data, and accurately reported outcome data to ETA. As a result, CPDC overstated its participant outcome data and did not meet the outcome goals of the grant. (See Exhibit C).

According to the grant agreement, CPDC was to provide advanced high-skilled IT training programs under the H-1B program. Over the 2-year grant period, CPDC planned to train 562 out-of-work and marginally employed residents from the region, and place at least 350 of those trained participants into positions that were either unfilled, or filled by H-1B visa holders. Although the grant agreement did not address the number of participants that CPDC planned to receive promotions and/or obtain wage gains, ETA required the grantee to report these outcomes on the H-1B Technical Skills Training Grants Quarterly Report.

29 CFR Subtitle A, Parts 95.50 and .51 sets forth procedures for monitoring and reporting on the recipient's financial and program performance. Subpart 95.51 (a) states "Recipients are responsible for managing and monitoring each project, program, sub award, function or activity supported by the award." Subpart 95, 51(d) requires recipients to report reasons why established goals were not met.

The outcome data CPDC reported on ETA's H-1B Technical Skills Training Grants Quarterly Report were not valid and reliable. The following section provides details of the reported outcome data.

Training Completions

On the final H-1B Technical Skills Training Grants Quarterly Report, CPDC reported 557 participants completed training. From testing of a random sample of 85 participants, we concluded the reported number was overstated by 332.

We obtained CPDC's supporting schedules of the reported number of participants trained. The schedule listed 568 names, 11 more than what was reported. From CPDC's listing of 568 participants, we randomly selected 85 for testing. We tested for evidence that the participant completed the training and found there was insufficient evidence for 59 of the 85 participants tested. We projected that CPDC had insufficient evidence to support at least 343 of the 568 participants, with a 95 percent confidence level, who were recorded as having completed training. Therefore, we are 95 percent confident that the number of completers was overstated by at least 332 participants.

Job Placements

On the final H-1B Technical Skills Training Grants Quarterly Report, CPDC reported 80 job placements. We tested all the job placements and concluded the reported number was overstated by 23.

We obtained CPDC's supporting schedule of the reported number of participants placed in jobs. The supporting schedule showed 81 participants. We tested the entire universe on the supporting schedule of 81 placements and found 24 exceptions (30 percent error rate). Specifically, we found:

- 18 reported placements had no supporting documentation.
- 4 reported placements had the same job prior to training.
- 2 placement files could not be located.

Therefore, CPDC had records to support 57 of the 81 recorded placements. This is significantly less than the 350 participants that CPDC planned to place in new jobs.

Promotions and Wage Increase

On the final H-1B Technical Skills Training Grants Quarterly Report, CPDC reported 27 participants received promotions and 24 participants received wage increases as a result of the H-1B training. We tested all the promotions and wage increases and concluded they were overstated by 17 and 14, respectively.

We obtained CPDC's supporting schedule of the reported number of participants receiving promotions and/or wage increases as a result of the H-1B training. The schedule contained 28 participants who received promotions and 26 participants who received wage increases. We tested the entire universe of promotions and wage gains on the supporting schedules. The results determined 10 promotions were supported; the 18 exceptions represent a 64 percent error rate. The results determined 10 wage increases were supported; the 16 exceptions represent a 62 percent error rate. The exceptions were the result of insufficient evidence and missing case files. Therefore, CPDC had support for only 10 promotions and 10 wage increases.

The above conditions occurred because CPDC did not have internal controls in place to ensure that it had a management information system that accurately tracked participant activity, maintained evidence to support participant outcome data, and accurately report outcome data to ETA. CPDC initially used an automated management information system called Xenegrade to record participant activity but CPDC was unsuccessful in using it to generate reports to support the outcome data. Therefore, CPDC stopped using the system and instead used electronic spreadsheets to track and report outcome data. Also, CPDC did not have policies and procedures for recording and tracking participant attendance, program completion, job placement, and participant wages and promotions.

Objective 3 – Did CPDC meet the $2.6 million matching funds requirement according to the grant agreement?

Results

CPDC met the required matching fund contribution for the grant. The grant agreement showed CPDC had a matching contribution requirement of $2,602,848. On their final FSR, CPDC reported matching contributions of $3,529,324, but we identified $1,605,983 in unsupported matching costs. Conversely, we found $686,021 in allowable and unreported contractor costs that CPDC could include towards its matching requirements. Therefore, CPDC met the required matching fund contribution by $6,514.

Title 29 CFR part 95.23(a) - Cost Sharing or Matching, states all contributions, including cash and third party in-kind, shall be accepted as part of the recipient's cost sharing or matching when such contributions meet all of the following criteria:

(1) Are verifiable from the recipient's records.

(2) Are not included as contributions for any other Federally-assisted project or program.

(3) Are necessary and reasonable for proper and efficient accomplishment of project or program objectives.

(4) Are allowable under the applicable cost principles.

(5) Are not paid by the Federal Government under another award, except where authorized by Federal statute to be used for cost sharing or matching.

(6) Are provided for in the approved budget when required by DOL,

(7) Conform to other provisions of this part, as applicable.

The grant agreement required CPDC to contribute $2,602,848 in non-Federal matching funds. According to their final FSR, dated December 31, 2004, CPDC reported matching contributions of $3,529,324, which consisted of $1,525,943 for third party in-kind contributions and $2,003,381 for cash matching. These amounts reconciled to CPDC's Detail Support Schedules. We audited $2,814,928 (80 percent) of the reported matching contributions.

We identified unsupported costs totaling $1,605,983. Using the Detail Support Schedules, we judgmentally selected six cost categories because they were large amounts.

The following provides details of the exceptions we found in the expenses we audited.

1. **Consultant Adjustment**. The Detail Support Schedules showed an entry "Consultant Adjustment" for $101,572, dated December 31, 2004. CPDC officials told us there was no support for the entry and they could not provide the details or purpose of the entry.

2. **IT Matching**. The Detail Support Schedules showed an entry "IT Matching" for $231,643, dated June 30, 2004. CPDC officials told us there was no support for the entry and they could not provide the details or the purpose of the entry.

3. **Teaming for Technology**. The Detail Support Schedule showed a $15,000 entry that was supported only by a note stating "United Way Services of $15,000". We concluded this was not sufficient to support the costs because it did not provide details on the services provided and how it was related to the purpose of the grant.

4. **Software Depreciation**. The Detail Support Schedule showed a charge of $806,481 that represented depreciation expenses for the Microsoft, Plato Academic, and Valpar International software assets. We recalculated the depreciation expense and found the amount reported was overstated by $34,896.

5. **Cleaning and Maintenance.** This charge of $526,757 represented cleaning and maintenance expenses for CPDC's training facilities. For matching, CPDC claimed rent expenses of $309,907. We found that CPDC overstated this amount by $112,067. We determined that 6,182 square feet of rental space was available at the Edgewood location. At $10 per square foot, the maximum monthly rent is $6,182.48. Based on the length of the grant, the total amount of rent expensed that CPDC should have charged as matching was $197,839 ($6,182.48 x 32 months).

In addition to the above exceptions, we also identified $1,110,805 in indirect costs that CPDC included in their reported matching contribution. As presented in the results under Objective 1 on indirect costs charged as a Federal share to the grant, CPDC did not have an approved indirect cost plan as required by the OMB Circular A-122. Since these costs did not meet the OMB Circular A-122 cost principles, CPDC cannot report these costs as matching.

Overall, we identified $1,605,983 in unsupported matching costs that CPDC reported for the grant. However, as presented in the results under Objective 1 on contactor expenses, we found that CPDC incurred $686,021 in costs that they did not claim for reimbursement on the FSR as a Federal share. Therefore, we concluded that CPDC can report these costs as matching funds. We reduced the net unsupported costs from $1,605,983, to $919,962. The following table summarizes the calculations of questioned matching fund costs.

Cost Item	Amount Claimed	Exception	Amount Questioned
Consultant Adjustment	$ 101,572	Not supported	$ 101,572
IT Matching	$ 231,643	Not supported	$ 231,643
Teaming for Technology	$ 15,000	Not supported	$ 15,000
Software Depreciation	$ 806,481	Overstated	$ 34,896
Cleaning and Maintenance	$ 526,757	Overstated	$ 112,067
Indirect Cost Matching	$1,110,805	Not Approved	$1,110,805
Total Questioned Matching Funds			$1,605,983
Reduce Adjustments by Allowable Contractor Costs not Claimed			$ (686,021)
Adjusted Amount to Questioned Matching Funds			$ 919,962

After reducing the reported $3,529,324 matching contribution by the adjustment of $919,962 to the corrected $2,609,362 contribution, we determined CPDC met the matching fund requirements of $2,602,848.

CPDC's Response

On behalf of CPDC, CPDC's legal counsel responded to the draft report. Concerning the report's finding that CPDC did not accurately report salary costs, CPDC responded that the questioned costs represented contractors who provided services to CPDC instead of employees. For the salary costs questioned because they were allocated to the grant based on pre-determined rates, CPDC responded that these costs were for activities directly related to the grant. For the salary costs questioned for unsupported timesheets, CPDC stated that in order to respond, they need to be provided the audit working papers that supported the finding. They responded that time sheets not signed by at least the employee or supervisor should be acceptable because OMB Circular A-122 does not require that both the employee or supervisor sign the timesheet as long as one of them signs it. CPDC also requested the audit working papers that supported other questioned salary costs.

Concerning the questioned indirect costs, CPDC responded that failure to have an indirect cost rate is not sufficient to disallow the indirect costs charged to the grant. They stated that the grant agreement provided that an indirect cost rate was not applicable. Additionally, CPDC stated that DOL's One-Stop Comprehensive Financial Management Technical Assistance Guide provided numerous methods for allocating costs and stated that indirect costs are usually recaptured through an indirect cost rate. CPDC responded that if an indirect cost rate was mandatory, then the Technical Assistance Guide would not have contained this qualified language.

CPDC responded that they will re-submit a final grant close-out package with revised outcomes.

Concerning the recommendation that the Assistant Secretary for Employment and Training perform a review of CPDC's internal controls, CPDC stated it would be an unnecessary diversion of CPDC's resources because they had taken corrective action on internal controls.

See Appendix D for the complete response from CPDC.

OIG Conclusion

CPDC's response did not change our findings and recommendations. For the overstated salary and wages costs, it will be the decision of ETA's Grant Officer to allow grants funds budgeted for salary and wages to be used to pay for contractor costs. If ETA's Grant Officer allows CPDC to use grant funds budgeted for salary to pay for contractor costs, then ETA's Grant Officer will have to consider how this would affect our audit results of contractor costs and matching fund costs. CPDC's response did not provide any information to change our conclusion that they charged employee costs to the grant based on predetermined rates. We do not agree with CPDC's interpretation that timesheets not signed by both the employee performing the work and the supervisor responsible for ensuring the work was performed, are acceptable according to OMB Circular A-122. OMB Circular A-122 requires that salaries and wage charges be based on documented payrolls approved by a responsible official(s) of the organization. Concerning CPDC's request that we provide them the audit working papers to support our findings, we provided CPDC detailed documentation on the cost items that we reviewed and questioned at the end of our field work in July 2006.

We disagree with CPDC's position that the grant agreement did not require them to obtain an approved indirect cost rate before charging indirect costs to the grant. The grant agreement required that CPDC comply with OMB Circular A-122. The Circular requires that a nonprofit organization submit its initial indirect cost proposal immediately after the organization is advised an award is made. Additionally, the Technical Assistance Guide cited by CPDC cannot be used as criteria because CPDC is not a One-Stop operator under the Workforce Investment Act.

Finally, we disagree with CPDC's position that a review of their internal controls is unnecessary because they already took corrective action. In the audit report, we acknowledged corrective action CPDC took to address internal control weaknesses. However, the corrective action took place outside the scope of our audit and we did not evaluate the newly implemented internal controls. Therefore, we continue to recommend a review of CPDC's internal controls to verify that they are operating and effective.

Recommendations:

We recommend that the Assistant Secretary for Employment and Training:

1. Recover the $870,821 in questioned salary and indirect costs charged to the grant.

2. Require CPDC to re-submit the final grant close-out package with revised outcomes.

3. Prior to awarding future grants to CPDC, perform a review to ensure:

- CPDC has implemented a financial accounting system sufficient to track costs and meet Federal accounting and reporting standards;
- CPDC has in place adequate internal accounting controls to ensure the integrity and accuracy of financial data;
- CPDC has a Federally approved indirect cost plan; and
- CPDC had implemented a management information system to ensure that reported performance data is accurate, supportable, and reliable.

Elliot P. Lewis
July 20, 2006

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Exhibits

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EXHIBIT A

Schedule of Questioned Costs

Item	Amount Questioned
Overstated Salary Costs Reported on the FSR	$ 572,709
Pre-determined Rates Used to Allocate Salary Costs	$ 29,915
Unsupported Salary Costs	$ 92,140
Indirect Costs Charged Without an Approved Plan	$ 176,057
Total	**$ 870,821**

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EXHIBIT B

CPDC'S Final Detailed Statement of Costs

Cost Category	Grant Budget	Cumulative Costs
Salaries and Wages	$1,824,614	$1,855,449
Fringe Benefits	210,900	143,975
TOTAL PERSONNEL COSTS	$2,035,514	$1,999,424
Other Costs		
Travel	$ 10,028	$ 2,129
Equipment	16,000	29,881
Supplies	43,806	43,759
Contractual	343,238	343,238
Other Expenses:	31,896	
Indirect Costs	$ 114,006	$ 176,057
TOTAL OTHER EXPENSES	558,974	595,064
TOTAL GRANT COSTS	**$2,594,488**	**$2,594,488**

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EXHIBIT C

CPDC'S Performance According to the Final Quarterly Report January 1, 2005

ETA Reporting Information	Cumulative Totals
Completed Training	557
Training Expected to be Completed by Project End Date	562
New Job Placements from H-1B Training	80
Job Promotions from H-1B Training	27
Wage Increases from H-1B Training	24
Certification or Degrees Received by Individuals as Result of H-1B Training	
Microsoft Office Specialist	2
Certification Introduction Computer and MS Applications	292
Certification Completion Evening Web Class	66
Gateway Certification (Honors Certificate)	101
Graduation Certificate	69
Certification of Participation	45

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Appendices

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APPENDIX A

BACKGROUND

The purpose of the H-1B program was to respond to demands from industries experiencing skill shortages in areas such as information technology. The H-1B Technical Skills Training Grants were intended to be a long-term solution to domestic skill shortages in high skill and high technology occupations. H-1B Technical Skills Training Grants were for developing and operating high skills training programs for unemployed and employed workers. These grants were financed by a user fee paid by employers to bring foreign workers into the U.S. under an H-1B nonimmigrant visa.

The Immigration and Nationality Act, implemented in 1992, established the H-1B visa category for non-immigrants who sought to work in high skill or specialty occupations, and set annual limits of 65,000 on the number of H-1B visas granted. In an effort to help employers access skilled foreign workers and compete internationally, Congress enacted the American Competitiveness and Workforce Improvement Act of 1998 (ACWIA), Public Law 105-277, in October 1998.

H-1B Technical Skills Training Grants had the long-term goal of raising the technical skill levels of American workers in order to fill specialty occupations presently filled by temporary workers admitted to the United States under the provisions of the H-1B visa.

In May 2004, ETA awarded a $2,594,488 grant to CPDC for a project entitled the H-1B Technical Skills Training Grant. The grant covered the period May 1, 2002 through May 1, 2004. ETA subsequently amended the grant period to extend through December 31, 2004.

CPDC is a non-profit Corporation that creates financially sound, socially responsible, affordable housing. Its primary mission is to revitalize and rehabilitate run down and distressed housing communities. CPDC also provides a range of community development programs such as Youth Development, Career Enhancement, and Community Empowerment Activities. The grant agreement stated that CPDC incorporated technical training and technology in delivering community services, education, empowerment, employment skills training, and youth development programs for residents. Since its founding in 1989, CPDC has redeveloped 17 communities. Edgewood Terrace, a 16-acre, 884-unit community in northeast Washington, DC, is CPDC's flagship development.

CPDC networked with technology companies and major employers throughout the region to develop its Career Enhancement Program. The program recognized the needs for skilled workers who could enter IT career ladders with requisite skills, and progress rapidly along a chosen career path into more challenging and rewarding positions. To address perceived regional needs, CPDC implemented the Career Enhancement Program at two sites; one in the District of Columbia and another in Alexandria, Virginia, forming collaborative relationships with educational institutions, corporate partners and community based agencies to maximize benefits throughout those communities. The participating organizations included:

Alexandria Re-Development Housing Authority
DC Office of Aging
Digital Sistas
DC Employment Services One-Stop Centers
Edgewood Brookland Family Support Collaborative
Enterprise Staffing Services
Howard University Center for Urban Progress
Second Chances Employment Services
Catholic University of America
George Washington University
Washington Gas

During the period July 1, 2002 through June 30, 2005, the Career Skills Enhancement within CPDC received funding from several different sources. These sources included government and non-government grants. Total funding from all sources was approximately $4.5 million; the H-1B Technical Skills Training Grant made up 58 percent of the total funding during this time period.

After receiving the H-1B Technical Skills Training Grant , CPDC expanded their existing program to create the H-1B Visa Career Skills Training activities. The following locations were used for the program.

- Edgewood Terrace community in northeast Washington, DC
- Buckman Road community in Alexandria, Virginia
- Park Montgomery community in Silver Spring, Maryland
- Stewartown Homes in Gaithersburg, Maryland

According to the grant proposal, over the 2-year period of the grant, CPDC planned to train 562 out of work or marginally employed residents of the region. CPDC planned to place at least 350 of participants trained into positions that were either unfilled, or filled by H-1B visa holders. CPDC planned to offer training in web development, networking, technical support, Microsoft Office applications, and several core entry level and industry specific competencies. The grant proposal did not specify the number of trained participants CPDC planned to receive a promotion or wage gain. CPDC developed training centers called Gateway Learning Centers at various property locations, but their primary training location was Edgewood Terrace apartments.

APPENDIX B

OBJECTIVES, SCOPE, METHODOLOGY, AND CRITERIA

Objectives

In June 2004, OIG received a letter alleging the misuse of H-1B Technical Skills Training Grant funds by CPDC. The complainant alleged that CPDC:

1. allocated salary expenses to the grant for staff not directly involved in providing H-1B services;

2. used grant funds, intended for Washington, D.C. residents, to provide services to out-of-state residents;

3. reported outcome data that were dubious;

4. did not meet its matching funds requirement;

5. used H-1B grant funds to develop CPDC's website; and

6. spent proceeds from certain properties to purchase surplus equipment to be used at other properties.

We did not perform specific audit work on allegation numbers 2, 5, and 6. For allegation number 2, we found the grant did not intend to be limited to only Washington, DC residents. The grant agreement specifically stated that areas affected by the project were Washington, DC, Montgomery County Maryland, and Northern Virginia. For allegations numbers 5 and 6, the complainant could not provide information and nothing came to our attention during our audit to indicate that the allegations could be substantiated. Therefore, our objectives were to answer the following questions:

1. Did CPDC ensure that costs charged to the grant were reasonable, allowable, and allocable?

2. Were the reported participant outcome data valid and reliable?

3. Did CPDC meet the $2.6 million matching funds requirement according to the grant agreement?

Scope

Our audit covered the grant period May 1, 2002 through December 31, 2004. We audited 93 percent of the $2,594,488 of the Federal share costs that CPDC charged to the grant and reported on the final FSR. See Exhibit B for CPDC's reported grant costs. Based on the allegations in the complaint, we selected the following accounts and costs for audit.

Cost Categories	Cost
Salaries and Wages	$1,855,449
Minor Equipment	29,881
Contractual Services	343,238
Indirect Cost	176,057
Total Grant	$2,404,625

We also audited $2,814,928 in matching funds.

Internal Controls

Our work on internal controls included obtaining and reviewing policies, procedures, and interviewing key personnel. We gained an understanding of the data flows in each audit area and documented a description of the controls. Our testing of internal controls focused only on the controls related to our objectives of assessing compliance with significant laws, regulations, and policies and procedures and was not intended to form an opinion on the adequacy of internal controls overall, and we do not render such an opinion. Weaknesses noted in our testing are discussed in the Results and Findings section of this report.

Auditing Standards

We conducted our audit in accordance with Generally Accepted Government Auditing Standards for performance audits. Fieldwork was conducted from March 28th to June 22, 2006. We performed our fieldwork at ETA's Philadelphia Regional Office, ETA's National Office, and at CPDC's main office and its training center at Edgewood Terrace, both located in Washington, DC.

An audit made in accordance with these standards provides reasonable assurance that its objectives have been achieved, but it does not guarantee the discovery of illegal acts, abuse, or all internal control weaknesses. We believe our audit provides a reasonable basis for our assessment and conclusions.

The conclusions provided in this report are the result of our audit for the period May 1, 2002 to December 31, 2004, unless cited otherwise in this report. Changes in management of the program, including changes in controls, laws, regulations, and other compliance requirements, could result in performance that would be different from the performance during that period.

Methodology

We met with ETA officials in the Philadelphia Regional Office and at National Office, including the Grant Officers. From ETA we obtained grant documents, and we performed on-site fieldwork at CPDC in the following areas:

Salary Expenses

We reconciled the final FSR to CPDC's Detail Support Schedules and followed up on differences found.

To determine if the salary costs CPDC charged to the grant were reasonable we reviewed payroll records to establish whether these costs appeared excessive based on our experience with work on other grantees.

To determine if the salary costs charged to the grant were allocable, in that they represented actual time spent on grant functions or activities, we used the Detail Support Schedules to identify the employees whose salary costs CPDC charged to the grant. We did not include salary costs for CSE employees because they were not cited in the complaint allegations and we determined that the risk was low that these employees spent time on activities not related to the grant. Our analysis identified 14 OTD and IT staff whose salary costs CPDC charged to the grant.

To determine if salary costs were based on actual time, we reviewed payroll documentation for non-CSE employees who had time charged to the H-1B grant. In addition to the 14 OTD and IT employees, we examined the salary costs for three employees from the Department of Youth Development and Department of Empowerment who performed H-1B program functions and charged some time to the grant. The salary costs for these 17 employee totaled $453,892.

The Department of Youth Development and Department of Empowerment had five employees who charged time to the H-1B grant. The three employees we judgmentally selected to examine their salary costs represented 88 percent of the total amount of salaries charged by the five employees. To perform our testing we obtained and reviewed the payroll registers, W-2's, timesheets, personnel files, job descriptions and supporting salary spreadsheets.

To determine if the salary costs were allowable, we performed testing of the 14 OTD and IT employees. We used the Detail Support Schedules to identify the universe of amounts charged for each pay period. Our approach to testing the salary costs was to review a sample of payroll entries for the 14 employees. We determined the universe of payroll entries for the 14 OTD and IT employees totaled 646. Omitted were the payroll entries in which predetermined rates were used because we audited them separately. We developed a sampling plan and randomly selected 155 payroll entries for audit. To perform our testing we obtained and reviewed the payroll registers, W-2's, timesheets, personnel files, job descriptions and supporting salary spreadsheets.

Indirect Costs

To review indirect costs we reviewed the grant agreement, grant budget, and FSR to identify the approved indirect cost rate and the amount of indirect costs charged to the grant. We interviewed grantee officials about the methods used to report indirect charges to the grant. We also reviewed the OMB Circular A-133 audits and referenced management letters.

Contractor Expenses

For contractor costs, we reconciled the reported cost to the CPDC's Detail Support Schedules and found that CPDC recorded $1,247,661 as contractor expenses and $269,131 recorded as contractor cash matching. Of the $1,247,661 in contactor expenses, CPDC only charged $343,238 to the grant because that was the amount budgeted.

To determine if contractor costs were reasonable, we reviewed contracts and invoices to establish whether these costs appeared excessive based on our experiences with contractor services from work on other grantees.

To determine if contractor costs were allowable, we tested all 25 contract charges over $4,000 totaling $154,361, and we statistically sampled the items under $4,000, excluding items under $100. The universe of the remaining items consisted of 1,480 items totaling $1,106,015 and we sampled 120 items totaling $86,462.

Outcome Data

To audit the reported outcome data, we reviewed ETA's December 14, 2001, notice in the Federal Register requesting applications for the H-1B Technical Skills Training Grant Program to determine the outcome data reporting requirements. We then reviewed the grant agreement narrative and identified the key outcome data. The key outcome data identified were training completions, job placements, promotions, and wage increases.

We obtained an understanding of CPDC's process for reporting these outcome data to ETA on the H-1B Technical Skills Training Grants Quarterly Reports. We requested CPDC's supporting documentation for the numbers reported. We reconciled the numbers supported to the numbers reported.

We performed testing on a random sample of 85 participants from the universe of 568 who completed training. The test of participants who completed training was to determine whether the student files contained evidence of completion such as student transcripts and/or student performance evaluations; and the student certification.

For placements, promotions, and wage increases, we performed testing on the entire outcome data reported.

The tests for placements were to determine whether:

- the students had a job before training;
- the students' files contained job placement paperwork;
- there were verifications of the 90-day job monitoring requirement;
- there were attendance records to support the students attended training;
- copies of the applicable certification supported program completion; and
- the students obtained their own jobs.

The tests for promotions and wage increases were to determine if there was documentation to support:

- completed training data;
- student attendance;
- job placements;
- employment data prior to training;
- any updated employment data after training; and
- the promotion and salary increase data for marginally employed participants.

Matching

We obtained CPDC's Detail Support Schedules to determine the actual amount of matching funds CPDC provided to the grant. We then reconciled the amounts on the Detail Support Schedules to the amounts reported on the FSR to ensure the Detail Support Schedules contained the universe of matching fund costs.

We judgmentally selected large dollar items from the Detail Support Schedules first selecting the line item and then the individual cost items. We did not include salary and indirect costs line items because we covered these costs in other work. The following table shows the matching funds we audited:

Consultant Adjustment	$ 101,572
IT Matching	$ 231,643
Teaming for Technology	$ 15,000
Xenagrade	$ 22,670
Software Depreciation	$ 806,481
Cleaning and Maintenance	$ 526,757
Indirect Cost Matching	$1,110,805
Total Audited	$2,814,928

We analyzed source documents that CPDC provided to support the costs. For the Consultant Adjustment, IT Matching, Teaming for Technology, and Xenagrade charges, we examined the documentation to determine whether it adequately supported the costs. We identified any differences between the amount charged and supporting documentation and discussed the differences with CPDC officials. For the Software

Depreciation and the Cleaning and Maintenance charges, we obtained supporting data from CPDC and re-computed the software and the cleaning and maintenance expenses. We compared our calculations to the amount charged and discussed differences with CPDC officials.

Sampling

We used statistical sampling for some of the items tested during our audit.

For salary costs, we used statistical sampling of payroll entries for 14 OTD and IT employees. The universe of payroll entries for the 14 OTD and IT employees totaled 646. We omitted the payroll entries in which we audited as part of our work on the use of predetermined rates. We developed a sampling plan and randomly selected 155 payroll entries for audit. The 155 payroll entries totaled $79,465.33 in salary costs.

For contractor costs, we used statistical sampling for items between $100 and $4,000. There were 1,480 items in this universe totaling $1,106,015. We developed a sampling plan and randomly selected 120 invoices totaling $86,462.

For participants who completed training, we developed a sampling plan and randomly selected a sample of 85 participants from a universe of 568.

Criteria

We used the following criteria to perform this audit:

- Workforce Investment Act of 1998
- OMB Circular A-122 - Cost Principles for Non-Profit Organization, Revised June 1, 1998
- Title 29 CFR part 95 – Uniform Administrative Requirements for Institutions of Higher Education, Hospitals, and other Non-Profit Organizations, July 27, 1994
- OMB Circular A-110, Amended, September 30, 1999
- American Competitiveness and Workforce Improve Act of 1998
- ETA Solicitation for Grant Applications (SGA) H-1B, Federal Register Volume 64., Number 157, August 16, 1999
- ETA H-1B Technical Skills Training Grant Program; Federal Register Volume 66., Number 72, April 13, 2001
- ETA (SGA No. DFA 02-102) H-1B Federal Register Volume 66, Number 241, December 14, 2001

APPENDIX C

ACRONYMS AND ABBREVIATIONS

ACWIA	American Competitiveness and Workforce Improvement Act of 1998
CFR	Code of Federal Regulations
CMIA	Cash Management Improvement Act
CPDC	Community Preservation and Development Corporation
CSE	Career and Skills Enhancement
DOL	U.S. Department of Labor
ETA	Employment and Training Administration
FSR	Financial Status Report
IRS	Internal Revenue Service
IT	Information Technology
OIG	Office of Inspector General
OMB	Office of Management and Budget
OTD	Office of the Director
OTP	Office of the President
SGA	Solicitation for Grant Application
WIA	Workforce Investment Act of 1998

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APPENDIX D

CPDC RESPONSE TO DRAFT REPORT

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FELDESMAN
TUCKER
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VIA E-Mail - pompilii.daniel@oig.dol.gov
AND FEDERAL EXPRESS

Michael T. Hill
Regional Inspector General for Audit

Dan Pompilii
ARIG
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Philadelphia, PA 19106

RE: *Audit of a Complaint Involving the Community Preservation and Development Corporation's H-1B Technical Skills Training Grant*, Draft Report No. 03-07-001-03-321 - Comments

Dear Messrs. Hill and Pompilii:

This firm represents the Community Preservation and Development Corporation ("CPDC"). This will serve as CPDC's response to the recommendations and findings in the above-referenced Draft Audit Report (the "Draft").

RESPONSES

Recommendation No. 1: Recover the $870,821 in questioned salary and indirect costs charged to the grant.

RESPONSE: According to the Draft, CPDC charged $870,821 in salary and indirect costs to the DOL grant that did not meet the requirements under OMB Circular A-122. We disagree.

Specifically, CPDC was found to have:

a. overstated the salary costs reported on the Financial Status Report ("FSR") by $572,709

As an initial matter, the draft report does not state an adequate basis to disallow the costs in question. It is well-settled law that in order to support a disallowance the government must allege that the grantee "misappropriated, misspent, or otherwise wasted the federal dollars which it did spend." *Home Education Livelihood Program, Inc.*, HHS

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FELDESMAN TUCKER LEIFER FIDELL LLP

Messrs. Hill and Pompilii
March 30, 2007
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DAB No. 1598 (1996). Here, the Draft does not claim that the "contractor" costs did not benefit the H-1B program or that they were, on their face, unallowable under OMB Circular A-122. Instead, the Draft bases its recommendation to disallow a substantial amount of funds on an apparent difference of opinion about how to characterize individuals who provide services to CPDC under contract instead of as employees.

CPDC is prepared to submit documents in support of the following facts. First, in its closeout package, CPDC submitted a document entitled "Grantee's Detailed Statement of Costs" which reported $1,855,449 for Salaries and Wages (an undefined term, by the way) for a cost category entitled "Personnel Costs." CPDC submitted this statement in support of its final Financial Status Report ("FSR") for the H-1B program. CPDC is prepared to show, as your office, we believe, has confirmed, that much of these personnel costs were incurred through contractual arrangements with individual instructors and others who provided needed services on the H-1B program. These instructors often provided only a few hours per week to the program to, for example, teach a class and it simply would have made little sense to hire these individuals as employees. Nonetheless, they provided personal services to CPDC. Importantly, whether the legal relationship between the individuals was one of contract or employment made no difference to meeting grant objectives.

Despite this lack of a distinction in the services provided to the H-1B program by employees or contractors, the Draft questions $572,209 due to the fact that, according to the Draft, CPDC incurred only $1,282,739 in salary costs for its employees working on the H-1B program. OIG Draft Report at 9. Therefore, the Draft asserts that Salaries and Wages on the FSR were overstated by $572,709. While CPDC does not dispute that it could have implemented an accounting system that would have increased the transparency of its operations at the time (and has, as it believes your office has confirmed, done so now), the fact that costs for personal services contracts were accumulated under the Salaries and Wages line item of the Detailed Statement of Costs does not, in any way, support a disallowance of those costs.

Specifically, the services performed by the contractors (who, as noted above, were hired to perform the skills training and similar functions) were necessary and directly related to the grant and its purposes. The Draft report does not dispute that the grant program received a benefit from the services provided by the contractors, nor does it claim that under applicable cost principles the costs were not reasonable because they exceeded that which would be incurred by a prudent person under the circumstances prevailing at the time the decision was made to incur the cost. OMB A-122, att. A., sec. 3.

OMB Circular A-122, Att. B, ¶ 39(a) provides that costs of consulting services are allowable when rendered by persons who are not officers or employees of the

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organization. In determining the allowability of costs in a particular case, no single factor, or any special combination of factors, is necessarily determinative; however, OMB A-122, Att. B, ¶ 39(b) sets forth a number of relevant factors. In this regard, it is important to note that CPDC has possession of documents (which we believe your office has reviewed), including contracts and payment records that document the organization's relationship with the contractors and set forth the scope of those relationships. These records were contemporaneous with the provision of consultant services and evidence that the services provided were directly related and allocable to the grant's purposes.

In short, the sole basis for the recommendation of a disallowance is the inclusion of the personal services contractors under the salaries and wages line. As the HHS Departmental Appeals Board recognized in *Home Education Livelihood Program, Inc*., DAB No. 1598 (1996) such a form over substance distinction is not a sufficient basis to support a cost disallowance, " . . . the labels applied to a particular position are not what is relevant in determining whether a salary cost should be disallowed; the relevant consideration is the function which [the employees] were performing." Similarly, the fact that certain contractor costs were labeled "Salaries and Wages" for the purposes of reporting on the FSR does not mean that those costs should be disallowed.

For the above reasons, we ask that the $572,709 in costs originally reported as Salary and Wages not be questioned.

b. used pre-determined rates to allocate $29,915 of salary costs for employees who charged time to more than one grant or project.

OIG looked at payroll documentation for non-Career and Skills Enhancement ("CSE") employees who had time charged to the H-1B grant. For 5 of the 17 employees, CPDC had charged $29,915 in salary costs to the grant based on pre-determined, budgeted rates (rather than actual time). According to the Draft , CPDC properly used actual time for the balance of the salary costs charged to the H-1B grant for the 17 employees tested.

We believe these employees performed work directly related to the grant. As a result, CPDC requests a listing of the employees whose salaries are being questioned, including any workpapers supporting the finding that their salaries were charged using a pre-determined rate as well as an opportunity to respond as to whether there costs should be allowable.

c. could not adequately support 151 of the 155 randomly sampled payroll entities audited which represented unsupported salary costs charged to the grant totaling $92,140

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The OIG found errors with 151 our of the 155 payroll entities tested. According to the draft Report, these errors represented differences between the supporting timesheet and the amounts CPDC charged to the grant and resulted in an overstatement of salary costs of $ 26,443. According to the Draft, the statistical projection of the errors believed to have been found showed salary costs of at least $92,140 (with a 95 percent confidence level) that CPDC charged to the grant were not adequately supported.

We request the workpapers related to the contractor costs test that resulted in the Draft's conclusion that the total value of exceptions in this category was $41,550. We further request any support for the conclusion that $35,459 was paid to a contractor for unallowable fundraising and information related to the remaining amount of $6,091 in questioned costs. To the extent that any statistical projections were made, we would also request documentation concerning those calculations.

The Draft states that testing of the same 155 randomly selected payroll entries found 10 timesheets were not in the file, 52 timesheets were not signed by the employee and 43 timesheets were not signed by the supervisor. We would ask that we be provided with copies of the working papers supporting this finding in order to fully respond. However, with respect to the issue of signatures, we would note that OMB Circular A-122, ¶ 7(m)(2)(c) requires that the reports documenting personal services, such as timesheets, "must be signed by the individual employee, or by a responsible supervisory official having first hand knowledge of the activities performed by the employee, that the distribution of activity represents a reasonable estimate of the actual work performed by the employee during the periods covered by the reports." Thus, the applicable cost principle does not require that both the employee and the supervisor sign the timesheet as long as one of them signs. As a result, 95 (52 + 43) of the timesheets should be acceptable, wholly undermining this finding.

We would ask that this finding be removed or that the working papers be provided so that we may fully respond.

d. failed to have obtained a required indirect cost rate

The Draft questions $176,057 in costs that CPDC charged to the grant because CPDC did not have an indirect cost rate. According to the Draft (and according to the stated interpretation of OMB Circular A-122), CPDC should have submitted its indirect cost proposal immediately after the organization was advised that an award would be made or no later than 3 months after the effective date of the award.

We do not believe the Department of Labor ("DOL") has interpreted OMB Circular A-122 to require that every grantee obtain an indirect cost rate. For example,

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DOL's One-Stop Comprehensive Financial Management Technical Assistance Guide ("TAG") (July 2002) provides numerous methods for allocating costs to DOL grants. More to the point, it states on page II-5-7, indirect costs are "usually recaptured" through an indirect cost rate. Clearly, if having an indirect cost rate was mandatory, then the TAG would not have contained this qualified language.[1]

Moreover, CPDC's grant agreement included at Part IV entitled Special Clauses and Conditions a clause addressing "Indirect Cost Rate and Allocation Plan." This clause noted that CPDC did not have an approved cost allocation plan. The clause further described as "not applicable" the fact that CPDC had an indirect cost rate and had a temporary billing rate approved for the first 90 days of the grant period. Given this language, if CPDC was required to have an indirect cost rate, DOL should not have approved CPDC's grant application in the first instance.

In short, the failure to have an indirect cost rate is not a sufficient basis to disallow $176,057 in costs. We ask that your office withdraw its finding and that the costs charged be viewed under the standards for allowability articulated in OMB Circular A-122 and implementing DOL guidance.

Recommendation No. 2: Require CPDC to re-submit the final grant close-out package with revise outcomes.

RESPONSE: CPDC is willing to accept the recommendation in the Draft that CPDC re-submit the final grant close-out package in order to report revised outcomes.

Recommendation No. 3: Prior to awarding future grants to CPDC, perform a review to ensure:

- **CPDC has implemented a financial accounting system sufficient to track costs and meet Federal accounting and reporting standards;**
- **CPDC has in place adequate internal accounting controls to ensure the integrity and accuracy of financial data**
- **CPDC has a Federally approved indirect cost plan; and**
- **CPDC has implemented a management information system to ensure that reported performance data is accurate, supportable and reliable.**

RESPONSE: CPDC strongly disagrees. CPDC has already taken the following steps:

[1] Similarly, DOL's "A Guide for Indirect Cost Rate Determination" states in the Preface that reimbursement of indirect costs on DOL programs "will generally" be through an indirect cost rate, again making clear that a rate is not mandatory.

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- Installed and tested an entirely new fund accounting system
- Replaced the accountant and Controller who were responsible for the accounting records during the grant period with new, well-qualified staff
- Created and filled the new 'Chief Financial Officer' position
- Adopted a Web-based timesheet system with actual time allocations to programs and mandatory supervisory timesheet approvals before the payroll process is initiated
- Requested and received an approval of its indirect cost rate for a current U.S. Department of Commerce grant
- Developed and utilized cost centers for each of its community development programs and sites
- Developed and utilized a sophisticated program for improved management reports and in-depth project cost accounting, allocations, and forecasting.

Given the breadth and depth of these changes to CPDC's internal controls and financial management systems and operations, the review described in the OIG's recommendation would be an unnecessary diversion of CPDC's resources.

Conclusion

Thank you for the opportunity to provide this response. If you have any questions, please do not hesitate to contact the undersigned.

Respectfully submitted,

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