

# **Office of Inspector General**

---

**U.S. Department of Labor  
Office of Audit**

## **Audit of the New Mexico Department of Labor's Year 2000 Grant Expenditures**

Report Number: 04-01-001-03-315  
Date Issued:

## TABLE OF CONTENTS

ACRONYMS .....	iv
EXECUTIVE SUMMARY .....	1
INTRODUCTION AND PRINCIPAL CRITERIA .....	3
OBJECTIVE, SCOPE AND METHODOLOGY .....	5
RESULTS OF AUDIT .....	6
BASE-FUNDED STAFF COSTS OF \$671,824 WERE IMPROPERLY CHARGED TO THE Y2K GRANTS .....	6
COSTS OF \$224,595 WERE IMPROPERLY ALLOCATED TO THE Y2K GRANTS .....	7
PURCHASES OF PROPERTY, WARRANTIES AND SUPPLIES TOTALING \$17,802 WERE NOT NECESSARY FOR Y2K READINESS .....	9
UNSPENT Y2K FUNDS OF \$171,944 SHOULD BE DEOBLIGATED .....	12
CONCLUSION .....	13
RECOMMENDATIONS .....	13
NEW MEXICO'S COMMENTS ON THE DRAFT AUDIT REPORT .....	13
ANALYSIS OF NEW MEXICO'S COMMENTS .....	14
ATTACHMENTS	
ATTACHMENT A - EXCERPTS FROM NEW MEXICO'S RESPONSE TO THE DRAFT AUDIT REPORT	
ATTACHMENT B - NEW MEXICO'S Y2K EXPENDITURES AT JUNE 30, 2000	

## **TABLE OF CONTENTS (Continued)**

### **EXHIBITS**

**EXHIBIT A - PRINTER PURCHASES QUESTIONED AS UNNECESSARY**

**EXHIBIT B - COMPUTER MAINTENANCE AND SERVICE WARRANTIES  
QUESTIONED**

**EXHIBIT C - SUPPLIES QUESTIONED AS UNNECESSARY FOR Y2K READINESS**

## ACRONYMS

AS & T	-	Administrative, Staff and Technical
CPU	-	Central Processing Unit
DOL	-	U.S. Department of Labor
ES	-	Employment Service
ETA	-	Employment and Training Administration
FY	-	Fiscal Year
IV & V	-	Independent Verification and Validation
JTPA	-	Job Training Partnership Act
NMDOL	-	New Mexico Department of Labor
OIG	-	Office of Inspector General
SBR	-	Supplemental Budget Request
SESA	-	State Employment Security Agency
SPO	-	State Personnel Office
UI	-	Unemployment Insurance
Y2K	-	Year 2000

## **EXECUTIVE SUMMARY**

During Fiscal Years (FY) 1998 and 1999, Congress appropriated funds to help State Employment Security Agencies (SESAs) make their automated Unemployment Insurance (UI) and Employment Service (ES) systems Year 2000 (Y2K) compliant. The U.S. Department of Labor (DOL), Employment and Training Administration (ETA) awarded the New Mexico Department of Labor (NMDOL) grants totaling \$6,541,814 from funds available for Y2K readiness.

The Office of Inspector General (OIG) examined Y2K expenditures of \$5,575,655 made by NMDOL, from the grants' inception through June 30, 2000. Our audit objective was to determine whether Y2K funds were spent for intended purposes, in conformity with the grant agreements and applicable Federal requirements.

We found NMDOL did not always comply with requirements governing use of the funds. Consequently, we have questioned Y2K grant expenditures of \$914,221, which include:

- \$671,824 of staff salary and fringe benefit costs that did not satisfy criteria for reimbursement as Y2K expenditures;
- \$224,595 of overhead and other costs NMDOL has improperly allocated to the Y2K grants; and
- \$17,802 of costs involving a variety of purchases that were not necessary to ensure Y2K readiness.

We recommend that the Assistant Secretary for Employment and Training recover \$914,221 that was misspent. We also recommend the Assistant Secretary deobligate unspent Y2K grant funds that remained available to NMDOL. After accounting for purchases that were approved by ETA subsequent to our onsite fieldwork, the unused balance, on December 1, 2000, was \$171,944.

In its response to our draft report, NMDOL disagreed with most of the findings, recommendations and questioned costs, and offered several arguments as to why they were unable to comply with Y2K grant requirements. The response indicates circumstances NMDOL faced in meeting Y2K deadlines prevented compliance. NMDOL also argued that ETA was aware of their activities and complicit in NMDOL's practices, and that the

grant requirements were unclear and contradictory. NMDOL has also requested a retroactive waiver of requirements governing staff charges to Y2K grants. Excerpts from their response are included in Attachment A of this report.

We recognize the difficulty all states encountered in preparing for Y2K. However, we believe guidance was clear and that the principal cause of NMDOL's difficulty was their failure to understand the grants' spending restrictions. We continue to recommend recovery of the questioned costs.

## INTRODUCTION AND PRINCIPAL CRITERIA

---

### ORIGIN AND PURPOSE OF Y2K FUNDS

---

In FY 1998, concerns with the approach of Y2K and the potential for problems with automated systems prompted Congress to provide State Employment Security Agencies (SESAs) with grants that totaled \$205 million. The funds were to help ensure SESAs' automated UI and ES systems were Y2K compliant.

ETA distributed base funding of \$1 million to each of the 53 SESAs. In addition to base funding of \$53 million, ETA awarded \$9,540,000 (\$180,000 to each SESA) to develop business continuity or contingency plans, in the event of Y2K-related shutdowns of critical UI and ES systems, or for independent verification and validation (IV & V) of Y2K compliance measures. During FY 1998, each SESA was also afforded the opportunity to request additional funds for specific Y2K needs, through Supplemental Budget Requests (SBRs). The SBRs detailed specific Y2K-related needs for which the funds were requested. The SBRs were evaluated by a panel consisting of ETA staff, and the funds were awarded based upon what the panel judged were "reasonable and allowable" costs.

In Fiscal Year 1999, ETA reprogrammed an additional \$50 million of UI contingency funds to address the SESAs' Y2K needs. The funds were awarded to the SESAs through SBRs. ETA required the SESAs to demonstrate a "compelling need" for the funds to be considered for the FY 1999 awards.

NMDOL received a total of \$6,541,814, in Y2K grant funds, from ETA. In FY 1998, ETA distributed Y2K base and IV & V funds of \$1,180,000 to NMDOL. In FY 1998, NMDOL received additional Y2K grants of \$4,510,993, through the SBR mechanism. During FY 1999, ETA also awarded a total of \$850,821 in Y2K funds NMDOL had requested in two SBRs.

---

### PRINCIPAL CRITERIA

---

ETA Field Memorandum 50-97, dated August 4, 1997, provided the following guidance for the use of FY 1998 Y2K funds:

*The Y2K Compliance projects for which funds are received must focus on activities relating to Year 2000 conversion efforts, the replacement or upgrading of systems, systems interfaces, and/or software products necessary to ensure Y2K*

*compliance, or replacing or upgrading computer hardware that is not Y2K compliant and that will adversely impact system or program performance if not replaced or upgraded.*

Guidance on the use of FY 1999 Y2K supplemental funding was included in ETA Field Memorandum 3-99, dated October 13, 1998:

*The Y2K funds received must be used only for activities relating to Y2K compliance efforts, including replacement or upgrading of systems, systems interfaces, and/or software products which will adversely impact system or program performance if not replaced or upgraded. . . .*

*FY 1999 Y2K funds are intended to meet those identified immediate requirements of those SESAs which, in the absence of these additional funds, are unlikely to achieve Y2K compliance of their employment security automated systems. Thus, compelling need is the primary criterion which will be used in evaluating SBRs. Additionally, the SESA must demonstrate that the funds will materially assist the SESA in achieving its Y2K compliance goals.*

The "Executive Summary" of ETA's "Year 2000 SBR Review Panel's Briefing Package" stated that SESAs should prioritize their spending to best meet their own critical needs, and that ETA Regional Offices should:

*. . . strongly encourage the SESAs to initially concentrate their efforts and resources on making UI Benefits systems compliant, as they are mission critical and will be the first to fail. Before funds are spent on PC upgrades and replacements, mission critical systems need to be converted and tested for compliance.*



## **OBJECTIVE, SCOPE AND METHODOLOGY**

The primary objective of this audit was to determine whether funds designated for Y2K compliance were spent for intended purposes, in compliance with grant provisions and other applicable Federal criteria.

We examined Y2K grant funds received by the NMDOL during the period October 1, 1997 through June 30, 2000. We reviewed the SBRs and quarterly financial status reports, interviewed State officials and reviewed financial records and other documentation related to Y2K conversion expenditures.

NMDOL received a total of \$6,541,814 from ETA for Y2K compliance activities. As of June 30, 2000, NMDOL reported having spent \$5,575,655 of the funds awarded. Resources-on-order totaled \$590,053, and \$376,106 in funds remained uncommitted. A compilation of costs included in totals NMDOL reported to ETA are presented in Attachment B of this report.

Our audit was conducted in accordance with *Government Auditing Standards*, issued by the Comptroller General of the United States and included such tests as we considered necessary to satisfy the objectives of our audit. Our scope and review of internal controls were limited to that which satisfied the audit's objectives. We did not evaluate NMDOL's general operational internal controls over non-Y2K funds. Our audit was conducted for the sole purpose of determining if ETA's requirements for the use of Y2K funds had been followed. We do not express an opinion on the completeness or accuracy of Y2K grant expenditures reported to ETA. Our fieldwork began in June 2000 and continued through January 22, 2001.

Our findings, conclusions and recommendations were discussed with NMDOL and their response was considered in preparing this report. As discussed in the following section of this report, we have questioned \$914,221 of Y2K grant expenditures that we do not believe were spent in compliance with the Y2K grant agreements or other applicable Federal criteria.

## **RESULTS OF AUDIT**

Although NMDOL avoided interruption of ES and UI services, it did not always adhere to ETA's requirements governing the use of Y2K funds. We identified grant expenditures, totaling \$914,221, that were not in accordance with Y2K grant requirements. For purposes of discussion, we have classified questioned costs into the following expenditure categories:

- \$671,824 of "base-funded" staff salary and benefit charges;
- \$224,595 of costs allocated to the Y2K grants; and
- \$17,802 in equipment and other purchases.

---

### **BASE-FUNDED STAFF COSTS OF \$671,824 WERE**

---

NMDOL improperly charged \$671,824 of staff salary and fringe benefit costs to the Y2K grants.

The DOL provides all SESAs annual appropriations to pay the costs of administering ES and UI activities. Annual appropriations include monies for "base-funded" personal service and benefit costs. ETA established restrictions on how Y2K funds could be spent, to ensure Y2K grant funds were used to pay the additional costs of staff working on Y2K-related problems, and to prevent Y2K funds from being used to supplant the cost of base-funded activities.

To that end, ETA required that personnel costs charged to the Y2K grants be only for the overtime costs of base-funded staff, or for the salaries of additional staff (in excess of base-funded levels) hired to work on critical Y2K-related problems. However, NMDOL did not comply with this requirement and charged \$671,824,<sup>1</sup> of base-funded staff salaries and benefit costs to the Y2K grants.

---

<sup>1</sup>Direct charges we have questioned consist of \$512,150 of personal service (object code 10, transaction code 65), and \$159,674 of personal benefit costs (object code 20, transaction codes 61, 65 and 91). During our audit we paid \$38,403 in staff overtime costs that were appropriately charged to the Y2K grants and have not been questioned. In addition to direct personal service and benefit costs, staff costs of \$83,692 were improperly allocated to the Y2K grant personal services and benefits cost categories. See footnote 2 for a discussion of these charges.

ETA Field Memorandum Number 50-97, dated August 4, 1997, discusses SESAs' compliance activities related to Y2K funding. Under Staff Needs, at Section 6, SBR Proposal Format and Instructions, ETA states:

*Costs incurred by SESA base funded staff assigned to the project on a temporary basis cannot be funded by the Y2K grant; however, overtime costs are allowable. Any staff costs must be for additional staff, not previously funded by the SESA's base grant, or for overtime applied to Y2K activities performed by technical staff or program personnel.*

ETA reiterated an identical requirement in Field Memorandum 3-99, dated October 13, 1998, concerning staff charging time to FY 1999 Y2K grants funded through SBRs. Also, ETA Field Memorandum 47-99, dated July 14, 1999, provided additional guidance on staff charges to FY 1999 SBRs:

*These funds may not be applied to base staff positions or to support staffing positions otherwise covered by base grants, or to on-going maintenance activities or to on-going communications.*

NMDOL agreed that the Y2K grants were charged for the salaries and benefits costs of regular, full-time staff members. NMDOL stated that the staff who were charged to Y2K grants worked full-time on the Y2K project and not base activities. According to management, workload requirements of base positions were redistributed to other staff.

NMDOL also indicated that the New Mexico State Personnel Office's (SPO) recruiting procedures require 4 to 6 months in order to fill a vacant, full-time position. NMDOL's management indicated they could not wait that long for staff to work on the Y2K project. The response also indicated the SPO had restricted the types of personnel actions they would process because of SPO's own Y2K remediation projects.

However, NMDOL did not comply with ETA's requirements. As a consequence, Y2K grant funds were used to supplant salaries that should have been paid from UI and ES base grants.

---

**COSTS OF \$224,595 WERE IMPROPERLY**

---

In addition to unallowable direct charges, NMDOL improperly allocated \$224,595 of overhead and other indirect costs to the Y2K grants.

**Improper Direct Charges Caused Unallowable Allocations.** NMDOL's financial accounting system automatically allocates both cost center and administrative staff and technical (AS & T) overhead costs to various fund ledgers. The allocations are based on the proportion of direct personal service hours spent on each activity to the total for all activities.

Since direct personal service hours were charged to the Y2K grants, NMDOL's accounting system automatically allocated \$213,322 of additional AS & T and overhead costs to the respective Y2K fund ledgers.<sup>2</sup> As discussed in the previous section, direct charges to the Y2K grants were improper. Consequently, we have questioned administrative and overhead costs allocated to the Y2K grants on the basis of improper direct charges.

**Additional Costs Were Improperly Allocated to Y2K Grants Through Accounting Entries.** NMDOL charged the Y2K grants for \$10,193 of unsupported costs that were classified as supplies expense. According to NMDOL, the charges represent allocable non-personal service costs that, for the sake of expediency, were charged to the Y2K grants through journal voucher entries.

The \$10,193 was transferred from UI base funding grants through two separate general journal vouchers made to NMDOL's accounting system during 1998.<sup>3</sup> Although the two transactions were ostensibly transfers of supplies expenses, the transactions were actually allocations of cost center overhead (transaction 93) expenditures. We noted that the journal voucher (574 ADM (B)) explained the journal voucher as the transfer of time charges from UI (fund ledger 210) to FY 1998 Y2K (fund ledger 212) for the period October 1997 to December 1997.

---

<sup>2</sup>Costs of \$213,322 allocated to the Y2K grants that we have questioned include FYs 1998 and 1999 Y2K charges of \$2,423, (FY 1998 initial \$1 million grant), and FYs 1998 and 1999 fund ledger 211 charges of \$1,999 (SBR grants). Improperly allocated staff costs of \$83,692 are included in the total of \$213,322 we have questioned. Costs we have questioned consist of \$61,637 that was charged to personal services (object code 10, transaction codes 93 and 94) and \$22,055 that was charged to personal benefits (object code 20, transaction codes 93 and 94).

<sup>3</sup>Journal voucher (JV) 574 ADM (B), dated March 31, 1998, was said to represent a transfer of "consumption expense" of \$7,103 from fund ledger 210 (Regular UI) to Y2K fund ledger 212. Journal voucher (JV) 935 ADM (B) 1998, was represented as a transfer of \$3,090 in "supplies expense" from Fund Ledger 210 (Regular UI) to Fund Ledger 212.

NMDOL indicated that the transfer of supplies:

*. . . represents an allowance for non-personal service expenditures that would have been allocated to the Y2K grant **had the time charges referenced . . . been charged to the grant directly.** [Emphasis added.]*

NMDOL further commented:

*Because transferring allocated costs in exact detail would have involved transferring expenditures between approximately 50 - 100 line-items, including line-items reflecting expenditures of only a few dollars or even only a few cents, the Agency utilized the supply line-item as a means of simplifying the entry.*

Charges to the Y2K grants for base-staff positions are improper and indirect costs allocated on the basis of such charges are also improper. Regardless, the transactions were not supported, as the direct time charges on which the allocations are purportedly based, did not occur.

**Premise Expenses Were Improperly Allocated to the Y2K Grants.** Similarly, the Y2K grants were charged \$1,080 (Payment Voucher F07390) in premises expense for "building/structure maintenance." NMDOL stated the charge of \$1,080 represents the Y2K grant's proportionate share of premises expense, and the allocation was based on direct personal service hours that could be attributed to Y2K activities.

We have established that NMDOL did not hire additional staff for its Y2K efforts. Consequently, the costs should not have been allocated to the Y2K grants.

---

**PURCHASES OF PROPERTY, WARRANTIES  
AND SUPPLIES TOTALING \$17,802 WERE  
NOT NECESSARY FOR Y2K READINESS**

---

We identified \$17,802 NMDOL spent on a variety of property, warranties and supplies that were not necessary to ensure NMDOL's Y2K readiness.<sup>4</sup> The items questioned are discussed in the following sections of this report.

---

<sup>4</sup>NMDOL elects to expense all purchases of individual items under \$1,000 as supplies. Consequently, equipment purchased with Y2K funds including monitors and printers are sometimes classified as supplies. With computer equipment were often classified as supplies.

**Printer Upgrades Were Not A Y2K Necessity.** NMDOL spent \$1,197 for three printers. We found two of the printers were being used by personnel in the UI Bureau in Albuquerque, and one was being used by the UI Random Audit Section. These desktop printers serve individuals who also have access to network printers. (See Exhibit A.)

ETA Field Memorandum 50-97, dated August 4, 1997, provides the following guidance for the use of FY 1998 Y2K funds:

*The Y2K Compliance projects for which funds are received must focus on activities relating to Year 2000 conversion efforts, the replacement or upgrading of systems, systems interfaces, and/or software products necessary to ensure Y2K compliance, or replacing or upgrading computer hardware that is not Y2K compliant and that will adversely impact system or program performance if not replaced or upgraded.*

We question whether these purchases were necessary for Y2K readiness, as the offices involved also have access to network printers purchased with Y2K funds. NMDOL officials agreed with this finding and indicate the charges for these items have been reassigned.

**Warranties on Equipment Were Not Necessary.** We questioned whether \$11,480 NMDOL spent on equipment service and maintenance warranties were necessary for Y2K readiness. (See Exhibit B.)

In order to address the Y2K problem within UI automated systems, NMDOL sought and received ETA's approval for a "Thin-Client Solution" system. Thin-Client is described as a system of "smart terminals" that are connected to a Thin-Client server. To implement this system, NMDOL used Y2K funds to purchase 105 MTX "smart-terminal" workstations connected to computer servers.

NMDOL spent \$11,480 on 3-year service and maintenance warranties for the workstations and servers. The service warranties were not necessary for NMDOL to ensure its systems were Y2K compliant. Rather, the 105 new workstations and computer servers purchased by NMDOL were Y2K compliant, at the time they were purchased to replace older computers.

Public Law 105-78 provided that the Y2K funds could be used:

*. . . solely for the purpose of assisting States to convert their automated State employment security agency systems to be year 2000 compliant.*

As mentioned, ETA Field Memorandum No. 50-97 provides specific uses relating to computer upgrades but does not provide for warranties on new equipment.

NMDOL spent \$7,770 to purchase 3-year service warranties for 105 MTX 1683 computer workstations. NMDOL also spent \$3,710 on maintenance/service warranties for Thin-Client servers and a CITRIX server.

The purpose of the service warranties was to ensure against future repair costs, should they be needed. Payments made for service warranties that defray future repair costs are not necessary to ensure Y2K compliance.

**Y2K Funds Used to Purchase Routine Operational Supplies.** We determined that NMDOL misspent \$4,861 of Y2K funds on routine, operational supplies that were not Y2K-related and did not help ensure ES and UI automated systems Y2K-readiness. The items purchased included printer and computer tape cartridges, storage cabinets and other accessories. (See Exhibit C.)

ETA Field Memorandum No. 50-97 provided that Y2K funds are to be used for:

*. . . activities relating to Year 2000 conversion efforts, the replacement or upgrading of systems, systems interfaces, and/or software products necessary to ensure Y2K compliance, or replacing or upgrading computer hardware that is not Y2K compliant and that will adversely impact system or program performance if not replaced or upgraded.*

Further guidance on the use of Y2K supplemental funding was included in ETA Field Memorandum 3-99, dated October 13, 1998:

*The Y2K funds received must be used only for activities relating to Y2K compliance efforts, including replacement or upgrading of systems, systems interfaces, and/or software products which will adversely impact system or program performance if not replaced or upgraded. . . .*

*FY 1999 Y2K funds are intended to meet those identified immediate requirements of those SESAs which, in the absence of these additional funds, are unlikely to achieve Y2K compliance of their employment security automated systems. Thus, compelling need is the primary criterion which will be used in evaluating SBRs [Supplemental Budget Requests]. Additionally, the SESA*

*must demonstrate that the funds will materially assist the SESA in achieving its Y2K compliance goals.*

Since the supplies were of a routine nature and did not relate to Y2K conversion efforts, NMDOL should have paid these costs from other funding sources.

NMDOL agreed that the purchases were not Y2K-related and indicated that the charges to Y2K funds would be removed and the proper funding source charged.

**Duplicate Charges were Made to the Y2K Fund Ledger.** We identified a duplicate charge in NMDOL's accounting records of \$264 that was made against Y2K funds.<sup>5</sup>

ETA Field Memorandum No. 50-97 provided that Y2K funds were to be used for:

*. . . activities relating to Year 2000 conversion efforts, the replacement or upgrading of systems, systems interfaces, and/or software products necessary to ensure Y2K compliance, or replacing or upgrading computer hardware that is not Y2K compliant and that will adversely impact system or program performance if not replaced or upgraded.*

NMDOL officials indicated that the \$264 charge was an adjustment for the increased costs of six 3-COM Token Rings. We agree that the initial charge of \$264 was for the increased cost of the token rings; however, the additional charge of \$264 was a duplicate charge for the same items. The duplicate charge carried the same reference number as the original charge and should be removed from the Y2K grant expenditures.

---

**UNSPENT Y2K FUNDS OF  
\$171,944 SHOULD BE DEOBLIGATED**

---

At December 1, 2001, NMDOL reported an unspent balance of \$346,348.<sup>6</sup> Subsequent to completing our fieldwork, NMDOL received permission to spend \$174,404 on additional computer equipment and contracts. ETA

---

<sup>5</sup>Payment Voucher F92750, in the amount of \$264, was for a vendor pricing difference on six Olicom C. The related purchase order number was 631-97347, dated September 1, 1998, and the payment was made on 1. The payment was charged twice to Y2K Fund Ledger 211(F98).

<sup>6</sup>As of the end of our audit period, on June 30, 2000, NMDOL reported \$376,106 in unobligated Y2K funds. In our report, we recommended the entire amount be deobligated. Documentation that accompanied NMDOL's response report indicates that on December 1, 2000, \$346,348 remained unspent and that ETA had approved additional \$174,404. Consequently, we have reduced the amount we recommend ETA deobligate to \$171,944.



should deobligate remaining funds of \$171,944, as the threat of Y2K failure for any UI or ES automated system has passed.

## **CONCLUSION**

New Mexico was one of the states identified as “at risk” by ETA. Accordingly, ETA provided significant funds to help the Department meet its Y2K requirements. Along with the funding came specific requirements governing the use of these funds. Funds that were not spent in accordance with the requirements should be recovered and remaining grant funds deobligated.

## **RECOMMENDATIONS**

We recommend the Assistant Secretary for Employment and Training recover a total of \$914,221 in Y2K funds improperly charged as personal salaries and benefits, allocated costs and unnecessary purchases. These misspent funds include:

- \$671,824 of staff salary and fringe benefit costs that did not satisfy criteria for reimbursement as Y2K expenditures;
- \$224,595 of overhead and other costs NMDOL has improperly allocated to the Y2K grants; and
- \$17,802 of costs involving a variety of purchases that were not necessary to ensure Y2K readiness.

We recommend the Assistant Secretary ensure adjustments NMDOL agreed to make in its response to the draft report have occurred. Also, we recommend the Assistant Secretary deobligate \$171,944 of unspent Y2K grant funds that remained available to NMDOL at June 30, 2000.

## **NEW MEXICO'S COMMENTS ON THE DRAFT AUDIT REPORT**

In its response to our draft report, NMDOL offered several rationale for having charged base-funded staff costs to the Y2K grants. New Mexico argued that following failed attempts to use a contractor, they were unable to recruit qualified individuals to work on Y2K conversion efforts. Consequently, they were forced to use their own staff on the project. New Mexico contends DOL is complicit, because ETA regional staff frequently monitored the Y2K grants and knew the identity of individuals working on Y2K efforts.

The response also contends that guidance provided by ETA was “contradictory” because it required Y2K compliance yet fettered the agency with restrictive grant requirements, and that “the means by which this goal was accomplished were not as important as the end itself.”

NMDOL also argued that of the \$671,824 in staff charges we questioned, costs “estimated at \$60,000” should not have been included, because it was for temporary 45-day staff hired to work on the Y2K effort. The response also argued that \$11,655, said to represent the value of compensatory time and deferred annual leave of staff who worked on Y2K projects, should be deducted from total questioned costs. NMDOL also indicates that other states they had contacted “. . . charged at least some base funded staff, both full and part-time, to its [sic] Y2K readiness efforts . . .” and NMDOL has been subjected to “selective enforcement” and “disparate treatment.” The response concludes with a request for a retroactive waiver “. . . of the provision denying compensation under the Y2K grant for base funded staff temporarily assigned to the project.”

NMDOL indicates it has removed \$6,057 of property and supply purchases that were questioned as unrelated to Y2K readiness. However, NMDOL did not agree to repay \$11,480 in questioned Y2K grant charges that were spent on equipment warranties. NMDOL indicated that even if USDOL OIG rejects the claims for full 3 year warranties, it should have been allowed to charge at least one year's warranty costs to the grant. NMDOL believes the warranties are necessary “. . . to ensure that the equipment will continue to function for a sufficient period of time to be able to ascertain that the equipment is functioning appropriately.”

Concerning our recommendation that unused Y2K grant funds be deobligated, NMDOL reported that they recently received permission from ETA to spend \$174,404 of the remaining balance on a compiler.

## **ANALYSIS OF NEW MEXICO'S COMMENTS**

The response indicates NMDOL was forced by circumstances to violate requirements that base-funded staff costs could not be charged to the Y2K grants and received ETA's tacit approval to do so. We acknowledge the importance of meeting Y2K deadlines and the urgency many states faced, including NMDOL. However, contrary to the impression that may be created by the response, we believe NMDOL's management was not familiar with the restriction until it became an audit issue. The restrictions were included in widely-distributed FY 1998 and FY 1999 ETA field memoranda. In fact, the prohibitions were included in instructions the SESAs received concerning submission of SBRs to

request Y2K funds. NMDOL officials told us, during the audit, they were not aware of the requirement.

Had NMDOL found themselves unable to comply with requirements, they should have attempted to obtain a waiver from ETA. We noted NMDOL had requested a variety of changes to its initial spending plans included in SBRs approved by ETA.

NMDOL's argued that questioned costs should be reduced by approximately \$60,000 to account for the personnel costs of temporary workers hired for the Y2K effort. The support provided by NMDOL consists of listing of personnel and costs. The support does not identify which individuals they want considered or offer evidence that any of the individuals listed were temporary employees. Further, there is no evidence that the persons listed were hired specifically for the Y2K effort, or were additional staff recruited to augment base-funded staff diverted to Y2K activities.

NMDOL also argued that questioned costs should be reduced by \$11,655 to account for compensatory and annual leave earned by employees while they were said to be working on Y2K projects. According to NMDOL the leave is "a form of allowable overtime" and should be offset against costs we have questioned. We disagree that compensatory or annual leave are forms of overtime; the field memorandum is specific in addressing only overtime as an allowable expenditure. Further, the support provided by NMDOL indicates that some of the compensatory time NMDOL has claimed includes estimates of uncompensated time an employee worked but did not claim. Consequently, NMDOL has claimed "credit" for compensatory time that did not accrue to the staff.

We are completing audits of Y2K funds in several states. As yet, we have not encountered the same problems with other states' use of base-funded staff. However, if similar violations are identified, they will be reported.

Concerning warranty costs, we continue to believe warranties are not necessary for Y2K readiness. Further, equipment typically comes with a manufacturer's warranty, that should provide sufficient time to assess whether it is operating properly and provide cost-free replacement of any faulty units.

The response indicates ETA knew of NMDOL's use of base-funded staff. Correspondence does indicate ETA was concerned and monitored New Mexico's progress in becoming Y2K compliant, as the State was considered at "high risk" of failing to achieve Y2K readiness. However, our discussion with the ETA regional staff indicates they were not aware the violations had occurred. Certainly, NMDOL could have used its own staff, charged the Y2K grants for the costs and remained in compliance with requirements, had they filled the vacated positions or paid the staff overtime.

At December 1, 2000, NMDOL reported an unspent Y2K grant balance of \$346,348. Documentation accompanying the response indicates that following completion of our onsite fieldwork, NMDOL obtained ETA's approval to spend \$174,404 of the remaining balance on additional systems improvements. Consequently, we have altered the draft report's language to recommend deobligation of \$171,944 in unspent Y2K grant funds.

## **ATTACHMENT A**

### **EXCERPTS FROM NEW MEXICO'S RESPONSE TO THE DRAFT AUDIT REPORT (FOLLOWING THIS TITLE PAGE)**

New Mexico's response to the draft audit report is not presented in its entirety. The response contained lengthy attachments that included a variety of personal identifying information prohibited from public disclosure by the Privacy Act, and other materials that may be proprietary. However, this attachment does include a majority of the text New Mexico provided in support of its position. We have transmitted a copy of New Mexico's entire response to ETA, for use by the Grant Officer in resolving the findings.

**ATTACHMENT B**

**NEW MEXICO'S Y2K GRANT EXPENDITURES \*  
AT JUNE 30, 2000**

EXPENDITURES DESCRIPTION OF CHARGES	<u>INITIAL</u>	<u>98 SBR &amp;</u>	<u>1999 SBRs</u>	TOTAL	TOTAL
	<u>FUND</u>	<u>FUND</u>	<u>FUND</u>		
	<u>LEDGER</u>	<u>LEDGER</u>	<u>LEDGER</u>		
	<u>212</u>	<u>211</u>	<u>211</u>		
	FY 1998	FY 1998	FY 1999		
PERSONAL SERVICES	\$26,819.08	\$554,004.56	\$31,367.13	\$585,371.69	\$612,190.77
PERSONAL BENEFITS	\$8,177.41	\$170,716.94	\$2,834.55	\$173,551.49	\$181,728.90
SUPPLIES	\$25,480.60	\$210,974.74	\$599.91	\$211,574.65	\$237,055.25
COMMUNICATIONS	\$465.47	\$8,966.87	\$27.52	\$8,994.39	\$9,459.86
POSTAGE	\$0.22	\$50.21	\$0.00	\$50.21	\$50.43
TRAVEL	\$(839.12)	\$12,828.80	\$217.94	\$13,046.74	\$12,207.62
EQUIPMENT RENT	\$(2,201.88)	\$36,139.99	\$13.70	\$36,153.69	\$33,951.81
EQUIPMENT EXPENSE	\$1,785.09	\$25,496.78	\$3.56	\$25,500.34	\$27,285.43
PREMISES RENT	\$(769.37)	\$3,307.91	\$0.00	\$3,307.91	\$2,538.54
PREMISES EXPENSE	\$585.05	\$12,323.93	\$1,121.04	\$13,444.97	\$14,030.02
SERVICES	\$848,258.20	\$2,870,707.98	\$15.81	\$2,870,723.79	\$3,718,981.99
OTHER EXPENSES	\$1,371.60	\$247,634.88	\$24.65	\$247,659.53	\$249,031.13
CAPITAL PURCHASES	\$67,142.39	\$328,245.20	\$72,814.00	\$401,059.20	\$468,201.59
TOTAL NON PERSONAL SERVICES	\$941,278.25	\$3,756,677.29	\$74,838.13	\$3,831,515.42	\$4,772,793.67
TOTAL OPERATING EXPENSE	\$976,274.74	\$4,481,398.79	\$109,039.81	\$4,590,438.60	\$5,566,713.34
NONCURRENT CHARGES	\$1,061.17	\$7,850.64	\$29.75	\$7,880.39	\$8,941.56
TOTAL OTHER	\$1,061.17	\$7,850.64	\$29.75	\$7,880.39	\$8,941.56
TOTAL EXPENDITURES	\$977,335.91	\$4,489,249.43	\$109,069.56	\$4,598,318.99	\$5,575,654.90
TOTAL OBLIGATION PLAN	\$1,000,000.00	\$4,690,993.00	\$850,821.00	\$5,541,814.00	\$6,541,814.00
BALANCE AVAILABLE	\$22,664.10	\$201,743.57	\$741,751.44	\$943,495.01	\$966,159.10
RESOURCES ON ORDER	\$10,695.00	\$310,911.76	\$268,446.00	\$579,357.76	\$590,052.76
UNOBLIGATED FUNDS	\$11,969.09	\$(109,168.19)	\$473,305.44	\$364,137.25	\$376,106.34

\* As represented in Status of Obligational Authority Report No. GA-17, as of June 30, 2000, by NMDOL



**EXHIBIT A**

**AUDIT OF THE NEW MEXICO DEPARTMENT OF LABOR'S  
YEAR 2000 GRANT EXPENDITURES  
PRINTER PURCHASES QUESTIONED AS UNNECESSARY**

Questioned costs involve 3 Hewlett-Packard 1100 xi LaserJet printers, as identified below:

<u>NUMBER</u>	<u>VOUCHER</u>	<u>DATE PAID</u>	<u>PURCHASE ORDER</u>	<u>P.O. DATE</u>	<u>COST CENTER</u>	<u>AMOUNT</u>
2	F07072	4/19/00	631-07993-0	03/07/00	40850	\$ 798
1	F07073	4/19/00	631-08059-0	03/21/00	40820	<u>399</u>
Total						<u>\$ 1,197</u>

**EXHIBIT B****AUDIT OF THE NEW MEXICO DEPARTMENT OF LABOR'S  
YEAR 2000 GRANT EXPENDITURES  
COMPUTER MAINTENANCE AND SERVICE WARRANTIES  
QUESTIONED**

<b><u>Computer Warranties Charged to Y2K Grants</u></b>				
<u>Maintenance/ Warranty Agreements</u>	<u>Date Paid</u>	<u>Payment Voucher No.</u>	<u>Purchase Order No.</u>	<u>Amount</u>
MTX 3-Year Warranty (65 Workstations)	9/10/99	F01678	631-07348-0	\$4,810
Managed Sharedcare Service	9/30/99	F02176	631-073410	\$430
StandardCare Onsite Service	9/30/99	F02176	631-073410	\$3,280
MTX 3-Year Warranty (40 Workstations)	10/6/99	F02283	631-07501-0	<u>\$2,960</u>
Total				<u>\$11,480</u>

**EXHIBIT C**

**AUDIT OF THE NEW MEXICO DEPARTMENT OF LABOR'S  
YEAR 2000 GRANT EXPENDITURES  
SUPPLIES QUESTIONED AS UNNECESSARY FOR Y2K  
READINESS**

<u>Supply Item</u>	<u>Date Paid</u>	<u>Payment Voucher No.</u>	<u>Purchase Order No.</u>	<u>Amount</u>
18 Printer Toner Cartridges	10/26/98	F92396	631-97443	\$2,556
Power Manager Power Control	7/21/99	F00456	631-98140	\$183
Computer Tape Storage Cabinet	7/21/99	F00452	631-98006	\$650
Printer and Accessories	2/23/00	S12247	S12247	\$172
Tape Cartridges	4/21/00	F07128	631-08006-0	<u>\$1,300</u>
<b>Total</b>				<b>\$4,861</b>

Notes:

Payment Voucher F92396, in the amount of \$2,556, was for the purchase of 18 printer toner cartridges. Payment was made on October 26, 1998. The purchase order number was 631-97443.

Payment Voucher F00456, in the amount of \$183, was for the purchase of three power control and power cord manager devices. The purchase order number was 631-98140 and the voucher was paid July 21, 1999.

Payment Voucher F00452 was for the purchase of a \$650 computer tape storage cabinet. The purchase order number was 631-98006 and the voucher was paid on July 21, 1999.

Small Purchase Order number S12247, in the amount of \$172, was for a printer, black and color ink cartridges, and printer cable. This purchase was made on February 23, 2000. The printer and supplies are used by the Grants Workforce Development Center.

Payment Voucher F07128, in the amount of \$1,300, was for the purchase of four packs of tape cartridges. Payment was made on April 21, 2000. The purchase order number was 631-08006-0.