AUDIT OF THE LEAGUE/SEIU 1199 TRAINING AND UPGRADING FUND (TUF) H-1B TECHNICAL SKILLS TRAINING GRANT NUMBER AH-11092-01-60 NOVEMBER 15, 2000 THROUGH SEPTEMBER 30, 2001

U.S. DEPARTMENT OF LABOR
OFFICE OF INSPECTOR GENERAL

REPORT NO: 02-02-214-03-390
DATE: September 30, 2002

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ACRONYMS

ACWIA	American Competitiveness and Workforce Improvement Act
AAS	Associate in Applied Science
BSN	Bachelor of Science in Nursing
CNA	Certified Nursing Assistant
FSR	Financial Status Report
LPN	Licensed Practical Nurse
RN	Registered Nurse
SEIU	Service Employees International Union
TUF	Training and Upgrading Fund
USDOL	U.S. Department of Labor

EXECUTIVE SUMMARY

The U.S. Department of Labor (USDOL), Office of Inspector General, conducted an audit of The League/Service Employee International Union 1199 (SEIU) Training and Upgrading Fund's (TUF) H-1B technical skills training grant for the period November 15, 2000 through September 30, 2001. The overall audit objective was to evaluate if TUF was meeting the intent of the H-1B Technical Skills Training Program and the requirements of its grant. The subobjectives were to determine if:

- The project had been implemented as stated in the grant.
- Program outcomes were measured, achieved and reported.
- Reported costs were reasonable, allocable and allowable in accordance with applicable Federal regulations, and Office of Management and Budget (OMB) Circular A-122, *Cost Principles for Non-Profit Organizations.*

The H-1B Technical Skills Training Program was designed to help U.S. workers acquire the technical skills for occupations that are in demand and being filled by foreign workers holding H-1B visas. USDOL awarded TUF $2,751,787 for the period November 15, 2000 through November 14, 2002, to provide 675 union members with healthcare career training (550 with grant funds and 125 with matching funds). The H-1B training project facilitates a career ladder within the healthcare industry to assist healthcare workers in the transition to licensed and degreed nursing positions.

AUDIT RESULTS

As of September 30, 2001, TUF had implemented a sustainable expansion of its already ongoing long-term training program, which was consistent with grant requirements and served the target population. The H-1B grant initiated Certified Nursing Assistant (CNA) and Registered Nurse (RN) specialty programs, and supplemented other programs already funded under collective bargaining agreements. Sustainability of the project is ensured through the long-standing collective bargaining agreements with member institutions, which require the contribution of one-half percent of their payroll to the training and upgrading fund.

However, TUF has not met certain grant requirements and the grant ends November 14, 2002.

- Training was still in progress, and therefore both training and placement outcomes had not been achieved. As of September 30, 2001, TUF had a sufficient number of participants enrolled to meet proposed training outcomes in all programs except the newly initiated H-1B funded CNA and RN specialty programs. TUF staff indicated that certification, licensure, or degree achievement goals would be achieved because it planned to substitute any participant who dropped out of the program with comparable students funded by other sources.

- We question $359,462 or 65 percent of reported costs because of unreasonable accruals and unsupported payroll allocations.

- TUF was not meeting the 25 percent matching requirements and the 10 percent administrative costs limitation. Future costs may be questioned if the requirements are not met by the end of the grant period.

- TUF has never had a single audit or program-specific audit report issued, as required by the Single Audit Act.

TUF's RESPONSE

On September 20, 2002, the Chief Financial Officer of TUF responded to our draft report. He stated that (1) the CNA and RN specialty programs increased their enrollments, (2) the June 30, 2002 FSR was adjusted to correct the accrual error and an in-kind contribution error, and (3) the payroll allocation was based on trend analysis.

OIG's COMMENTS

TUF needs to continue its efforts to improve enrollment in both the CNA and the RN specialty areas in order to meet the enrollment goals established in its grant agreement. Questioned costs of $359,462 remain unchanged since TUF did not provide us with either a revised FSR, adjustments, or a proper basis for allocating payroll.

RECOMMENDATIONS

We recommend the Assistant Secretary for Employment and Training:

- ensures that TUF increases enrollment in the CNA and RN specialty programs to meet training and placement goals;

- recovers questioned costs of $359,462;

- requires TUF to submit a revised Financial Status Report (FSR) that accurately reflects grant costs; and

- ensures that TUF obtains an audit, as required by the Single Audit Act.

INTRODUCTION

BACKGROUND

The American Competitiveness and Workforce Improvement Act of 1998 (ACWIA) was enacted to help employed and unemployed U.S. workers acquire the technical skills for occupations that are in demand and being filled by H-1B visa holders. The H-1B program allows employers to temporarily employ foreign workers on a non-immigrant basis to work in specialized jobs not filled by U.S. workers (8 U.S.C. 1101(a)(15)(H)(i)(b)). A $1,000 user fee is imposed on employers for H-1B applications. ACWIA provides that over half that fee is used to finance the H-1B Technical Skill Training Program administered by USDOL.

H-1B technical skills training grants are demonstration grants awarded under the authority of Title IV-D of the Job Training Partnership Act and Title I-D of the Workforce Investment Act. As of March 31, 2002, USDOL had conducted 4 rounds of grant competition and awarded 60 grants totaling approximately $143 million.

Grant Round	Solicitation Date	Number of Grants	Award Amount
1	August 16, 1999	9	$12,383,995
2	March 29, 2000	12	$29,166,757
3	August 1, 2000	22	$54,000,000
4	April 13, 2001	17	$47,559,761[1]
	Total	**60**	**$143,110,513**

In round three, TUF was awarded $2,751,787 under Grant Number AH-11092-01-60 for the period November 15, 2000 through November 14, 2002. TUF proposed and agreed to train union members in the following areas: Certified Nursing Assistant (CNA), Licensed Practical Nurse (LPN), LPN to Registered Nurse (RN) and Associate Applied Science (AAS) level RN to Bachelor of Science in Nursing (BSN) RN.

TUF is the largest training organization for healthcare organizations in the United States. TUF is self-administered and provides healthcare career training, upgrading and education of member employees, creating a career ladder from the lowest to the highest level of nursing. In addition to Federal and state funding, TUF's income includes payments made by contributing employers.

[1] As of March 31, 2002, Round 4 was an open solicitation with an additional $87 million available for award.

AUDIT OBJECTIVES

The overall audit objective was to evaluate if TUF was meeting the intent of the H-1B Technical Skills Training Program and the requirements of its grant. The subobjectives were to determine if:

- The project had been implemented as stated in the grant.

- Program outcomes were measured, achieved and reported.

- Reported costs were reasonable, allocable and allowable in accordance with applicable Federal regulations, and OMB Circular A-122, *Cost Principles for Non-Profit Organizations.*

AUDIT SCOPE AND METHODOLOGY

The audit period was November 15, 2000 through September 30, 2001. In performing this audit, we reviewed the Solicitation for Grant Applications and the grant agreement to determine the requirements and performance measures of the grant. We interviewed staff at TUF, examined participant records and reviewed other materials related to project implementation.

We audited cumulative net outlays of $679,448, consisting of the Federal share of $554,198 and third party in-kind contributions of $125,250, claimed on the Financial Status Report (FSR) for the period November 15, 2000 through September 30, 2001. We traced expenditures to general ledgers and examined supporting documentation including vouchers and invoices. Judgmental sampling was used to test individual account transactions and balances. We tested outlays of $416,001 or 75 percent of reported Federal outlays.

We considered TUF's internal controls over the H-1B grant project by obtaining an understanding of the grantee's internal controls, determining whether these internal controls had been placed in operation, assessing control risk, and performing tests of controls. Our purpose was to determine the nature and extent of testing need to satisfy our audit objectives, not to provide assurances on the internal controls; therefore, we do not provide any such assurances.

Compliance with laws, regulations, and grant agreement provisions is the responsibility of TUF. We performed tests of compliance with certain provisions of laws, regulations, and the grant to evaluate if TUF was meeting the requirements of the grant and that reported costs were reasonable, allocable and allowable in accordance with applicable provisions of Federal regulations and OMB circulars. However, our objective was not to provide an opinion on overall compliance with Federal regulations and OMB circulars and, accordingly, we do not express such an opinion. We evaluated allowability of claimed costs using relevant criteria included in: ACWIA; 29 CFR 95, *Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations*; OMB Circular A-122, *Cost Principles for Non-Profit Organizations*; in addition to grant requirements. We examined compliance with grant requirements and program outcome goals as included in the Solicitation for Grant Applications and the grant agreement.

We conducted our audit 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 the audit. We conducted fieldwork from November 20, 2001 through January 7, 2002, at TUF located in New York, New York. We held an exit conference with TUF on August 8, 2002.

FINDINGS AND RECOMMENDATIONS

I. PROGRAM IMPLEMENTATION

The Solicitation for Grant Applications states:

> "The primary emphasis of the ACWIA technical skills training will be to focus on employed and unemployed workers who can be trained and placed directly in the highly skilled H-1B occupations. . . .
>
> "Although the primary focus of these awards is technical skill training, ETA intends that regional partnerships sustain themselves over the long term – well after the federal resources from this initiative have been exhausted."

As of September 30, 2001, TUF had successfully implemented a sustainable extension of its already ongoing long-term training project, which was consistent with grant requirements and served the target population.

TRAINING PROVIDED

TUF designed and implemented its training programs as proposed in the grant agreement. The H-1B grant initiated the CNA and RN specialty programs, and supplemented programs funded under collective bargaining agreements for LPN, LPN to RN, and AAS to BSN.

TUF provided training at four career levels (CNA, LPN, LPN to RN, RN with AAS to BSN) and in three RN specialty areas in critical care, emergency care, and labor and delivery. Except for the RN specialty in labor and delivery, each program was fully implemented as proposed in the grant agreement. TUF was making arrangements with participating hospitals to provide training facilities for the RN specialty in labor and delivery.

Training was provided to the target population, incumbent workers of SEIU 1199. According to the grant, "Ninety-five percent of 1199 workers are female; 32 percent are African-American; 27 percent are Caribbean Black; 29 percent are Hispanic. . . ."

PROJECT SUSTAINABILITY

Sustainability of this program is ensured through collective bargaining agreements with member institutions. The grant agreement states:

> Sustainability will be ensured under the Tuition Assistance benefit offered to all 1199 members under the Collective Bargaining agreement between TUF and its contributing employers.

Article XXII of the collective bargaining agreements stated that one-half percent of employer contributions will be used to “develop career ladders, and to subsidize employees in training and, when necessary, the costs in training in areas of manpower shortages.”

II. PROGRAM OUTCOMES

As of September 30, 2001, TUF adequately measured and reported enrollments, but had not achieved training and placement outcome goals. Placements were not made because training was still in progress. TUF had a sufficient number of participants enrolled to meet proposed training outcomes in all programs except the newly established, H-1B funded, CNA and RN specialty programs.

OUTCOME ACHIEVEMENT

The grant agreement states that H-1B training will result in the training of 675 students (550 students financed by the grant and 125 students by matching funds) as follows:

- “All 200 CNA program completers will become certified and employed as CNAs.
- “All 100 LPN program completers will become licensed and employed as LPNs.
- “All 50 RN AAS program completers will achieve a two-year degree and upgrade in employment.
- “All 175 BSN program completers will achieve a four-year degree and upgrade in employment.
- “All 150 nurses newly trained in high demand specialty skills will be employed in their new specialty at their current institution.”

As of September 30, 2001, training was still in progress and therefore placements had not been made. TUF was falling short in enrolling participants in CNA and RN specialty programs because these programs were newly established for the H-1B program, unlike the other programs that were already well established before the H-1B technical skills grants were awarded. TUF was experiencing difficulty in recruiting AAS to BSN students that prefer the electronic distance learning structure to the traditional classroom structure. (See chart in the Measurement and Reports section below for supporting statistical details.)

TUF staff indicated that certification, licensure, or degree achievement goals would be achieved because it planned to replace any participant who dropped out or failed to get certification with comparable students. These comparable students at a similar stage in training, and funded through other sources, will be transferred into an H-1B funded status. TUF had trained close to 50,000 workers in comparable training over a two-year period and has close to 125,000 members to draw upon.

MEASUREMENT AND REPORTS

The grant requires that TUF submit quarterly progress reports on project performance. 29 CFR 95.51(d)(1) states that performance reports should contain: "A comparison of actual accomplishments with the goals and objectives established for the period. . . ."

TUF adequately measured and reported enrollment status. The enrollment status for grant-funded students, for the eight programs as of September 30, 2001, is as follows:

	Enrollments		
Training	Grant	Actual	Percent
CAN	200	45	23
LPN	50	50	100
LPN to RN (traditional and distance)	50	50	100
AAS to BSN (traditional)	50	50	100
AAS to BSN (distance)	50	31	62
Specialty RN Critical Care	50	23	46
Specialty RN Emergency Room	50	19	38
Specialty RN Labor & Del	50	0	0
TOTAL	550	268	49

TUF's RESPONSE

The Chief Financial Officer of TUF stated that, at the time of the audit, the CNA and RN specialty programs did not have a sufficient number of participants enrolled because these programs had difficulty in recruitment. However, he stated that since the audit the number of enrolled participants in the CNA program has increased to 113 participants and the RN specialty programs have completed 47% of the requirements under the grant.

OIG'S COMMENTS

TUF needs to continue its efforts to improve enrollment in both the CNA and the RN specialty areas in order to meet the enrollment goals established in its grant agreement.

RECOMMENDATIONS

We recommend the Assistant Secretary for Employment and Training ensure that TUF increases enrollment in the CNA and RN specialty areas and meets both training and placement goals.

III. REPORTED OUTLAYS

TUF claimed cumulative net outlays of $679,448, consisting of the Federal share of $554,198 and third party in-kind contributions of $125,250, on the FSR for the period ending September 30, 2001. We question $359,462 or 65 percent of Federal outlays, as shown below:

Unreasonable accruals	$286,309
Unsupported payroll allocations	$ 73,153
Total questioned costs	$359,462

As of September 30, 2001, reported administrative costs of $89,041 represent 16 percent of the Federal share of outlays of $554,198. It should be noted that administrative costs are limited to ten percent of the grant request.

ACCRUALS - $286,309

The Grant Agreement, *Part IV - Special Conditions*, requires TUF to report program outlays on an accrual basis. 29 CFR 95.52(a)(1)(ii) requires:

> DOL shall prescribe whether the report shall be on a cash or an accrual basis. If DOL requires accrual information and the recipient's accounting records are not normally kept on the accrual basis, the recipient shall not convert its accounting system, but shall develop such accrual information through best estimates based on an analysis of the documentation on hand.

TUF maintained accounting records on a cash basis and developed accruals separately for the FSR for the period ending September 30, 2001. Accruals were developed for subcontracts, personnel services and other than personnel services. Accruals accounted for 52 percent of Federal outlays, but were not reasonable because they did not reflect the best estimate of program costs incurred but not yet paid. The full $286,309 of accruals is questioned, and examples of improper accrual methodology for the subcontract, personnel services and other than personnel services categories are shown below:

Subcontracts - $271,177

TUF subcontracted with training institutions and for a consultant who performed program monitoring. TUF determined the accrual for subcontracts by calculating the difference between the proportionate amount of the contract budget applicable for the period and deducting expenses already booked under the cash method of accounting. However, this method was not reasonable for the subcontracts because it does not reflect the actual amounts due.

- Four out of eight subcontracts included in the accrual calculations had contract periods that extended beyond the grant period. However, TUF allocated the contract budget from the subcontract start date to the end of the grant period to determine the proportion of the contract budget applicable for the period. This improperly allocates expenses to the grant that would be incurred after the grant ends.

- Most subcontracts were agreements to pay tuition and books for a certain number of students based on the maximum amount that could be charged. However, the accruals did not reflect changes in the numbers of students enrolled in the programs. For example, the Stony Brook contract had a tuition rate of $6,160 per student and only one participant was enrolled as of September 30, 2001. However, TUF accrued $35,200 for the Stony Brook contract for the period.

Personnel Services ($2,734) and Other than Personnel Services ($12,398)

Accruals for these two cost categories were based on a monthly allocation of budgeted costs. Accruals should reflect the actual expenses incurred, even if not yet paid, and are not to be based on budgeted amounts. For example, personnel costs should be allocated based on actual time expended as reflected in time records, but for which the costs have not yet been paid.

PAYROLL ALLOCATION - $73,153

We question the full amount of the $73,153 of reported salaries and fringe benefits due to improper allocations of payroll and estimated time distribution. OMB Circular A-122 states reported costs must be reasonable, allowable, and allocable. OMB Circular A-122, Attachment B, Paragraph 7 Compensation for Personal Services states:

m. Support of salaries and wages.

“(1) . . .The distribution of salaries and wages to awards must be supported by personnel activity reports . . .

“(2) Reports maintained by non-profit organizations to satisfy these requirements must meet the following standards:

“(a) The reports must reflect an *after-the-fact* determination of the actual activity for each employee.

“(c) . . . the distribution of activity represents a reasonable estimate of the actual work performed by the employee during the periods covered by the reports.”

TUF improperly allocated salaries and fringes of $73,153 to the H-1B grant, as follows:

- In the worksheet documenting the salaries and fringes allocated to the H-1B grant for the period November 15, 2000 through June 30, 2001, the salaries used as the basis for the calculation were for the period July 1, 2000 to June 30, 2001. The grant period only began November 15, 2000, and therefore the salaries used as a basis were overstated.

- Annual salaries used in the salary allocation computation did not agree with the annual salaries indicated by Human Resources.

- Time was charged to the H-1B grant on timesheets for two employees based on fixed percentages. Time charges should be based on actual activity.

MATCHING REQUIREMENT

29CFR 95.23(a) requires:

> 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 . . . are verifiable from the recipient's records.

The grant established a matching requirement of 25 percent on Federal outlays. However the matching requirement has not been met as of September 30, 2001, and the matching costs reported do not represent actual amounts that are verifiable from TUF records.

- TUF reported $125,250 of in-kind contributions or 23 percent of Federal outlays on the FSR for the period ending September 30, 2001. The 25 percent requirement must be satisfied by the end of the grant period. Future grant costs may have to be questioned if the matching requirement is not satisfied.

- Also, in-kind costs represented tuition charges for a selected group of students funded under the collective bargaining agreement. However, TUF calculated the matching costs by using average tuition costs rather than actual costs for the selected students. As a result, matching costs were not verifiable from TUF records.

TUF's RESPONSE

The Chief Financial Officer of TUF stated that accruals were reported on the FSR by taking the amount of the vendor's contracts and spreading it evenly over the contract period. He agreed that an over accrual arose as a result of this approach and stated that TUF has corrected this error by making a year to date adjustment on the FSR for the period ending June 30, 2002. He also noted that the overstatement of expense accruals incorrectly reported on the FSR for the period ending June 30, 2001, had no financial impact because TUF only drew down money for actual expenses.

Regarding staff payroll allocation, the Chief Financial Officer stated that this allocation is based on trend analysis that determined an allocation rate for the amount of time each staff devotes to each grant administered by TUF. He stated that it is impossible for TUF to track each grant work on hourly basis, and as a practical approach, TUF analyzes all their grant projects and determines the proportion of staff time needed for each. He stated that this rate is reviewed periodically.

Finally, the Chief Financial Officer stated that the amount of in-kind contributions reported on the FSR for the period audited was incorrect and TUF made a year to date adjustment on the FSR for the period ending June 30, 2002 to reflect the actual costs for the selected students.

OIG's COMMENTS

Questioned costs of $359,462 remain unchanged. Although the grantee states it corrected the overstated accrual by adjusting the FSR for June 2002, TUF did not provide us with either the revised FSR or adjustments.

Concerning the payroll allocation, OMB Circular A-122 states that salary distribution must be supported by personnel activity reports and reflect an after-the fact determination Further, TUF did not address the deficiencies of its payroll allocation.

RECOMMENDATIONS

We recommend the Assistant Secretary for Employment and Training recover questioned costs of $359,462, require TUF to submit a revised FSR that accurately reflects grant costs and ensure that TUF satisfies the grant's matching requirement.

IV. OTHER MATTERS

SINGLE AUDIT REQUIREMENT

29 CFR 99.200 states:

(a) Audit required. Non-Federal entities that expend $300,000 or more in a year in Federal awards shall have a single or program-specific audit conducted for that year in accordance with the provisions of this part.

TUF has never had a single audit or program-specific audit report issued, even though required because of the exceeding of the $300,000 threshold, as indicated below.

The audited draft of the June 30, 2000, financial statements for TUF states that during the year ended June 30, 2000, TUF received approximately $8.3 million to administer for certain hospitals the Federally-funded Community Health Care Conversion Demonstration Project, and had incurred approximately $4.3 million in expenses for that grant.

In his response to our draft report dated September 20, 2002, the Chief Financial Office of TUF did not comment on this finding.

Recommendation

We recommend the Assistant Secretary for Employment and Training ensure that TUF obtains an audit, as required by the Single Audit Act.

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September 20, 2002

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02-02-214-03-390

Mr. Larry Ellis
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Office of Inspector General
Office of Audit
201 Varick Street, Room 871
New York, NY 10014

Re: H-1B Technical Skills Training
Grant # AH-11092-01-60
November 14, 2000 – September 30, 2001

Dear Mr. Ellis:

This is our response to the audit of the League/SEIU 1199 Training and Upgrading Fund (TUF) referenced above.

Measurement and Reports

At the time of the audit, the CNA and RN specialty programs did not have a sufficient number of participants enrolled because these programs had difficulty in recruitment. However, since the audit the number of enrolled participants in the CNA program has increased to 113 participants. The RN specialty programs have completed 47% of the requirements under the grant.

Reported Outlays

Accruals were reported on the FSR by taking the amount of the vendor's contracts and spreading it over the contract period period. This approach spread the cost evenly over the contract period . We recognize the over accrual that arose as a result of this approach. We have corrected this error, by making a year to date adjustment on the FSR for the period ending June 30, 2002.

Payroll Allocation

Staff payroll allocation is based on trend analysis that determined an allocation rate for the amount of time each staff devotes to each grant administered by us. The 1199/SEIU Training and Upgrading fund administers multiple grants. Most of our staff work on multiple grant projects in continuum. It is impossible to track each grant work on hourly basis. A practical approach is to analyze all their grant projects and determine the proportion of time needed on each of the projects within the grant periods. The rate becomes the basis of allocating their payroll. This rate is reviewed periodically and adjustments are made if warranted.

Matching Requirement

The amount of in-kind contributions reported on the FSR for the period audited was incorrect. However we have made a year to date adjustment on the FSR for the period ending June 30, 2002 to reflect the actual costs for the selected students.

It must be noted that the overstatement of expense accruals incorrectly reported on the FSR for the period ending June 30, 2001, has no financial impact. The reason being that we only drew down money for actual expenses. As a result expenses for which we were reimbursed were far less than the amount reported on the FSR. Therefore, the recommendation that the Assistant Secretary for Employment and Training recover questioned costs of $359,462 is not applicable.

Yours truly,

Frank Kploanyi
Chief Financial Officer