Department of Labor

Office of Inspector General—Office of Audit

EMPLOYMENT AND TRAINING ADMINISTRATION

DOL HAS NOT MAINTAINED ACCOUNTABILITY OVER EQUITY IN REAL PROPERTY HELD BY STATES

Date Issued: September 30, 2004

Report Number: 06-04-002-03-325

Department of Labor
Office of Inspector General
Office of Audit

BRIEFLY...

Highlights of Report Number: 06-04-002-03-325, a report to the Assistant Secretary for Employment and Training. September 30, 2004.

WHY READ THE REPORT

Recent events have focused attention on the importance of real property management. The Government Accountability Office designated Federal real property as a high-risk area in January 2003. On February 4, 2004, the President issued Executive Order 13327, "Federal Real Property Asset Management." The Department of Labor (DOL) has a significant investment in real properties owned by State Workforce Agencies (SWA) that is not being properly accounted for at the Federal level.

WHY OIG DID THE AUDIT

Two prior Office of Inspector General (OIG) audit reports in 1990 and 1997 identified insufficient Employment and Training Administration (ETA) oversight of the DOL's equity interest in state-owned real property.

The ETA's response to the 1997 audit report accepted the OIG's finding that $381 million of DOL funds had been used as of September 30, 1996, to pay a portion of the $711 million acquisition costs of 453 state-owned properties. ETA indicated the report's information would be used to establish a new baseline for the DOL inventory. However, a new baseline was not established, and the inventory is again outdated.

READ THE FULL REPORT

The full report is available at:
http://www.oig.dol.gov/public/reports/oa/2004/06-04-002-03-325

SEPTEMBER 2004

DOL HAS NOT MAINTAINED ACCOUNTABILITY OVER EQUITY IN REAL PROPERTY HELD BY STATES

WHAT OIG FOUND

We found that the ETA had not established adequate management controls over accounting for the DOL's equity interest in SWAs' real properties. Specifically:

- ETA's inventory of SWA property was neither accurate nor complete. California, Georgia, Texas, and Utah, as of September 30, 2001, had identified 61 properties where ETA's real property inventory understated DOL's equity by a net $30.2 million.

- ETA did not ensure the states properly handled the proceeds from disposing of SWA properties with DOL equity. Three of the states collectively still had $1.9 million of DOL equity cash on hand and another state used $3.6 million to speed up amortization of existing properties and pay prior period costs not previously charged because of budget limitations.

WHAT OIG RECOMMENDED

We recommended ETA implement controls that establish verifiable values for its real property inventory and provide monitoring and follow up on all significant differences between ETA's established inventory of equity values and the states reported values.

We also recommended ETA ensure equity cash from SWA real property dispositions are submitted for deposit to the U.S. Treasury, as required, unless ETA has documented approval of specific state plans for using the proceeds for bona fide replacement property.

ETA generally agreed with our recommendations.

TABLE OF CONTENTS

EXECUTIVE SUMMARY

The Assistant Secretary for Employment and Training, the Chief Financial Officer, and the Assistant Secretary for Administration and Management provided assurances in April 2000, January 2001, and February 2001, that the Employment and Training Administration's (ETA) State Workforce Agencies (SWA)[1] real property inventory system was operating effectively. Recent events have focused attention on the importance of real property management. The Government Accountability Office designated federal real property as a high-risk area in January 2003. On February 4, 2004, the President issued Executive Order 13327, "Federal Real Property Asset Management." In conjunction with the Executive Order, the Office of Management and Budget (OMB) has added an initiative to the President's Management Agenda aimed at improving stewardship of Federal real property assets.

The OIG performed an audit to assess ETA's management controls over Federal equity in SWA real property. To meet our objective, we considered the following questions:

1. Does ETA maintain management controls that will ensure an accurate and complete accounting for Federal equity in SWA real properties?

2. Does ETA have management controls that will ensure the states properly handle the proceeds from disposing of SWA properties with DOL equity?

Audit Results:

We found that the ETA had not established adequate management controls over accounting for the Department of Labor's (DOL) equity interest in SWAs' real properties. Specifically:

- ETA's inventory of SWA property was neither accurate nor complete (see page 3).
- ETA did not ensure the states properly handle the proceeds from disposing of SWA properties with DOL equity (see page 9).

Based on our audit in the states of California, Georgia, Texas, and Utah, as of September 30, 2001, we identified 61 properties where ETA's real property inventory understated DOL's equity by a net $30.2 million. ETA's inventory:

- excluded entirely, or showed $0 equity for, 14 properties with $17.3 million of DOL equity,
- included two properties with $.5 million equity even though these properties no longer have DOL equity, and

[1] Formerly called State Employment Security Agencies (SESAs)

- included 45 properties for which ETA's value of DOL's equity was understated a net $13.4 million.

Furthermore, all four states we audited either held the proceeds from sale of DOL equity property for extended periods with no plans for procuring replacement properties, or used the proceeds to speed up the amortization of the acquisition costs of other properties. Georgia, Utah, and Texas collectively still had $1.9 million DOL equity cash on hand at the time of our fieldwork, without specific plans for transferring the equity to replacement properties. California, with ETA approval, used $3.6 million of DOL equity proceeds from the sale of several properties to accelerate the amortization of existing real properties and pay prior period space costs not previously recovered because of budget limitations.

Recommendations:

Consistent with past assurances regarding real property and in light of the Federal Real Property Asset Management Executive Order and OMB initiative, we recommend the Assistant Secretary for Employment and Training make control and management of real property a high priority.

Specifically, we recommend ETA implement controls over data validity and reliability that:

1. establish verifiable values for its real property inventory using available information such as the OIG's 1997 inventory report and projected equity schedules that were agreed to by ETA and the states;
2. require the states to provide explanations for differences between the states' annual certified inventory valuations and the OIG's 1997 report's estimated valuations for the same properties for the same period. (The OIG's estimated valuations were generally based on ETA-approved amortization schedules; consequently, unless ETA has amended the amortization schedules, the valuations should be similar.);
3. provide monitoring and follow up on all significant differences between ETA's established inventory of equity values and the states reported values; and
4. provide states current certification instructions that are clear and specific, including a requirement that the states submit documentation regarding properties added to or removed from the real property inventory list.

In addition, we recommend ETA monitor states' compliance with applicable requirements by implementing procedures to ensure states holding DOL equity cash from SWA real property dispositions:

5. are identified;
6. submit the funds to ETA for deposit to the U.S. Treasury, as required, unless ETA has documented approval of specific state plans for using the

proceeds for *bona fide* replacement property in a **reasonable** timeframe and that will ensure ETA can monitor states' handling of future sales proceeds from SWA property dispositions;

7. do not use any DOL equity cash from property sales to accelerate amortization of properties with existing amortization schedules; and
8. do not use any DOL equity cash to recover prior period space costs not recovered in accordance with existing amortization schedules because of a SWA's decision to use its grant funds for other purposes and delay amortization of its space costs because of budget limitations.

ETA's Response:

ETA generally agrees with the overall thrust of the audit report but did not address our specific recommendations. ETA stated that maintaining an up-to-date inventory and valuation of SWA property and managing the use and disposition of SWA real property continue to present challenges to states and ETA.

ETA acknowledges that although it has been updating state property records every 2 years with any information the states provided since 1999, not all records are current. ETA indicated that a soon-to-be issued Training and Employment Guidance Letter will require that states report any changes/updates to their real property data by November 30, 2004. ETA also plans to issue a Field Memorandum to ETA Regional Administrators requiring them to follow up and assure that all states update their real property inventory records.

A copy of ETA's complete draft report response is included in this report as Appendix D.

Auditor's Conclusion:

Requiring states to change/update their property data by November 30, 2004, and having Regional Administrators follow up to assure they do so is a positive step. However, if a more proactive role as outlined in recommendations one through four is not taken to assure the accuracy of the information provided, ETA will most probably get what it has been getting since 1999; i.e., inaccurate, incomplete information. Recommendations one through four are unresolved.

As ETA's response to the draft report did not specifically address recommendations five through eight, the recommendations are unresolved.

U.S. Department of Labor

Office of Inspector General
Washington, DC. 20210

Assistant Inspector General's Report

Emily Stover DeRocco
Assistant Secretary for
Employment and Training

We have audited the Employment and Training Administration's (ETA) management controls in maintaining accountability for the Federal equity in State Workforce Agencies' (SWA) real property as of September 30, 2001. In order to meet the objective of our audit, we considered the following questions:

1. Does ETA maintain management controls that will ensure an accurate, complete accounting for Federal equity in SWA real properties?

2. Does ETA have management controls that will ensure the states properly handle the proceeds from disposing of SWA properties with DOL equity?

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

FINDINGS AND RECOMMENDATIONS

Finding 1: ETA's inventory of SWA property with DOL equity is neither accurate nor complete.

In the four states included in our audit, we found that ETA has not established effective procedures to keep the inventory of DOL equity in SWA real properties reasonably accurate or complete despite:

- Two prior OIG reports[2] that demonstrated the inadequacy of the ETA's inventory system;

- Both ETA and DOL managements' assurances that ETA's accounting for DOL's equity in SWA real properties was no longer a critical weakness and that the audit findings from the OIG's 1997 report should be closed; and

[2] Report Nos. 04-90-002-03-325 (January 25, 1990) and 06-97-056-03-325 (September 30, 1997)

- Both ETA and DOL managements' assurances that maintaining the SWA real property inventory and obtaining state certifications is now done as part of ETA's regular work and should not be a problem in future years.

As a result of the first OIG real property audit in 1990, ETA implemented a property inventory but did not keep the inventory current. In the FY 1995 DOL financial statement audit report[3] (June 1996), the OIG reported problems with ETA's accounting for DOL equity in SWA real property. Furthermore, the Department included the SWA inventory accountability problem in the 1996 FMFIA[4] report (December 1996). Consequently, the OIG completed another SWA real property audit in 1997 to compile an update of DOL equity in the 53 SWAs' real properties to assist ETA in updating its inventory. As a result of the second OIG real property audit, ETA agreed to use the information "to establish a new baseline for the DOL inventory."

In April 2000, as part of the resolution process for the 1997 audit, ETA told the Department and Congress that it had established updated inventory processes to provide the amount of DOL equity in SWAs' real properties on a current basis. This ETA commitment provided the basis for the OIG subsequently closing the 1997 audit recommendation regarding ETA's accounting for $381 million of DOL equity (at cost basis) as of September 30, 1996.

Both the 1990 and 1997 OIG reports reported that ETA did not maintain a reasonably accurate inventory of SWA properties with DOL equity, including the accurate amounts of DOL equity in those properties. Furthermore, we reported that ETA was not requiring the SWAs to either return proceeds from the disposition of properties with DOL equity or reinvest those proceeds in replacement properties.

Despite assurances from the Assistant Secretary for Employment and Training, the Chief Financial Officer, and the Assistant Secretary for Administration and Management in April 2000, January 2001, and February 2001, that ETA's inventory system was operating effectively, our audit of ETA's inventory of SWA properties with DOL equity for California, Georgia, Utah, and Texas revealed that ETA's inventory procedures in those states for SWA real property are still inadequate. It would not be unreasonable to conclude that if all states' processes for accounting for ETA real property equity are the same as the four states in our audit, then ETA inventory procedures for those states would also be inadequate.

[3] Report No. 12-96-007-13-001 (May 1, 1996)
[4] Federal Managers' Financial Integrity Act of 1982

Although we issued ETA our latest compilation of DOL equity in SWA properties on September 30,1997, ETA did not update its inventory to reflect DOL equity (as of September 30, 1996) and did not implement its annual certification procedures until October 2000. Furthermore, even after the first year's state certifications, ETA's inventory system still failed to include all properties with DOL equity, included properties that states had already disposed of, and did not include the proper amounts of DOL equity.

In October 2001, ETA again requested that SWAs certify DOL's equity in SWA real properties. Of the four states' inventories we audited, only one state's (Texas) inventory certification – which purported to reflect DOL equity as of September 30, **2001** -- reflected DOL equity at least equal to the amounts of DOL equity at September 30, **1996** (as the OIG reported in 1997). The ETA National Office affirmed that ETA did not use the September 30, 1996, OIG audited equity -- with which almost all 53 SWAs agreed with -- to update its inventory despite ETA's response to our 1997 audit report that indicated it would do so. ETA's 1997 response stated:

> ETA is willing to accept the OIG finding that $381 million of DOL funds had been used as of September 30, 1996 to pay a portion of the $711 million acquisition cost of 453 properties. **This information will be used to establish a new baseline for the DOL inventory**. . . . [Emphasis added.]

We reviewed ETA's inventory and certifications for California, Georgia, Utah, and Texas as of September 30, 2001, and found that ETA's inventory excluded property acquisitions in three states, included properties no longer on one state's inventory, and included ETA's equity compilations that differed significantly with the OIG-audited amounts as of September 30, 2001, in all four states. For these four states, we determined differences between ETA's and OIG's audited DOL equity for 61 properties with a **net** underreporting of $30.2 million in DOL equity on ETA's inventory.

The differences between ETA's and the OIG's audited DOL equity are shown in the following chart:

State	Total Properties With Inventory Differences		Properties ETA Excluded Entirely or Showed $0 Federal Equity		Properties ETA Included on Inventory Although Property No Longer Has Federal Equity		Properties on Both ETA and State Inventories With ETA's Inventory Underreporting Federal Equity	
	# Prop	Net $	# Prop	$	# Prop	$	# Prop	Net $
California	17	$ 6.8 mil	4	$ 6.5 mil	2	($.5 mil)	11	$ .9 mil
Georgia	15	$11.0 mil	6	$ 2.8 mil			9	$ 8.1 mil
Texas	17	$ 3.8 mil					17	$ 3.8 mil
Utah	12	$ 8.6 mil	4	$ 8.0 mil			8	$ .6 mil
Totals	61	$30.2 mil	14	$17.3 mil	2	($.5 mil)	45	$13.4 mil

A comparison of ETA's inventory with the OIG-audited data as of September 30, 2001, is presented for each of the four states in exhibits A-1 through A-4.

Highlights of specific problems we identified with ETA's inventory, by state, are presented below:

CALIFORNIA

ETA's inventory excluded equity in four properties with $6.5 million in DOL equity.

- OIG reported equity in two of the four properties in our 1997 report, yet ETA's inventory excluded one property entirely and showed $0 DOL equity in the other.

- In 1991, the SWA had reduced DOL equity in the third property to zero. ETA subsequently approved the use of Federal funds for a capital improvement to this building. The SWA completed the capital improvement in November 1996 and reinstated the property to its inventory. However, ETA did not record the equity on it inventory.

- The fourth property was part of ETA's audit resolution of the 1997 audit. ETA's inventory shows the property with $0 DOL equity even though equity was transferred into the property as part of ETA's approved audit resolution.

Also, ETA's inventory included $.5 million DOL equity in two properties not on the State's inventory. ETA should have been aware of the lack of DOL equity in these two properties:

- San Bernardino – DOL equity of $173,031 had been reduced to zero during ETA's audit resolution of the 1997 audit finding. The equity reduction was based on the lack of SWA occupancy in the building.

- Salinas – DOL equity of $369,823 was specifically relinquished to the State in the DOL's appropriation bill in 1999.

GEORGIA

ETA's inventory:

- Excluded entirely four properties with $2.6 million in DOL equity even though our 1997 report reported equity in all four properties.

- Included two properties but showed $0 DOL equity even though DOL has $.2 million equity in the properties. The OIG reported DOL equity in these properties in 1997. The State's 2001 certifications of ETA's inventory did not show DOL equity in these properties; yet, the State's property records show the DOL equity.

TEXAS

ETA's inventory excluded $3.8 million in unreported DOL equity between September 30, 1996, and September 30, 2001. Prior to ETA's request for the State's 2001 inventory certification, the Dallas regional ETA staff updated ETA's national inventory database using the OIG-audited DOL equity in Texas' properties as of September 30, 1996, as reported in the OIG's 1997 audit report. Since ETA's inventory at September 30, 2001, reflected Texas' DOL equity as of September 30, 1996, Texas' 2001 certification to ETA certified the balances on ETA's inventory (as of September 30, 1996). This improper certification occurred because ETA's instructions were incomplete and only requested the State to certify in 2001 the equity amounts listed on the schedules provided to the State, which were as of September 30, 1996, and identified as such.

UTAH

ETA's inventory excluded four Utah properties with $8 million in DOL equity. Utah confirmed that the Salt Lake City Temporary Placement Office has $.3 million DOL equity as reported in the1997 OIG report. The State disputes the accrual of $7.7 million in Federal equity in the other three Salt Lake City properties – Administration Building, Metro Employment Center, and South Salt

Lake County Employment Center. Yet, as discussed below, the OIG contends equity has accrued in these three properties.

In a November 3, 1994, letter, a former ETA Regional Administrator informed the Utah SWA that based on State-submitted materials, the ETA national office had approved payment of allowable interest and depreciation costs for employment security grants without any accrual of equity in the three Salt Lake City properties that we determined had $7.7 million DOL equity as of September 30, 2001. We concluded in 1997 and on this audit that ETA's determination that no Federal equity exists in these properties is wrong in that it was based on Utah's misrepresentations and ETA's misinterpretation of the facts.

In our 1997 Utah real property final report,[5] we reported that Utah was charging bond amortization -- not depreciation and interest costs the SWA contended it was charging -- to the UI/ES grants to retire the properties financing bonds; thus, DOL has acquired, and is continuing to acquire, equity in the properties. The ETA's initial determination (September 20, 1999) for the 1997 OIG finding stated:

> The State's contention that DOL has no equity in the building will have to be supported with additional documentation, since there appears to be a minor difference in the amount that the State charged DOL under the allowable rental rate system and what was actually paid for interest plus depreciation.

Although ETA issued an initial determination in 1999 requiring additional information from the State, ETA never issued a final determination, and the three properties with $7.7 million in DOL equity as of September 30, 2001, are still not on ETA's inventory.

We believe ETA's inventory is significantly inaccurate for several reasons:

- ETA did not update its baseline inventory in 1997 with the OIG-provided DOL equity as of September 30, 1996, even though almost all SWAs accepted the OIG-reported equity information as correct in 1997, and ETA assured the OIG that it would use the information to update its inventory.

- Because this program has not been a priority for ETA management, some of the properties on ETA's inventory as of September 30, 2001, may not have been updated for over 13 years. ETA first established the inventory based on our 1990 audit report that reported DOL equity in SWA real properties as of September 30, **1988**. Because ETA did not routinely update its inventory after it was initially established, did not update the

[5] Report No. 06-97-023-03-325 (June 5, 1997)

inventory based on the OIG's 1997 audit report, and did not ask states for inventory certifications prior to October 2000, ETA's inventory has not been properly updated in well over a decade.

- o In 2000, only one (Dallas) of the four **regional** ETA offices covered in our audit had updated the national office inventory records for a state (Texas) in the region to reflect properties and DOL equity as of September 30, 1996, by using the OIG's 1997 compilation.

- o The inventory for properties in the other three states we audited had not been consistently updated and ETA's national office staff indicated that they did not attempt to reconcile or obtain explanations for differences between the OIG's audit of equity amounts as of September 30, 1996, and the information subsequently provided by the states.

- ETA did not provide adequate instructions to the states regarding either the certifications' reconciliation and corrections process needed, or the format needed for reporting. After the nationwide OIG update of DOL and Reed Act equity was issued in 1997, ETA concluded that its inventory records for state properties should be based on adjustments or updates provided by the states, rather than the OIG's extensive audited data. ETA's national office did not provide any information that it followed up with the states to obtain property-specific explanations regarding differences between the 1997 OIG compilation and the listings subsequently provided by the states in either 2000 or 2001. Most states agreed with the 1997 OIG audit compilation of DOL equity in SWA real properties.

- ETA transferred responsibility for tracking DOL equity amounts in SWA real property from its regional offices to the national office. However, ETA's national office maintained a hands-off policy with regard to following up on potential discrepancies in the state submissions. Furthermore, the ETA regions were still responsible for keeping documentation necessary to support changes in the ETA inventory records because the information used to make the changes requested by the states was destroyed in the national office after requested changes were completed.

- ETA has not taken a proactive role in administering SWA real property because it does not believe it will be necessary to maintain the inventory system for SWA property in the future. This assumes Congress passes one of two Administration proposals (Workforce Investment Act reauthorization and amendments to the UI program[6]) that would relinquish

[6] In testimony about the Department's FY 2005 budget before the House Ways and Means Committee on March 4, 2004, the Secretary of Labor indicated that the Department "will defer legislation on reforming the UI system until the states' budget outlook improves."

to the states all DOL equity in SWAs' properties that was acquired under UI or Wagner-Peyser grants.

DOL's equity interest of $381 million as of September 30, 1996 -- and most probably significantly higher 8 years later -- represents a significant asset for ETA's SWA grant programs that warrants ETA providing more diligence over maintaining current, accurate accounting records.

Recommendations:

Consistent with past assurances regarding real property and in light of the Federal Real Property Asset Management Executive Order and OMB initiative, we recommend the Assistant Secretary for Employment and Training make control and management of real property a high priority.

Specifically, we recommend ETA implement controls over data validity and reliability that:

1. establish verifiable values for its real property inventory using available information such as the OIG's 1997 inventory report and projected equity schedules that were agreed to by ETA and the states;
2. require the states to provide explanations for differences between the states' annual certified inventory valuations and the OIG's 1997 report's estimated valuations for the same properties for the same period. (The OIG's estimated valuations were generally based on ETA-approved amortization schedules; consequently, unless ETA has amended the amortization schedules, the valuations should be similar.);
3. provide monitoring and follow up on all significant differences between ETA's established inventory of equity values and the states reported values; and
4. provide states current certification instructions that are clear and specific, including a requirement that the states submit documentation regarding properties added or removed from the real property inventory list.

ETA's Response:

ETA generally agrees with the overall thrust of the audit report but did not address specific recommendations.

ETA indicated that every 2 years it asks the states to review and update ETA's property record's. ETA acknowledges that although it has been updating state property records with any information the states provided since 1999, not all records are current. ETA indicated that a soon-to-be issued Training and Employment Guidance Letter will require that states report any changes/updates to their real property data by November 30, 2004. ETA also plans to issue a

Field Memorandum to ETA Regional Administrators requiring them to follow up and assure that all states update their real property inventory records.

<u>Auditor's Conclusion:</u>

Requiring states to change/update their property data by November 30, 2004, and having Regional Administrators follow up to assure they do so is a positive step. However, if a more proactive role as outlined in recommendations one through four is not taken to assure the accuracy of the information provided, ETA will most probably get what it has been getting since 1999; i.e., inaccurate, incomplete information. The recommendations are unresolved.

Finding 2: ETA does not ensure the states properly handle the proceeds from disposing of SWA properties with DOL equity.

All four states audited either used proceeds from sale of DOL equity property to speed up the amortization of other properties or held the proceeds for extended periods with no plans for procuring/building replacement properties. Neither of these conditions complies with applicable regulations and ETA guidance.

Title 29 Code of Federal Regulations, Part 97 (29 CFR 97) -- the "Common Rule" -- provides the administrative requirements for Federal grants administered by state governments. 29 CFR 97.5 provides that the Common Rule superseded existing ETA regulations and other issuances that were inconsistent with Common Rule provisions. ETA stated in its General Administration Letter (GAL) No. 5-94 that all acquisitions of real property after September 30, 1988, had to be specifically approved by DOL, "for approval of continued amortization arrangements."

Further, GAL 5-94 stated that DOL relies exclusively on 29 CFR 97.31(c) to protect its equity interests in SWA real property. Consequently, SWAs must request disposition instructions from the DOL regional office in accordance with 29 CFR 97.31(c) when SWA real property with DOL equity is no longer needed for the originally authorized purposes. According to GAL 5-94:

- In accordance with 29 CFR 97.31(c), DOL will generally honor a state's request to either compensate DOL for its equity or to replace the property with other property, using the proceeds from the disposition of the vacated property as an offset to the cost of the replacement property "with respective equities transferred to the replacement property."

- The grantee's request to DOL for disposition instructions is to be accompanied by a plan for both disposing of the property to be replaced and acquiring the replacement property. The replacement property must be obtained in accordance with DOL disposition instructions.

- The proceeds resulting from the disposition of real property should be **immediately** used in the acquisition of the replacement property. ETA suggested that DOL would permit retention of the proceeds in an escrow account until the end of the Federal fiscal year in which disposition of the subject property occurred. However, ETA provided:

  > In the event that circumstances prevent the replacement to be made within the approved time frame, the State may request an extension from DOL. **If the approved plan is not being implemented, then there is no replacement.** [Emphasis added.]

- Proceeds from the disposition of real property **may not be used to accelerate the amortization of Reed Act or other fund sources used to acquire other real property.**

Georgia, Texas, and Utah still had DOL equity cash on hand at the time of our fieldwork without specific plans for transferring the equity to replacement properties. California obtained ETA approval to use proceeds from the sale of property to accelerate the amortization of existing real property although the Common Rule does not provide for such action, and GAL 5-94 specifically prohibited it.

Georgia

As of the end of our audit fieldwork, the Georgia Department of Labor (GDOL) still retained $157,133 in Federal equity cash from the sale of three properties that it has been holding in an escrow account for several years: $50,925 since 1997; $13,788 since 1999; and $92,430 since 2000. GDOL could not provide evidence of ETA's approval for holding the funds in the account. The funds were being held in **anticipation** of using the proceeds to acquire new property; therefore, GDOL did not have a replacement plan and did not have approval of any plan.

Texas

The Texas Workforce Commission (TWC) sold 10 properties with DOL equity between April 2000 and May 2002 with net proceeds plus interest earnings of $2.6 million. Texas used over $.9 million for replacement properties and capital improvements in existing properties. Yet, as of April 30, 2003, Texas still retained over $1.6 million without specific plans to use these funds for replacement properties.

The following schedule shows the status of sales proceeds.

Property	Sales Date	Sales Price	Sales Expense	Interest as of 4/30/03	Amount Available	Proceeds Disbursed as of 4/30/03	Current Balance
Galveston	04/26/00	$325,000.00	$3,500.00	$31,067.56	$352,567.56	$352,567.56	$0.00
Lubbock	12/29/00	320,100.00	12,947.50	23,092.97	330,245.47	330,245.47	0.00
Crystal City	12/02/01	44,000.00	12,335.33	1,062.99	32,727.66	32,727.66	0.00
Greenville	12/02/01	175,000.00	11,335.33	4,265.00	167,929.67	167,929.67	0.00
Midland	12/02/01	67,200.00	13,085.33	1,553.42	55,668.09	55,668.09	0.00
Odessa	04/04/02	99,700.00	7,793.69	2,002.10	93,908.41		93,908.41
Texas City	04/24/02	172,300.00	5,190.00	3,338.68	170,448.68		170,448.68
Denton	05/03/02	563,290.50	37,330.49	9,094.82	535,054.83		535,054.83
Eagle Pass	05/06/02	343,412.51	4,665.96	5,829.45	344,576.00		344,576.00
Houston	05/08/02	522,500.00	36,720.96	8,434.73	494,213.77		494,213.77
Total		**$2,632,503.01**	**$144,904.59**	**$89,741.72**	**$2,577,340.14**	**$939,138.45**	**$1,638,201.69**

TWC expressed its desire to finalize plans for the remaining sales proceeds and interest. The problem is that the State wants to invest in properties that can be used for WIA One-Stop/ES services; however, the preponderance of cash on hand is UI equity cash.

Utah

The Utah Department of Workforce Security (UDWS) has retained $84,731 disposal proceeds ($67,876 Federal equity; $16,855 Reed Act equity) from the sale of two properties in 1997 and 1999.

In 1997, UDWS received ETA's approval to dispose of properties with DOL equity in Price (sold October 1997) and Blanding (sold September 1999). The Price property had a combination of DOL and Reed Act equity; the Blanding property had only DOL equity. ETA approved the transfer of equity in both properties to a new building to be constructed in Clearfield. However, UDWS funded the Clearfield construction with State funds; i.e., UDWS did not use any of the disposition proceeds from Price and Blanding for the Clearfield property.

ETA approved the Price property disposition assuming that the sales proceeds would be used to construct a building in Clearfield. ETA's approval letter provided instructions for returning $5,503 of the Price property sales proceeds to the Reed Act account with the $16,855 balance of the Reed Act equity transferred to the newly-constructed Clearfield building. UDWS properly deposited the $5,503 in the State of Utah Unemployment Trust Fund account upon the sale of the Price office. However, when the State used other State funds for the Clearfield construction, UDWS failed to deposit the remaining $16,855 of Reed Act equity in its Reed Act account.

While UDWS did not use the sales proceeds for the Clearfield construction as ETA approved, it did use some of the proceeds to acquire two lots for the Logan Employment Center. The $67,876 balance of the proceeds was still being held by UDWS without further instructions from ETA. UDWS requested replacement disposition instructions from ETA in September 2000 but as of February 2003 ETA had not responded to the State's request.

California

The California Employment Development Department (CEDD), with ETA's approval, used the proceeds from the sale of several properties to accelerate the amortization of the cost of already existing properties. ETA approved CEDD's use of proceeds from the 1995 sale of property in Los Angeles ($2,623,062) and 1998 sale of property in Long Beach ($525,136) to accelerate amortization of Reed Act funds in existing properties. CEDD also used proceeds from the sale of properties in Oakland ($331,497) and Indio ($58,676 + $65,330 interest) after September 2001 (the end of our audit period) to accelerate amortization of Reed Act funds in the same existing properties. The Los Angeles and Long Beach property sales are discussed in detail below.

In 1989 CEDD obtained ETA's approval to sell a **Los Angeles** property and use the proceeds for replacement properties. However, because CEDD had a difficult time selling the Los Angeles property, CEDD used direct DOL grant funds – in lieu of Reed Act or other non-Federal funds -- to purchase three new properties (Riverside in 1993, El Centro in 1994, and Indio in 1994). In April 1994, ETA reported that CEDD had violated its total spending limitation by using grant funds to purchase these properties. As a result, in October 1994, CEDD proposed to repay the improperly spent grant funds with Reed Act funds; ETA accepted the proposal.

CEDD finally sold the **Los Angeles** property in December 1995 -- almost 2 years after the Riverside, El Centro, and Indio properties were purchased -- on a 10-year installment sale. CEDD submitted to ETA a revised disposition plan to use the Los Angeles annual installment sales proceeds to amortize the Reed Act funds that were used to repay grant funds improperly used to purchase the Riverside, El Centro, and Indio properties. Because ETA, in 1989, or 6 years earlier, had originally approved the use of the Los Angeles property sales proceeds to purchase replacement properties, ETA allowed CEDD to apply the annual installment sales proceeds to amortize the costs of the Riverside, El Centro, and Indio properties that were purchased in 1993 and 1994 and for which annual amortization schedules were in place to use current and future grant funds to pay annual space costs.

CEDD also sold its **Long Beach** property in 1998 and requested ETA's approval -- which was granted -- to use the sales proceeds to again accelerate the amortization of the cost of the El Centro, Indio, and Riverside properties. ETA approved the request in November 1998 without apparently considering the fact that the three properties had been purchased in 1993 and 1994, or 4 to 5 years prior to the sale of the Long Beach property. These properties could not logically be considered replacement properties.

When the Los Angeles 10-year term sale was paid off early, ETA approved the State's request to use the entire sales proceeds to again accelerate amortization of the El Centro, Indio, and Riverside properties; thereby, allowing the State to use sales proceeds to pre-pay future years' grant costs. However, since the remaining proceeds from the paid off Los Angeles term sale were then being used to again accelerate amortization of the three properties, ETA requested details from CEDD regarding how the Long Beach proceeds would be used. The State did not provide any documentation that CEDD responded to ETA's request. However, audit evidence shows that the proceeds from the sale of the Long Beach property were used to accelerate amortization of the Indio and Riverside properties.

CEDD did not agree with the OIG that proceeds from the Los Angeles and Long Beach sales were used to accelerate amortization on existing properties. However, the State indicated CEDD "used proceeds **in lieu of granted funds** according to an existing amortization schedule through June 2002." [Emphasis added.] Therefore, the State corroborated that rather than using appropriated grant funds to pay its monthly/annual amortization costs (i.e., annual operating space costs), it used sales proceeds to accelerate amortization on the properties (i.e., proceeds from the 1995 Los Angeles and 1998 Long Beach property sales were used to prepay scheduled amortization costs through June 2002).

CEDD also sold an **Indio** property in 1999, held the proceeds for over 3 years, then in January 2003, used the proceeds to accelerate amortization (i.e., acquire additional DOL equity) in three properties: El Centro, Riverside, and Los Angeles. Although CEDD had ETA-approved amortization agreements for these three properties, from October 2000 through January 2003, CEDD stopped amortizing the properties' costs during that period because "**[C]EDD decided to spend its grant monies on staffing and other program costs, and to temporarily delay planned amortization payments**." [Emphasis added.]

In January 2003, CEDD used the 1999 Indio sales proceeds, including interest earned on sales proceeds, to recoup prior period (October 2000 through January 2003) space costs for these properties that were not previously recovered because of budget restraints.

Office of Management and Budget (OMB) Circular No. A-87, Cost Principles for State, Local and Indian Tribal Governments, Attachment A, paragraph C.3.c states:

> Any cost allocable to a particular Federal award or cost objective under the principles provided for in this Circular may not be charged to other Federal awards to overcome fund deficiencies, to avoid restrictions imposed by law or terms of the Federal awards, or for other reasons. . . .

By using sales proceeds from the Indio property to pay otherwise allowable costs for prior periods, the State has used the Federal share of sales proceeds to supplement its Federal appropriated funds to pay operating costs for prior periods. The State failed to provide any evidence that CEDD requested ETA's permission to retain the funds for over 3 years or to use the funds to recover prior period amortization costs of existing properties.

29 CFR 97.31(c)(1) provides that the sales proceeds can be used as an "offset to the cost of the replacement property" for the same program. ETA recognizes that the offset provision allows property equity obtained through the use of properly appropriated, already expended grant funds to be used to benefit the same program in future years. Consequently, ETA routinely allows states to transfer equity into **replacement** properties. However, ETA also recognizes that proceeds cannot be used to pay annual space costs or to prepay future years' space costs because ETA's GAL No. 5-94 prohibits the use of sales proceeds to "accelerate the amortization of Reed Act or other fund sources used to acquire other real property."

By allowing the State to use sales proceeds to pay annual space costs, ETA effectively supplanted the grant allocation process by increasing the amount of funds available to the State to pay annual operating costs, future operating costs, and retroactively paying prior period costs that were not claimed in the applicable fiscal year due to funding limitations.

If ETA allows states to keep DOL's share of sales proceeds for extended periods of time without reasonable replacement plans and use sales proceeds for accelerating the amortization for existing properties, the states are being allowed to circumvent the Common Rule requirement to either use the sales proceeds to obtain replacement property or else remit the net amount to ETA for redeposit to the U.S. Treasury.

Recommendations:

In addition, we recommend ETA monitor states' compliance with applicable requirements by implementing procedures to ensure states holding DOL equity cash from SWA real property dispositions:

5. are identified;
6. submit the funds to ETA for deposit to the U.S. Treasury, as required, unless ETA has documented approval of specific state plans for using the proceeds for bona fide replacement property in a **reasonable** timeframe and that will ensure ETA can monitor states' handling of future sales proceeds from SWA property dispositions;
7. do not use any DOL equity cash from property sales to accelerate amortization of properties with existing amortization schedules; and
8. do not use any DOL equity cash to recover prior period space costs not recovered in accordance with existing amortization schedules because of a SWA's decision to use its grant funds for other purposes and delay amortization of its space costs because of budget limitations.

ETA's Response:

ETA did not specifically address our recommendations.

Auditor's Conclusion:

As ETA did not specifically address the recommendations, the recommendations are unresolved.

Elliot P. Lewis

Elliot P. Lewis
Assistant Inspector General
for Audit

January 31, 2004

Exhibit A-1
Comparison of California OIG-OA Amounts with ETA's Inventory
As of September 30, 2001

Property	OIG	ETA	Difference	Explanation
Bakersfield Local Office 1924 Q St.	$ 512,817	$ 470,348	$ 42,469	The reason for the difference is unknown.
Chico Local Office 240 W. 7th St.	49,491	248,275	(198,784)	OIG's calculation of equity initially consisted of $94,913 of the original $135,452 cost plus a $76,681 improvement. Total cost of the property equaled $212,133. ETA resolved the 1996 OIG Audit by transferring some of the equity out of this property based on reduced Federal occupancy. The new equity percentage changed to 23.33 percent , and the new equity amount changed to $49,491. ETA's database includes the $171,594 previous equity, which includes the $76,681 improvement. It also includes the $76,681 again as a separate equity listing for a total of $248,275.
Eureka Local Office 409 K St.	1,750,871	1,706,028	44,843	The difference is the amount of pre-1983 funds ETA omitted from its database. The funds were for the cost of an improvement.
Fresno 2555 Elm St.	1,116,251	0	1,116,251	ETA's inventory shows $0 DOL equity although this property was included in the 1997 OIG audit.
Inglewood Local Office 4540 W. Century Blvd.	2,704,354	1,437,153	1,267,201	The difference results from ETA omitting UI grant funds ($494,208), and ES funds ($772,992) from its database.

Exhibit A-1
Comparison of California OIG-OA Amounts with ETA's Inventory
As of September 30, 2001

Property	OIG	ETA	Difference	Explanation
Merced Local Office 1205 W. 18th St.	2,059,311	1,670,498	388,813	ETA resolved OIG's 1996 audit by transferring equity from properties with less occupancy than equity into this property. The new equity percentage changed to 95.47 percent, and the new equity amount changed to $2,059,311 ($2,157,024 * 95.47%).
Modesto Local Office 629 12th St.	$1,373,979	$1,325,689	$48,290	The difference results because: (1) EDD reported $1,001 less in property costs in 2001 than in 1996; and (2) OIG learned there was less Federal occupancy in other properties than Federal equity in the 1996 audit. ETA resolved the audit by transferring additional equity into this property. The new equity percentage changed to 100 percent, and the new equity amount changed to $1,373,979 ($1,373,979 * 100%).
Oakland Local Office 1225 4th Avenue	2,839,305	4,095,594	(1,256,289)	The difference results because EDD's documents show $1,385,000 in Reed Act funds were used to help finance the cost of a renovation. EDD's 2001 documents show none of these funds have been amortized. ETA's database shows $1,256,289 of these Reed Act Funds as amortized, which leaves an unamortized Reed Act funds balance totaling $128,711 (Total cost to be amortized $3,571,250 minus total amortization $3,442,539).

Exhibit A-1
Comparison of California OIG-OA Amounts with ETA's Inventory
As of September 30, 2001

Property	OIG	ETA	Difference	Explanation
Redding Local Office 1301 Pine St.	470,223	391,556	78,667	The difference results from two reasons: (1) EDD documents show $990 less in Federal equity than ETA entered in its database; and (2) ETA transferred some of the equity into this property from properties identified as having less Federal occupancy than Federal equity in the 1996 OIG audit. The new equity percentage changed to 97.88 percent, and the new equity amount changed to $470,223 ($480,408 * 97.88%).
Riverside 1180 Palmyrita	2,429,787	0	2,429,787	Property is not on ETA's inventory although it was included in the 1997 OIG report.
Riverside 1190 Palmyrita	$206,612	$0	$206,612	ETA's database shows Federal equity valued at $0 for this property. ETA resolved OIG's 1996 Real Property Audit finding by transferring some of the equity dollars based on appraisals out of the property into four other properties. The new equity percentage changed to 7.5 percent based on occupancy and the new equity amount is estimated as $206,612 ($2,754,833 * 7.5%). Subsequently, EDD reduced the property cost to $2,754,833 from the 1996 cost of $2,854,633.
Sacramento 751 "N" St.	2,699,069	0	2,699,069	Property is not on the ETA inventory. Federal equity was transferred out in 1991. Subsequently, EDD added a HVAC system paid solely by UI funds with ETA approval. EDD claims staff occupying the building are 43.6 percent UI-funded and 12.8 percent ES-funded.
Salinas Local Office 346 Front St.	0	369,823	(369,823)	The difference is as a result of the State giving this property to the City of Salinas via Federal appropriations.

Exhibit A-1
Comparison of California OIG-OA Amounts with ETA's Inventory
As of September 30, 2001

Property	OIG	ETA	Difference	Explanation
San Bernardino Local Office 371 W. 3rd	0	173,031	(173,031)	The difference results because ETA transferred the equity from this property into other properties as a result of the 1996 OIG Real Property Audit when OIG discovered there was less Federal occupancy in this property than Federal equity. The new equity percentage changed to 0 percent and the new equity amount changed to $0.
San Francisco Local Office 745 Franklin St.	2,414,914	2,415,208	(294)	The difference is the result of ETA entering $72,061 less of UI grant funds in its database than EDD shows in its documents (EDD $1,394,322 – $1,322,261 ETA) and $72,355 more of ES grant funds than EDD shows in its documents (ETA $167,355 – $95,000 EDD).
Santa Rosa Local Office 419 Tenth	$1,015,286	$508,796	$506,490	The difference is the result of ETA transferring some of the equity from properties identified in the 1996 OIG audit as having less Federal occupancy than Federal equity into this property. The new equity percentage changed to 100 percent and the new equity amount changed to $1,015,286 ($1,015,286 * 100%).
Vallejo Local Office 1440 Marin St.	368,038	350,533	17,505	The difference is a result of ETA entering $311,413 and $39,120 as amortization instead of $311,444 and $56,594 as reflected on EDD's documents.
Grand Total	$22,010,308	$15,162,532	$6,847,776	

Exhibit A-2
Comparison of Georgia OIG-OA Amounts with ETA's Inventory
As of September 30, 2001

Property	OIG	ETA	Difference	Explanation
Albany Local Office 1006 Slappey Blvd.	$915,731	$1,109,128	($193,397)	GDOL2000 certification reported amortization amount of $1,109,128 of which $915,731 was Federal and $193,397 was state. ETA recorded the entire amount of $1,109,128 as Federal ($915,731 as UI and $193,397 as ES).
Americus Local Office 120 W. Church St.	116,410	0	116,410	GDOL's 2000 certification erroneously reported $165,000 in Federal equity. The correct amount is $116,410. Nevertheless, ETA did not record any Federal equity.
Atlanta Central Office 148 International Blvd.	16,514,549	7,793,607	8,720,942	The difference is the amount of transferred in Federal equity of $8,510,900 plus estimated amortization of $210,042 for the period of 7/1/01 through 9/30/01.
Augusta Local Office 601 Green St.	506,369	289,643	216,726	GDOL's 2000 certification erroneously reported the $216,726 as state amount of amortization.
Brunswick Local Office 2517 Tara Lane	824,132	0	824,132	Property is not on ETA inventory. This property was included in the 1997 OIG report.
Carrollton Local Office 275 Northside Dr.	634,529	0	634,529	Property is not on ETA inventory. This property was included in the 1997 OIG report.
Clayton Local Office 1193 Forest Parkway	558,511	721,235	($162,724)	GDOL's 2000 certification reported amortization amount of $721,235 of which $558,511 was Federal and $162,724 was state. ETA recorded the entire amount of $721,235 as Federal ($558,511 as UI and $162,724 as ES).
Columbus Local Office 700 Fourth Ave.	1,011,647	0	1,011,647	Property is not on ETA inventory. This property was included in the 1997 OIG report.

Exhibit A-2
Comparison of Georgia OIG-OA Amounts with ETA's Inventory
As of September 30, 2001

Property	OIG	ETA	Difference	Explanation
Covington Local Office 7249 Industrial Blvd.	$370,224	$465,861	($95,637)	GDOL's 2000 certification reported amortization amount of $465,861 of which $370,224 was Federal and $95,637 was state. ETA recorded the entire amount of $465,861 as Federal ($370,224 as UI and $95,637 as ES.)
Douglas Local Office 310 W. Bryan St.	100,829	0	100,829	GDOL's 2000 and 2001 certifications were not completed for this property. However, the GDOL "Equity in Buildings as of 6/30/01" report shows the Federal equity is $100,829. DOL' inventory does not show this property.
Dublin Local Office 910 N. Jefferson St.	186,144	276,314	($90,170)	GDOL's 2000 certification shows $276,314 as the amount amortized, without a breakout between Federal and state amounts. ETA apparently recorded the entire amount as Federal amortization. However, the GDOL "Equity in Buildings as of 6/30/00" shows $186,144 as Federal amortization and $90,170 as state amortization.
Griffin Local Office 1514 Highway 16 West	562,473	462,466	100,007	GDOL's 2000 certification reported $360,873 as Federal amortization, and $201,600 as transferred in Federal equity (therefore, Federal amortization is $562,473) and $101,593 as state amortization. These figures agree with the GDOL"Equity in Building as of 6/30/00". Apparently, ETA combined the Federal and State amortization amounts as Federal and ignored the transferred in Federal equity when updating its inventory

Exhibit A-2 Comparison of Georgia OIG-OA Amounts with ETA's Inventory As of September 30, 2001				
Property	**OIG**	**ETA**	**Difference**	**Explanation**
Gwinnett Local Office 1355 Atkinson Road	$496,196	$577,627	($81,431)	GDOL's 2000 certification reported amortization of $577,627 of which $496,196 was Federal and $81,431 was state. ETA recorded the entire amount of $577,627 as Federal ($496,196 as UI and $81,431 as ES).
Savannah Local Office 5520 White Bluff Rd.	1,356,928	1,638,738	(281,810)	GDOL's 2000 certification reported amortization of $1,638,738 of which $1,356,928 was Federal and $281,810 was state. ETA recorded the entire amount of $1,638,738 as Federal ($1,356,928 as UI and $281,810 as ES).
Valdosta Local Office 2808 N. Oak St.	150,150	0	150,150	Property is not on ETA inventory. This property was included in the 1997 OIG report.
Grand Total	$24,304,822	$13,334,619	$10,970,203	

Exhibit A-3 Comparison of Texas OIG-OA Amounts with ETA's Inventory[7] As of September 30, 2001				
Property	**OIG**	**ETA**	**Difference**	**Explanation**
Bryan	$470,501	$315,085	$155,416	ETA had not updated equity amounts subsequent to prior OIG audit as of 9/30/96
Corpus Christi	548,769	470,003	78,766	ETA had not updated equity amounts subsequent to prior OIG audit as of 9/30/96
Conroe	706,907	583,948	122,959	ETA had not updated equity amounts subsequent to prior OIG audit as of 9/30/96
Brownwood	482,407	429,640	52,767	ETA had not updated equity amounts subsequent to prior OIG audit as of 9/30/96
Denton	700,663	607,242	93,421	ETA had not updated equity amounts subsequent to prior OIG audit as of 9/30/96
Longview	471,656	449,125	22,531	ETA had not updated equity amounts subsequent to prior OIG audit as of 9/30/96
Greenville	335,687	318,901	16,786	ETA had not updated equity amounts subsequent to prior OIG audit as of 9/30/96
Paris	644,000	531,727	112,273	ETA had not updated equity amounts subsequent to prior OIG audit as of 9/30/96
Mt. Pleasant	544,588	393,110	151,478	ETA had not updated equity amounts subsequent to prior OIG audit as of 9/30/96
Denison/Sherman	731,530	450,176	281,354	ETA had not updated equity amounts subsequent to prior OIG audit as of 9/30/96
McKinney	296,224	141,671	154,553	ETA had not updated equity amounts subsequent to prior OIG audit as of 9/30/96

[7] Fifty-nine TWC properties had DOL equity and six (lease purchase) properties have potential DOL equity. Since the 1997 OIG audit was used to update the ETA inventory; the only TWC properties listed are those where there was a difference in equity amounts based on amortization between 9/30/96 and 9/30/01.

Exhibit A-3 Comparison of Texas OIG-OA Amounts with ETA's Inventory[7] As of September 30, 2001				
Property	**OIG**	**ETA**	**Difference**	**Explanation**
Temple	847,351	500,708	346,643	ETA had not updated equity amounts subsequent to prior OIG audit as of 9/30/96
Bay City	813,670	350,418	463,252	ETA had not updated equity amounts subsequent to prior OIG audit as of 9/30/96
Brownsville	$1,032,097	$406,585	$625,512	ETA had not updated equity amounts subsequent to prior OIG audit as of 9/30/96
Houston	402,472	55,899	346,573	ETA had not updated equity amounts subsequent to prior OIG audit as of 9/30/96
Waxahachie	667,844	287,090	380,754	ETA had not updated equity amounts subsequent to prior OIG audit as of 9/30/96
Marshall	606,537	252,119	354,418	ETA had not updated equity amounts subsequent to prior OIG audit as of 9/30/96
Total	$10,302,903	$6,543,447	$3,759,456	

Exhibit A-4
Comparison of Utah OIG OA Amounts with ETA's Inventory
As of September 30, 2001

Property	OIG	ETA	Difference	Explanation
Cedar City Employment Center	$659,271	$628,365	$30,906	Charges to UI/WP totaled $734,646 as of April 2000. We calculated that 89.74% of the amortization related to real property based on the furnishings included, ((i.e. $886,501 less $90,991 for furnishings).
Clearfield/Davis County Employment Center	652,792	680,249	(27,457)	The building and land costs are amortized separately. The $585,572 building cost was fully amortized as of March 1997 from $420,207 in WP funds and $165,365 in Title III grant funds used in bldg. construction. The total charges for land as of 9/30/01 is $67,220.
Logan Employment Center	588,822	404,918	183,904	The original property acquisition was fully amortized as of February 1985. But an HVAC purchased in 2000 and proceeds from the sale of the Price local office used to purchase a Logan parking lot in October 2000 were not added to the ETA inventory.

Exhibit A-4
Comparison of Utah OIG OA Amounts with ETA's Inventory
As of September 30, 2001

Property	OIG	ETA	Difference	Explanation
Ogden Employment Center	1,532,329	1,528,241	4,088	The building and land costs are amortized separately. The building amortization was completed in October 1999. The total charges for land as of 9/30/01 is $122,783. The amount remaining to be amortized from 10/01/01 to 10/3/02 is $12,688.78. The amount to be allocated as UI/WP equity is unknown.
Provo Employment Center	$1,856,682	$1,566,552	$290,130	UDWSA fully amortized the $290,130 cost of the 1990 remodeling from May 1990 through March 1992. UDWS left an unamortized balance in the Reed Act account of $208,343.
Richfield Employment Center	307,785	305,852	1,933	We calculated that 89.25% of the amortization (i.e. $438,000 total recorded long-term liability less $47,088 for furnishings) related to real property. Amortization of real property, therefore, totals $307,785.

Exhibit A-4 Comparison of Utah OIG OA Amounts with ETA's Inventory As of September 30, 2001				
Property	**OIG**	**ETA**	**Difference**	**Explanation**
Vernal Employment Center	239,587	226,999	12,588	UDWS began amortizing the $716,820 cost of the addition in July 2000. The quarterly payment for the bond issuance is $19,453.25. As of 9/30/01, $12,588 had been allocated to UI/WP as its share of the Vernal space costs under the 7/1/97 implemented cost allocation plan.
St. George Employment Center	835,322	698,171	137,151	UDWS completed amortization in August 1998 for the $903,109 acquisition cost. UDWS amortized the property with UI/WP funds until 6/30/97 at $7,672 a month for a total of $797,921. As of 7/1/97 the allocation to UI/WP funding for its share of space costs varied with the implementation of a cost allocation plan. The UI/WP allocated share of the space costs from 7/1/97 to 9/30/01 was $37,401. Total UI/WP amortization is therefore, $835,322.
Salt Lake City Temporary Placement Office	$295,255	$0	$295,255	Property is not on the ETA inventory. State concurs with this DOL equity that was included in our 1997 audit report.

Exhibit A-4
Comparison of Utah OIG OA Amounts with ETA's Inventory
As of September 30, 2001

Property	OIG	ETA	Difference	Explanation
Salt Lake City Administration Building	5,239,532	0	5,239,532	Property is not on the ETA inventory. State contends no DOL equity exits. OIG disagrees since DOL funds were used to amortize financing bond payments.
Salt Lake City Metro Employment Center	1,453,011	0	1,453,011	Property is not on the ETA inventory. State contends no DOL equity exits. OIG disagrees since DOL funds were used to amortize financing bond payments.
South Salt Lake County Employment Center	1,017,108	0	1,017,108	Property is not on the ETA inventory. State contends no DOL equity exits. OIG disagrees since DOL funds were used to amortize financing bond payments.
Grand Total	$14,677,496	$6,039,347	$8,638,149	

Appendix A

BACKGROUND

Nearly all State Workforce Agencies (SWAs) have purchased real properties for use in administering their Employment Security program.[8] Initially, these properties are purchased/constructed with non-Federal funds – generally, Social Security Act (SSA), Title IX (Reed Act) funds; state UI penalty and interest (P&I) funds; or, state bond issues. The DOL has accumulated equity in these properties over the years because SWAs have recouped the cost of these properties by monthly amortizing the properties' acquisition costs against SSA, Title III (UI) and Wagner-Peyser, Employment Service (ES) grants. DOL also has accumulated equity through the direct use of UI/ES grant funds to pay monthly lease payments for lease-purchase properties that SWAs obtain title to when the lease is finalized.

29 CFR, Part 97.31, provides that when state properties with DOL equity are no longer used for program purposes, the properties should be disposed of and the disposition proceeds must be returned to DOL, or used for approved replacement properties, in the proportion that DOL grant funds participated in the real properties' acquisition costs.

The Government Accountability Office designated Federal real property as a high-risk area in January 2003. On February 4, 2004, the President issued Executive Order 13327, "Federal Real Property Asset Management." In conjunction with the Executive Order, OMB has added an initiative to the President's Management Agenda aimed at improving stewardship of Federal real property assets.

PRIOR AUDIT HISTORY

Two prior OIG audit reports in 1990 and 1997 identified numerous instances of insufficient ETA oversight of DOL's equity interest in state-owned real property. In those audits, we found significant amounts of new acquisitions and dispositions of real property acquired through charges to ETA grants had not been accounted for properly. Subsequent to our 1990 audit report that compiled DOL's equity as of September 30, 1988, ETA established an inventory of DOL equity in SWA real property using data from the audit. In the 1997 report, we questioned a total of $8 million in grant costs in 53 individual state[9] reports.

[8] Comprised of the Employment Service (ES) and Unemployment Insurance (UI) programs.
[9] The terms State Workforce Agency, SWA, or "state" refer to the 50 states, District of Columbia, Puerto Rico, and the U.S. Virgin Islands.

In general, DOL's role in SWA real property administration has been limited to providing policy guidance, determining compliance with applicable requirements, and approving the use of granted funds for capital expenditures to include the recapture of equity through amortization agreements. SWAs are responsible for all actions relating to the acquisition, use, and disposition of real property acquired with grant funds and Reed Act funds. The SWAs are responsible for accounting for grant funds used to amortize the cost of SWA real property. No reporting of DOL equity, by property, was required of states except "as requested" by ETA.

ETA Reported Corrective Action in Response to Prior Audits

In the OIG's September 30, 1997, audit report, we reported that:

> For the last 2 years the Office of Inspector General (OIG) reported in the Department of Labor (DOL) annual financial statement audits that the Employment and Training Administration (ETA) did not maintain sufficient accountability over DOL's equity in [SWA's] real properties. While ETA did establish an inventory based on the OIG's January 25, 1990, audit report that reported DOL's equity as of September 30, 1988, and has made some updates to that inventory, ETA's inventory has become significantly outdated.

After the 1997 audit report was issued:

- ETA committed to improving its accountability for DOL equity in real property acquired by state grantees with financial assistance from DOL.

- ETA responded to the 1997 report that responsibility for updating individual SWA property records would be transferred to appropriate regional office staff.

Further, ETA's response to the 1997 report stated:

> ETA is willing to accept the OIG finding that $381 million of DOL funds had been used as of September 30, 1996, to pay a portion of the $711 million acquisition costs of 453 properties. This information will be used to establish a new baseline for the DOL inventory and will be provided to appropriate regional office staff.

Subsequent to this response, ETA centralized responsibility in the national office for maintaining the inventory. Further, the ETA began a process of obtaining certification from the states regarding their real property.

Since 1997, both the Department and ETA have continued to make commitments to maintain an updated, accurate inventory of SWA properties with DOL or Reed Act equity. For example, on April 14, 2000, the DOL Chief Financial Officer (CFO) and Assistant Secretary for Administration and Management notified the Senate Chairman of the Committee on Governmental Affairs:

> Through the Department's audit resolution process, the Employment and Training Administration provided an appropriate corrective action plan to address [keeping an inventory of real properties reasonably current] this issue. Responsibility for State Employment Security Agencies' property has been centralized in the National Office. This spring, the Department will begin the process of obtaining certification from the States regarding this property…. Once established, the inventory will be maintained on a current basis.

They also indicated to the Chairman that concerns and comments raised by the States, ETA's employees, the OIG, and the Congress would be considered in developing new policies and procedures to deal with issues relating to the accounting and disposition of real property titled to states but in which DOL retains equity. Further, the commitment was made that, "In the interim, DOL is committed to updating and certifying property records to ensure that inventory records are accurate and up-to-date."

In a January 19, 2001, letter (as part of the reporting process under the Federal Managers' Financial Integrity Act and OMB Circular A-123), the Assistant Secretary for Employment and Training notified the Secretary of Labor that:

> The responsibility for maintaining these [SWA real property inventory] records was returned to the national office as part of the agency's recent reorganization. The Office of Financial and Administrative Management assumed responsibility for maintaining the nationwide data base and obtaining state certifications of SWA property holdings. During 2000 the system used to account for these property records was rewritten and letters were sent to States requesting that they certify the information contained on Federal records or provide updates…. Given the progress made in improving our record keeping, we believe the item is no longer a critical weakness and should be closed. . . Maintaining the inventory and obtaining these certifications is now done as part of ETA's regular work and should not be a problem in future years.

In a February 1, 2001, memorandum the DOL's Acting CFO provided management's response to the OIG's draft report containing the consolidated financial statements for the year ended September 30, 2000, including the issue of SWA real property. The CFO reported:

> In November 1999, the responsibility for maintaining SESA real property inventories and obtaining State certifications was transferred from the ETA regional offices to the ETA National Office. Consequently, the ETA National Office issued a Field Memorandum in the Spring of 2000, directing all ETA Regional Offices to submit SESA real property acquisition and disposal information to the ETA National Office. ETA has indicated that receipt of the 53 State certifications of SESA real property inventories should be achieved by the end of December 2000.
>
> . . . .
>
> At present, more than 80 percent of the States have certified Federal records or provided updates. Most of the remaining States have indicated they are in disagreement with our records and are working to reconcile them with their own information. A few States have not responded and are being sent a second request. If responses are not received by mid-year, further actions will be considered.
>
> Maintaining the inventory and obtaining annual certifications is now done as part of ETA's regular work and the [OIG audit] finding should be closed.

In April 2001, ETA's Office of Workforce Security requested the OIG consider the recent actions taken to close the report's recommendations. Based on the representations by the responsible staff that ETA had its inventory up and running, with all but about ten states entered into the system, OIG closed the outstanding recommendations on the 1997 audit report in June 2001.

Appendix B

SCOPE, METHODOLOGY, AND CRITERIA

Scope and Methodology

We reviewed the adequacy of ETA's management controls by evaluating the accuracy and completeness of ETA's property inventory records as of September 30, 2001 and by evaluating the procedures used by ETA to ensure states handled proceeds from dispositions of real property with DOL equity in accordance with laws and regulations. Additionally, we followed up on subsequent events (regarding the four states in our audit) after September 2001 affecting the amount of DOL equity in state real property through the end of our fieldwork between February 2003 and April 2003. State subsequent events work was limited to determining what happened to the proceeds from the disposition of properties after September 30, 2001.

For the States of California, Georgia, Texas, and Utah:

- We compared the physical properties on ETA's inventory of SWA real property as of September 30, 2001, with the 1997 OIG-compiled SWA inventory (as of September 30, 1996) to determine if all properties the OIG identified in 1997 were accounted for on ETA's inventory.

- We obtained the real property records as of September 30, 2001, from each of the four selected SWAs.

- We reviewed SWA records to identify:
  - any properties on the SWA inventories that were not on either the ETA or OIG inventories, and
  - any properties on either the ETA or OIG inventories that were not on the SWA inventories.

- We reviewed SWA property and fiscal records to determine what DOL equity existed in the reconciled SWA properties. The updated OIG-compiled SWA real property inventory, both physical location and DOL equity amount, for each of the four states was provided to the SWA for review and comment.

- We evaluated state property and financial records to determine what happened to the DOL's share of the proceeds for properties the states disposed of.

We conducted our audit in accordance with *Government Auditing Standards* issued by the Comptroller General of the United States.

Criteria

- Title 29 Code of Federal Regulations, Part 97 (Common Rule); particularly 29 CFR 97.31(c)
- ETA's General Administration Letter (GAL) 5-94 (Although this GAL has expired, GAL 5-94 specifically stated that DOL relies exclusively on 29 CFR 97.31(c) to protect DOL's equity interest in SWA real property.)
- Office of Management and Budget (OMB) Circular No. A-87, Cost Principles for State, Local and Indian Tribal Governments, Attachment C, paragraph C.3.c.

Appendix C

ACRONYMS AND ABBREVIATIONS

CEDD	California Employment Development Department
CFO	Chief Financial Officer
CFR	Code of Federal Regulations
DOL	Department of Labor
ES	Employment Service
ETA	Employment and Training Administration
GAL	General Administrative Letter
GDOL	Georgia Department of Labor
OIG	Office of Inspector General
OMB	Office of Management and Budget
P&I	Penalty and Interest
SWA	State Workforce Agency
SSA	Social Security Act
TWC	Texas Workforce Commission
UDWS	Utah Department of Workforce Services
UI	Unemployment Insurance
WP	Wagner-Peyser

<THIS PAGE INTENTIONALLY LEFT BLANK>

Appendix D

ETA's RESPONSE TO DRAFT REPORT

U.S. Department of Labor

Assistant Secretary for
Employment and Training
Washington, D.C. 20210

SEP 23 2004

MEMORANDUM FOR: ELLIOT P. LEWIS
Assistant Inspector General
for Audit

FROM: EMILY STOVER DeROCCO Emily Stover DeRocco

SUBJECT: Despite Assurances to the Contrary, DOL Has Not Maintained Accountability Over Equity in Real Property Held by States
Draft Audit Report No. 06-04-002-03-325
State Workforce Agencies' Workforce Investment Act Grant Programs Are Accruing Federal Equity In Real Properties
Draft Management Letter No. 06-04-003-03-325

Thank you for the opportunity to review and comment on your Draft Audit Report No. 06-04-002-03-325 and the related Draft Management Letter No. 06-04-003-03-325 related to real property issues.

We are in general agreement with the overall thrust of the audit report that maintaining an up-to-date accurate inventory and valuation of State Workforce Agency (SWA) real property and managing the use and disposition of SWA real property continue to present challenges to states and the Employment and Training Administration (ETA). Every two years, ETA sends a letter to the SWA Administrators asking them to review and update the information in our property records. While ETA has updated its records with any information provided by states since 1999, we acknowledge that these records are not all current. In our soon-to-be issued Training and Employment Guidance Letter (TEGL) on real property we are requiring that states report any changes/updates to their real property data by November 30, 2004. In addition, we plan to issue a Field Memorandum to our Regional Administrators requiring them to follow up and assure that all states update their real property inventory records.

The primary concern of the management letter focuses on ETA's failure to issue a revised directive on real property issues as agreed to in our response to the OIG 2001 report on real property. We acknowledge that we have experienced delay in completing work on the directive. However, the delay is not related to the Workforce Investment Act (WIA) reauthorization efforts as stated in your letter. The TEGL, which is now in the final clearance process, addresses a wide variety of issues related to real property and is not limited to the issues that were raised in the prior OIG audit.

2

The WIA reauthorization language contained in the Senate Bill would transfer existing equity to the states and provides that at time of disposition, any proceeds are to be used to carry out programs under Title III of the Social Security Act or the Wagner-Peyser Act. In addition, the proposed language would prohibit all future amortization of real property costs using grant funds. Thus, the allowable charges to Federal grants would be restricted to depreciation or use allowance, interest, and operations and maintenance costs as provided under the OMB cost principles. Since it does not appear that WIA reauthorization will be enacted in the near future, we are pursuing other possible options for addressing the Federal equity issue.

Any questions may be directed to Mr. Edward Donahue at extension 33157.