

Appendix D

WVHTCF Response to Draft Report



March 25, 2009

Zaunders C. Saucer  
Audit Manager  
U.S. Department of Labor  
Office of Inspector General  
200 Constitution Avenue, NW  
Room N-4633  
Washington, DC 20210  
202.693.5253

**By: Federal Express Next Day Delivery and  
Electronic Transmission to  
[saucer.zaunders@oig.dol.gov](mailto:saucer.zaunders@oig.dol.gov)**

Re: Audit Report No. 03-09-001-03-390

Dear Ms. Saucer:

We appreciated the opportunity to meet with you on March 19, 2009 to discuss the final audit report by the Department of Labor. Enclosed please find our response to the Department of Labor's proposed findings.

Throughout this process, the WVHTC Foundation has identified areas in our current systems and controls to improve and gain efficiencies. We look forward to sharing those actions with you and the Department of Labor Grants Officer and implementing them within our contracting, financial and technical systems.

Finally, in light of the privacy and proprietary concerns of the individual person(s) and company or companies referenced in your final audit report, the WVHTC Foundation respectfully requests that those person(s)' names and company names be redacted in any public or on-line version of the final report.

Should you have any questions regarding the enclosed materials, please feel free to contact me by email at [jestep@wvhtf.org](mailto:jestep@wvhtf.org) or by telephone at 304-333-6814. We thank you for your time and support in working with us throughout this process.

Sincerely,



James L. Estep  
President & CEO

Enclosures

cc: Michael Hill ([hill.michael@oig.dol.gov](mailto:hill.michael@oig.dol.gov))  
Donald Evans ([evans.donald@oig.dol.gov](mailto:evans.donald@oig.dol.gov))

**March 25, 2009**

**On behalf of the WVHTC Foundation (“WVHTCF”), we hereby submit the following report in response to the U.S. Department of Labor’s Audit Report No. 03-09-001-03-390.**

**WVHTCF RESPONSE TO FINDING 1:**

The Department of Labor audit team noted in their report that the individuals and companies they contacted to verify participation in the Network Learning Alliance were non-responsive. The WVHTCF cannot explain why the audit team had these results; however, upon being informed by the audit team that they would be reporting this finding, the WVHTCF in a short period of time contacted over 60 individuals and 50 companies for clarification and received supporting testimonials verifying their participation. This information was provided to the Department of Labor and demonstrates that the WVHTCF has been able to provide adequate and verifiable data that it met the grant objectives for enrollment and training. Further this data validates that the WVHTCF did report reliable and accurate information. It is important to note that the grant did not call for the WVHTCF to automate the grant reporting systems or make it less manual. The WVHTCF’s position is that there is no basis for this finding due to the fact that the attached data has been provided to the audit team. Nevertheless, the WVHTCF has taken steps to automate the reporting processes and make it less manual and responsive to the Department of Labor audit report.

**WVHTCF RESPONSE TO FINDING 2:**

The WVHTCF’s response to Finding 2 is similar to its position on Finding 1. Again it is important to note that the grant did not call for the WVHTCF to automate its reporting system. As was demonstrated in the response for Finding 1, a manual process can meet government requirements for reporting. Further the WVHTCF believes it is premature and unrealistic for there to be a finding related to reporting when no reporting has yet taken place. Also, award performance reviews conducted by the Department of Labor had indicated the agency’s satisfaction with deliverables provided by WVHTCF. As with Finding 1, the WVHTCF is taking steps to address the concerns of the audit team.

**WVHTCF RESPONSE TO FINDING 3:**

It is the WVHTCF’s position that ALL PRICES FOR DELIVERABLES PROVIDED TO AND RECEIVED BY THE AGENCY AND PUBLIC AND CHARGED TO THE GRANT WERE REASONABLE AND ALLOWABLE. Further it is the WVHTCF’s position that ALL PROCUREMENT POLICIES AND PROCEDURES WERE FOLLOWED AND THE AWARDS WERE BASED ON SOUND JUDGEMENT AND COMMON SENSE. The WVHTCF has provided to the audit team information that fully supports these positions and demonstrates the reasonableness of all prices paid.

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The subcontract award that is the subject of this specific audit finding was for the purchase and customization of a learning management system. This learning management system would serve as the framework on which the Network Learning Alliance system would be based. The audit team included Finding 3 in their report because they could not find adequate price comparison data of various other learning management systems in the contract file validating the reasonableness of the award to the subcontractor. It should be noted that this price comparison data was referenced in the file.

In addition the audit team members were confused by the fact that the documentation for the sole source award to the subcontractor included references to the competitive technical and pricing evaluation summary but did not include an actual pricing data analysis. Normally a comparison like the one described in the documentation would mean a formal competition took place complete with pricing data and the file would not require a sole source justification. Yet the award to the subcontractor was classified as a "sole source." In this specific case a thorough comparison of various systems was independently conducted that found that the price of the subcontractor's system was the lowest cost before adding any required modification costs. However, the specific documentation supporting the competitive technical and price evaluations, which were informally completed, are missing from the contract file. The audit team concluded that the information that remained in the file was not adequate enough to support the sole source. Since being notified by the audit team that they would be including this finding in their report, the WVHTCF has collected reliable pricing data for that time period from several vendors that validates that the subcontractor price was in fact the lowest and most reasonable for the most suitable technical platform. This data has been provided to the audit team and is also now in the contract file. This price comparison data was provided by an independent third party group who specializes in these specific evaluations.

The explanation for the subcontract referenced as a sole source during the original award is because the subcontractor offered to provide their system at no cost for the project. The subcontractor offered to only charge for the required customization of the system. It had already been established that the subcontractor's system was the cheapest but the offer to use the system for free without any future licensing costs was significant. The WVHTCF's contract staff determined that this substantial cost savings substantiated the award based on the relevant technical and pricing evaluations. However, the data comparing other systems is not found in the contract file. This was likely due to staff turnover in the contracts department at that time. As already noted, the WVHTCF has now completed the contract file with this comparison data.

To collect this data, the current WVHTCF's contract staff contacted three learning management systems platform vendors and requested pricing data. They also

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contacted a leading LMS research company to collect third party independent evaluations of learning management systems for that time period. The initial award to the subcontractor was for support in developing, implementing, improving, and expanding a training educational platform that would deliver training services for the first Department of Labor grant. The initial award to the subcontractor was \$240,000 for Phase One. Although the subcontractor was required to perform a significant amount of customization to the system during the Phase One, the contract staff requested pricing data from three other vendors for simply buying their respective learning management platforms "off-the-shelf" with minimal customization to host in-house and support costs for one year.

- Company One pricing came back at \$225,000 for the base system plus \$48,000 for one year of maintenance and support for a total of \$273,000.
- Company Two pricing came back at \$291,600 for the base system plus \$61,236 for one year of maintenance and support for a total of \$352,836.
- Company Three was able to provide 2002 pricing data which came back at \$265,000 for the base system plus \$30,000 for one year of maintenance and support for a total of \$295,000.

The data collected by the contract staff also verified the reasonableness of the subcontractor price. Some of the 2003 pricing estimates for a one year hosted solution which did not include set-up charges were as follows:

- IBM Lotus Learning Management System (2003): \$480,000 to \$1,000,000
- Oracle iLearning (2003): \$384,000
- Saba3 Learning Release4 (2003): \$468,000
- Nebo (2003): \$305,000
- Docent Enterprise (2003): \$318,400

The contract staff also conducted a similar analysis to determine a market range for all three phases by the subcontractor. The total award for this effort to the subcontractor was \$748,549 which included Phase One described earlier. Three companies were contacted to help determine a price range and given a set of requirements that exactly matched the efforts of the subcontractor. This data was provided to the audit team. The first company was unable to respond because it was not within their core capabilities. The second company replied to our request with a quote of \$895,000. The third company replied to our request with a quote of \$927,000.

The audit team also concluded in Finding 3 that a conflict of interest existed. Evaluations were conducted to verify the products and the pricing portion of the effort, but the subcontractor did not participate in this effort. As follow-up, the WVHTCF's contract manager who worked for us at that time confirmed that care was in fact taken by the contracts and management staff to ensure there was no

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involvement by the subcontractor. No one who participated in the group that reviewed options was related to the subcontractor or any of the company's employees. In addition, no one from the subcontractor had insight into the prices under review by the evaluation group.

The audit team was given incorrect information from individuals who were not involved at this stage of the project and who were speculating and guessing as to the subcontractor's vice president involvement. Therefore the conclusion that a conflict of interest exists is factually inaccurate and based upon incorrect information.

**WVHTCF RESPONSE TO FINDING 4:**

The WVHTCF has provided the audit team with data that demonstrates that our finance staff followed the written directions included in the award document from the Department of Labor with regard to calculating the approved administrative or G&A costs to be charged to the Department of Labor grant. That documentation is included in all three grant awards and states that the approved administrative rates were to be applied against the "total grant award." The audit team informed the WVHTCF that it was supposed to apply administrative or G&A rates to a different cost base than the "total grant award" which is unrelated to the total grant award. At no time was the finance staff provided documentation or training that explained that procedure by the Department of Labor. The WVHTCF has carefully followed what it believed to be the proper process. In fact the first two grant awards were "closed out" by the Department of Labor without instructing the WVHTCF to change its process for calculating administrative costs. The WVHTCF's position is that this is an internal issue within the Department of Labor and that it should not be a finding.

**WVHTCF RESPONSE TO FINDING 5:**

The WVHTCF's contract staff compared the proposals and 424A's submitted to the Department of Labor to purchase orders that were processed under the grants. They did not find any expenditures that warranted classification as "Equipment" or "Training." The purchase orders for project computers, cameras and other items should have been classified as "Supplies." So there was no increase or decrease in the "Supplies" or the other questioned categories by more than 20%. The project purchased the supplies as proposed thus there was no need to get approval for a change.

The reason for proposing equipment under the "Supplies" category is that each purchase was estimated to be under \$5,000. The contracts staff only categorizes items as "Equipment" in proposals or reports, such as, 424A's, if they are over \$5,000. It appears that the audit team may have been confused because they were looking at some internal reports that listed these items as equipment generally and not as the official "Equipment" line item.

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The contract staff conducted the same analysis for the "Training" category and found basically the same situation. The proposal described "staff training" related activities under the "Other" category. Again there was no increase or decrease in that line by more than 20%. The contracts staff found that this agrees with what was reported on our 424A's. In the case of the \$17,860 expenditure noted in the audit report for "Training" under Department of Labor Grant 1 it was not staff training at all. This is an expenditure in which the project contracted with a training content provider for a "JAVA 2 Programming Curriculum" to go in the Network Learning Alliance system for a period of 12 months. This was described in the proposal budget under the "Contractual" category.

The reports we provided to Department of Labor properly described our expenditures per our approved proposal.

Throughout this process, the WVHTCF has identified areas in our current systems and controls to improve and gain efficiencies. We look forward to sharing those actions with the Department of Labor Grants Officer and implementing them within our contracting, financial and technical systems.

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