

**U.S. Department of Labor**

Office of Inspector General—Office of Audit

**EMPLOYMENT AND TRAINING  
ADMINISTRATION**



**HIGH GROWTH JOB TRAINING INITIATIVE:  
DECISIONS FOR NON-COMPETITIVE  
AWARDS NOT ADEQUATELY JUSTIFIED**

Date Issued: November 2, 2007  
Report Number: 02-08-201-03-390

## **BRIEFLY...**

Highlights of Report Number: 02-08-201-03-390, to the Assistant Secretary for Employment and Training.

### **WHY READ THE REPORT**

The High Growth Job Training Initiative (HGJTI) is a strategic effort to prepare workers to take advantage of new and increasing job opportunities in high growth, high demand, and economically vital sectors of the American economy. The purpose of HGJTI is to target education and skills development resources toward helping workers gain skills needed to build successful careers in these and other growing industries.

During the period July 1, 2001, through March 31, 2007, the Employment and Training Administration (ETA) awarded 157 HGJTI grants totaling \$271 million. Of this amount, ETA accepted unsolicited proposals and awarded 133 grants totaling \$235 million (87 percent) through non-competitive procurement methods. One grant for \$7 million was awarded to a specific entity based on Congressional direction. The remaining 23 grants for \$29 million were awarded competitively.

### **WHY OIG DID THE AUDIT**

In response to a request from Senator Tom Harkin, Chairman of the Subcommittee on Labor, Health and Human Services, and Education and Related Agencies, the Office of Inspector General (OIG) conducted a performance audit of the HGJTI grant procurement process. Our audit objective was to determine if proper procurement procedures were followed in awarding non-competitive HGJTI grants.

### **READ THE FULL REPORT**

To view the report, including the scope, methodology, and full agency response, go to:

<http://www.oig.dol.gov/public/reports/oa/2008/02-08-201-03-390.pdf>

**November 2007**

## **HIGH GROWTH JOB TRAINING INITIATIVE: DECISIONS FOR NON-COMPETITIVE AWARDS NOT ADEQUATELY JUSTIFIED**

### **WHAT OIG FOUND**

ETA could not demonstrate that it followed proper procurement procedures in 35 of 39 tested non-competitive awards (90 percent). These 35 awards totaled \$57 million.

Specifically, decisions to award 10 non-competitive grants were not adequately justified, reviews of unsolicited proposals were not consistently documented, and matching requirements of \$34 million were not carried forward in grant modifications.

These failures to follow proper procurement procedures resulted from a control environment that did not ensure adherence to applicable criteria, nor that decisions to award grants non-competitively were adequately documented. ETA could not demonstrate that it made the best decisions in awarding grants to carry out HGJTI. Further, since matching requirements were not carried forward in some grant modifications, the programs and levels of services provided could be significantly reduced from those intended in the original grants.

### **WHAT OIG RECOMMENDED**

We made eight recommendations to the Assistant Secretary for Employment and Training to improve management controls over grant awards. In summary, we recommended the Assistant Secretary take steps to ensure: competition is encouraged for discretionary grant awards; award decisions are adequately documented; and matching requirements of \$34 million are carried forward in grant modifications.

The Assistant Secretary for Employment and Training generally agreed with our recommendations but strongly disagreed with findings related to the procurement practices utilized for non-competitive grants. The Assistant Secretary further stated that sufficient documentation had been provided to support that the awards met departmental policy regarding non-competitive procurement.

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# Table of Contents

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	PAGE
EXECUTIVE SUMMARY .....	3
ASSISTANT INSPECTOR GENERAL'S REPORT .....	7
A. Decisions to Award 10 Non-Competitive Grants Were Not Adequately Justified .....	9
B. Reviews of Unsolicited Proposals Were Not Consistently Documented .....	11
C. Required Conflict of Interest Certifications Were Not Documented .....	13
D. Matching Requirements of \$34 Million Were Not Carried Forward in Grant Modifications .....	14
EXHIBIT	
Grant File Review Summary .....	19
APPENDICES	
A. Background.....	23
B. Objective, Scope, Methodology, and Criteria.....	25
C. Acronyms and Abbreviations.....	29
D. Agency Response .....	31

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# Executive Summary

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In response to a request from Senator Tom Harkin, Chairman of the Subcommittee on Labor, Health and Human Services, and Education and Related Agencies, the Office of Inspector General (OIG) conducted a performance audit of the High Growth Job Training Initiative (HGJTI) grant procurement process. The audit objective was to determine if proper procurement procedures were followed in awarding non-competitive HGJTI grants.

HGJTI was a strategic effort to prepare workers to take advantage of new and increasing job opportunities in high growth, high demand, and economically vital sectors of the American economy. Fields like health care and advanced manufacturing have jobs and solid career paths left vacant due to a lack of people qualified to fill them. The Employment and Training Administration's (ETA), Business Relations Group (BRG) served as the program office responsible for HGJTI. BRG applied extensive effort researching and identifying 13 high growth initiative areas and documenting the particular industry challenges faced by each sector. The purpose of HGJTI is to target education and skills development resources toward helping workers gain skills needed to build successful careers in these and other growing industries.

From July 1, 2001, through March 31, 2007, ETA awarded 157 HGJTI grants totaling \$271 million. Of this amount, ETA accepted unsolicited proposals and awarded 133 grants totaling \$235 million (87 percent) through non-competitive procurement methods. One grant for \$7 million was awarded to a specific entity based on Congressional direction. The remaining 23 grants for \$29 million were awarded competitively.

## Audit Results

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Our audit of 39 sampled non-competitive HGJTI grants totaling \$70 million found that for 35, or 90 percent, of the grants awarded, ETA could not demonstrate that proper procurement procedures were followed. For the 35 grants totaling \$57 million, there were 69 specific occurrences where ETA could not demonstrate proper procurement procedures were followed:

- Decisions to award 10 non-competitive grants were not adequately justified (14 occurrences);
- Reviews of unsolicited proposals were not consistently documented (27 occurrences);
- Required conflict of interest certifications were not documented (19 occurrences); and
- Matching requirements of \$34 million were not carried forward in grant modifications (9 occurrences).

These occurrences resulted from a control environment that did not ensure adherence to applicable criteria, nor that decisions to award grants non-competitively were adequately documented. By relying on non-competitive awards, ETA could not demonstrate that it made the best decisions in awarding grants to carry out HGJTI. Further, since matching requirements were not carried forward in grant modifications, the programs and levels of services provided could be significantly reduced from those intended in the original grants.

Federal laws and regulations encourage competition in assistance programs where appropriate, in order to identify and fund the best possible projects. The Department of Labor Manual Series (DLMS) provisions governing DOL procurement and grant operations provide that with limited exceptions, competition is the appropriate method of awarding discretionary grants.

The Administrator, Office of Workforce Investment, stated that ETA awarded the first round of grants non-competitively with the intent to move to competitive opportunities in future rounds, and that the non-competitive route allowed ETA to fund demonstration grants that closely aligned with each of the workforce challenges and solutions identified by industry. During the period July 1, 2001, through March 31, 2007, ETA received unsolicited proposals and awarded grants through non-competitive procurement methods. For Fiscal Year 2007 (subsequent to the audit period), ETA was required by Congress to award HGJTI grants competitively. However, this requirement is only applicable to the appropriation year in which it appears. If the requirement is not included in future appropriations, then there are no further statutory requirements that such grants be awarded competitively.

### **Recommendations**

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We recommend the Assistant Secretary for Employment and Training ensure:

1. Competition is encouraged when awarding discretionary grants.
2. Policy is established for documenting all decisions and discussions that lead to actions by DOL officials that affect how and to whom grant funds are distributed.
3. Any future non-competitive awards are properly justified and based on appropriate DLMS exceptions.
4. Decisions to exempt proposals from PRB review are properly researched, valid, and documented.
5. Agency officials are fully trained and aware of the procurement procedures for non-competitive awards, including documenting the decision-making process.
6. A separate document for conflict of interest certifications is completed and maintained.

7. Matching requirements of \$34 million are carried forward in grant modifications.
8. All HGJTI grants with matching requirements are reviewed to ensure matching requirements are maintained.

#### Agency Response

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The Assistant Secretary for Employment and Training agreed that documentation could be improved and generally concurred with the recommendations. However, ETA strongly disagreed with findings related to the procurement practices utilized for non-competitive grants under HGJTI, stating that sufficient documentation was provided to support that grants met DLMS exceptions. The Assistant Secretary also stated non-competitive awards were permissible if certain criteria were met, since Federal law only encourages competitive procurement practices, and that ETA has actively used competition as the vehicle for awarding HGJTI grants. ETA disagreed that inconsistencies in ETA's internal processes may have led to funding less than the "best" grants. ETA's response stated that a \$7 million grant with which we took exception in the draft report was awarded in response to Congressional direction.

The ETA response is included in its entirety in Appendix D.

#### OIG Conclusion

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ETA generally agreed with our recommendations. However, since ETA did not provide any specific action plan, the recommendations are unresolved.

ETA provided additional documentation showing that the \$7 million grant award was based on Congressional direction, and we have adjusted the final report accordingly. ETA did not provide any additional documentation demonstrating proper procurement procedures were followed in awarding non-competitive grants. ETA maintains that there were no specific requirements to document procurement decisions. Proper stewardship of Government funds necessitates maintaining documentation sufficient to demonstrate that funds were properly expended regardless of any explicit requirement to do so. Further, GAO's *Standards for Internal Control in the Federal Government*, dated November 1999, require that ". . . all transactions and other significant events need to be clearly documented, and the documentation should be readily available for examination." More importantly, however, in response to a prior OIG report, the then-Deputy Secretary of Labor stated that ETA had implemented enhanced recordkeeping to promote transparency in the grant making process. Despite this assurance, ETA continues to assert there is no requirement to maintain documentation. The HGJTI documentation provided by ETA did not demonstrate what agency officials based their decisions on at the time of award. Rather, after the fact, ETA attempted to justify how individual awards met the DLMS exceptions allowing non-competitive procurement.

Although ETA responded that it has "actively used competition as the vehicle for awarding High Growth grants," 87 percent of HGJTI funds were awarded non-competitively. The justification for awarding a non-competitive grant, when documented, was based on a comparison of the grant proposal against a set of attributes established by ETA. It was not based on a comparison of that grant proposal to other proposals that were not, for whatever reason, singled out for award. Therefore, we continue to conclude that ETA cannot demonstrate that it identified the best proposals



U.S. Department of Labor

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## **Assistant Inspector General's Report**

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The OIG conducted a performance audit of the HGJTI grant procurement process. The audit was initiated in response to a request from Senator Tom Harkin, Chairman of the Subcommittee on Labor, Health and Human Services, and Education and Related Agencies. Senator Harkin requested an audit of DOL's practice of awarding non-competitive HGJTI grants.

HGJTI was a strategic effort to prepare workers to take advantage of new and increasing job opportunities in high growth, high demand, and economically vital sectors of the American economy. Fields like health care, information technology, and advanced manufacturing have jobs and solid career paths left vacant due to a lack of people qualified to fill them. ETA, BRG served as the program office responsible for HGJTI. BRG applied extensive effort researching and identifying 13 high growth initiative areas and documenting the particular industry challenges faced by each sector. The purpose of HGJTI is to target education and skills development resources toward helping workers gain skills needed to build successful careers in these and other growing industries.

To promote HGJTI, ETA held a total of 52 meetings and seminars around the country. Meeting participants responded and submitted proposals to ETA. From July 1, 2001, through March 31, 2007, ETA awarded 157 HGJTI grants totaling \$271 million. Of this amount, ETA accepted unsolicited proposals and awarded 133 grants totaling \$235 million (87 percent) through non-competitive procurement methods. One grant for \$7 million was awarded to a specific entity based on Congressional direction. The remaining 23 grants totaling \$29 million were awarded competitively.

Our audit objective was to determine if proper procurement procedures were followed in awarding non-competitive HGJTI grants. To accomplish the objective, a sample of 39 non-competitive HGJTI grants was examined.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives. Our objective, scope, methodology, and criteria are detailed in Appendix B.

**Objective - Were proper procurement procedures followed in awarding the non-competitive HGJTI grants?**

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**Results and Findings – ETA could not demonstrate that proper procurement procedures were followed.**

Federal laws and regulations encourage competition in assistance programs where appropriate, in order to identify and fund the best possible projects. DLMS provisions governing DOL procurements provide that, with limited exceptions, competition is the appropriate method of awarding discretionary grants.

ETA officials stated that they did not compare the proposals but evaluated each on its own merits. Limited information was provided to demonstrate how ETA decided which proposals to fund. The Administrator, Office of Workforce Investment, stated that ETA awarded the first round of grants non-competitively with the intent to move to competitive opportunities in future rounds, and that the non-competitive route allowed ETA to fund demonstrations that closely aligned with each of the workforce challenges and solutions identified by industry. For Fiscal Year 2007, subsequent to the audit period, ETA was required by Congress to award HGJTI grants competitively.

Under the non-competitive award process, DLMS requires that proposed awards meet specific exceptions to competition and receive a senior level review (PRB<sup>1</sup> review). The DLMS also requires agency officials to complete a certification that a conflict of interest does or does not exist. Further, BRG established internal practices for documenting decisions to fund unsolicited (non-competitive) proposals.

Our audit of 39 non-competitive grant awards found that for 35, or 90 percent, proper procurement procedures were not adequately documented. These occurrences resulted from a control environment that did not ensure adherence to applicable criteria, nor that decisions to award grants non-competitively were adequately documented. By relying on non-competitive awards, ETA could not demonstrate that it made the best decisions in awarding grants to carry out HGJTI. Further, since matching requirements were not carried forward in grant modifications, the programs and levels of services provided could be significantly reduced from those intended in the original grants. (Refer to Exhibit for details.)

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<sup>1</sup> An entity of DOL that is independent of ETA and responsible for reviewing certain acquisition activities and recommending approval or disapproval for funding non-competitive awards.

For the 35 grants, there were 69 occurrences<sup>2</sup> where proper procurement procedures were not adequately documented:

- Decisions to award 10 non-competitive grants were not adequately justified (14 occurrences);
- Reviews of unsolicited proposals were not consistently documented (27 occurrences);
- Required conflict of interest certifications were not documented (19 occurrences); and
- Matching requirements of \$34 million were not carried forward in grant modifications (9 occurrences).

**A. Decisions to Award 10 Non-Competitive Grants Were Not Adequately Justified**

Our audit of 39 sampled non-competitive grants revealed 10 grants (14 occurrences), or 26 percent, where the justification for the decision to award non-competitively did not demonstrate how the non-competitive grants met DLMS criteria. This was caused by the misapplication of DLMS procurement criteria. As a result, ETA could not demonstrate that it made the best decisions in awarding grants to carry out HGJTI.

Justification for Award Was Not Adequately Demonstrated

The Federal Grant and Cooperative Agreement Act encourages competition in assistance programs where appropriate, in order to identify and fund the best possible projects. DLMS 2-836(G), states, “Competition is deemed appropriate in awarding discretionary grants and cooperative agreements unless one or more...” of eight specific exceptions applies. (For all eight exceptions, see Appendix B.) For sampled grants, ETA used the following three exceptions from DLMS 2-836(G)(3),(4), and (5), to justify non-competitive HGJTI awards:

- Services are available from only one responsible source and no substitute will suffice; or the recipient has unique qualifications to perform the type of activity to be funded.
- The recipient has submitted an unsolicited proposal that is unique or innovative and has outstanding merit.
- The activity will be conducted by an organization using its own resources or those donated or provided by third parties, and DOL support of the activity would be highly cost effective.

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<sup>2</sup> Multiple occurrences were noted within the 35 grants reviewed. Therefore, individual occurrences add up to more than the total number of grants.

We identified 9 grants where the justification for the decision to award non-competitively did not demonstrate how DLMS criteria were met. The documentation provided stated that the grants did not have to go before the PRB. DLMS 2-836(D) notes "...the fact that certain acquisitions are exempt from review by the PRB does not mean that they may be entered into indiscriminately."

For example, documentation provided for a non-competitive award to the State of Arkansas - Department of Workforce Services for \$5,935,402 stated it "is an entity of state government, so this proposal does not require approval of the Procurement Review Board." However, being a state government entity is not one of the DLMS exemptions allowing an award to be made non-competitively. No additional documentation or explanation was provided to demonstrate that the grant met one of the eight specific DLMS exceptions for a non-competitive award.

#### Required Approval from PRB was Not Obtained

The PRB was established to be an independent board within DOL with the primary function to serve as a senior level review of proposals for non-competitive acquisitions and assistance instruments.<sup>3</sup> However, grants were identified that were awarded without obtaining prior approval from PRB.

DLMS 2-836(B)(4), requires that the PRB review "all proposed acquisitions over the simplified acquisition threshold as defined in the [FAR] to be awarded under 'other than full and open competition' procedures."<sup>4</sup> Federal Acquisition Regulation (FAR) Subpart 2.101 states the "'Simplified Acquisition Threshold' means \$100,000." Further, DLMS 2-836(D)(1)(a) states that awards to "Formula allocated or other grants and cooperative agreements awarded to state or local governments and agencies thereof..." are exempt from review by the PRB."

Based on the DLMS requirement, 26 of the 39 unsolicited proposals should have gone before the PRB for review. We found that 6, or 23 percent, of the 26 grants were awarded without obtaining prior approval from PRB.

There were two instances where proposals were modified to be under the "simplified acquisition threshold" of \$100,000. For example, the National Center for Neighborhood

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<sup>3</sup> Members of the PRB include the following officials or designees: Procurement Executive; Chief Financial Officer; Solicitor; Assistant Secretary for Policy; The Director, Faith Based and Community Initiatives; and The Director, Division of Acquisition Management Services.

<sup>4</sup> In 2004, DLMS 2-836(B)(4) was revised to "All proposed acquisitions and assistance actions over the simplified acquisition threshold as defined in the FAR, which are to be awarded under "other than full and open competition" procedures..."

Enterprise's (NCNE) award for \$99,635 was originally submitted requesting "up to \$3.5 million for a three-year period" to create a Workforce Investment Center. Internal ETA emails stated that ETA wanted to "fast-track" the proposal and that a "...rough recut of the idea...should keep ETA from the PRB and move forward immediately and allow for an announcement."

ETA officials stated they found NCNE's proposal had merit, "but determined they were not fully prepared for implementation and chose to award a planning grant." The scope of work was modified accordingly, which included a plan for locating a One Stop Career Center. However, no documentation was provided to support ETA's explanation for the revised scope.

The remaining four grantees were classified as state or local government agencies. However, review of the grant files revealed that these entities were non-profits. For example, the Application for Federal Assistance (Standard Form 424) submitted by The Workplace, Inc. (a Workforce Investment Board (WIB) in Connecticut), indicated that the applicant was a non-profit entity. However, an interoffice memorandum from BRG to the Office of Grant and Contract Management, dated July 17, 2004, stated, "We have thoroughly reviewed the proposal and recommend that the proposal be funded, and have confirmed that applicant is a unit of state and or local governments, not a non-profit organization. As such, we were not required to present their proposal to the Department's Procurement Review Board." ETA considered a WIB to be a state or local government agency when in fact it was a non-profit entity.

ETA officials stated they consulted with the Office of the Solicitor of Labor and on that basis considered an organization a state or local government entity if it was designated by the state or chief elected official as a program grant recipient and therefore exempted from PRB review. However, the PRB exemption at DLMS 2-836(D)(1)(a) applies only when the state or local government agencies apply for the grant and then specifically designate other entities as program grant recipients. When such entities apply for Federal grant funds independently from the state or local government, as they have with respect to HGJTI grants, they are not acting as agents of the state or local governments.

### ***B. Reviews of Unsolicited Proposals Were Not Consistently Documented***

BRG was responsible for making an initial evaluation of unsolicited proposals to determine whether proposals were in alignment with HGJTI, worthy of funding, and demonstrated qualities necessary for a non-competitive award. However, reviews of the unsolicited proposals were not consistently documented. As a result, ETA could not demonstrate it selected the best or most appropriate proposals.

Employment and Training (ET) Order 1-03, effective April 17, 2003, states "...the Business Relations Group (BRG) also [has] significant management responsibilities for grants, research, evaluation and other activities of national scope." It further states that

“Pre-award clearance will be conducted for all prospective grantees for non-formula grants.” Further, in a prior OIG audit report concerning DOL’s award of National Emergency Grant funds (*Departmental Involvement in Chinatown Manpower Project, Inc., Contributed to Circumvention of Procurement Rules*, OIG Report Number 02-05-202-01-001, dated August 25, 2005), OIG found that ETA was inconsistent in applying Federal procurement rules and regulations with which the Department was responsible for ensuring compliance. The OIG recommended a record be maintained of decisions and discussions that led to actions by departmental officials that affect how and to whom grant funds are distributed. In response to the audit report, the then-Deputy Secretary of Labor stated:

Effective record-keeping enhances the transparency of the grant-making process and reduces the potential for grant decisions to be influenced by factors and individuals outside the designated procedures and criteria. ETA’s February 2005 internal guidance substantially enhances record-keeping procedures related to grant administration, in furtherance of these objectives. Nearly every aspect of ETA’s grant-making process is recorded, much of it through e-communications...These enhanced record-keeping measures ensure that the roles and actions of Department officials involved in the grant-making process are fully transparent. These measures also reinforce the principle that no official should take actions intended to influence the award or distribution of grant funds that are external to this systematized, transparent process.

Although ETA officials stated they did not have a required standard of documentation regarding decisions to fund unsolicited proposals, BRG staff established practices to prepare an “abstract” to document the initial review of unsolicited proposals. Specifically, the abstract addressed: the quality of the proposal; the relation of the proposal to HGJTI; whether the proposal clearly defined its objectives and outcomes; and the amount requested. The abstracts detailed the viability of the proposals and contained specific language describing the proposal as unique and innovative, highly cost effective, or meritorious.

Initial decisions to fund 27 of the 39 sampled grants were not properly documented, contrary to DOL’s response to the prior OIG audit report. Further, documentation was not provided to record the decision making process, particularly when concerns were raised as to whether funding should be provided or increased. Of the 27 grants:

- Abstracts were not available for 10 grants.
- Abstracts provided for 13 grants were incomplete. Missing were key items such as sustainability, replicability, partnerships, key participants, and comments pertaining to whether or not to fund the proposal.
- Two abstracts contained conflicting information regarding the decision to fund the proposal. For example, the abstract for The National Institute for

Metalworking Skills, Inc., stated, “It concerns me that we are providing additional funding to a project which seems to have already had \$7.5 [million] of industry funding.” However, the grant was ultimately awarded and documentation was not provided that addressed the concerns expressed in the abstract.

- Two abstracts contained conflicting information regarding the level of funding. For example, one abstract for St. Louis City Workforce Investment Board conflicted with the decision regarding the funding level. The abstract “...recommended limiting funding...for under \$500,000.” However, a grant was ultimately awarded for \$1,500,000.

ETA’s lack of policy and inconsistencies in documenting its decisions to fund unsolicited proposals demonstrated a lack of oversight. This could result in grants not being awarded to the best qualified applicants and gives the appearance of a lack of transparency in the process. The Administrator, Office of Workforce Investment, stated that ETA never intended the abstract as documentation of the final decision on the worthiness of a proposal to be funded, and acknowledged that additional documentation may be valuable to support the decision to fund.

### ***C. Required Conflict of Interest Certifications Were Not Documented***

A conflict of interest certification would indicate that the person signing it would be free, both in fact and in appearance, from personal, external, and organizational impairments. This would reduce bias in selecting applicants for awards. Conflict of interest certifications were not maintained for all non-competitive grants as required by DOL policy. This was because ETA completed conflict of interest certifications only for proposals submitted to the PRB.

DLMS 2-835 (A) states, “The program official responsible for an ‘other than full and open competition’ request or a request for contracted advisory and assistance services shall, as part of the request, explain any past or existing business or personal relationships with the proposed recipient or certify that none exist.” (Underscoring added)

ETA officials stated that they fulfilled this requirement by the completion of a certification in a form entitled “General Information for NE Procurement Review Board.” This form contains a disclosure statement, inclusive of signature, attesting to the DLMS criteria. Documentation certifying that a conflict of interest does or does not exist was not provided for 19 grants. These 19 grants were not submitted for review to PRB. Officials stated “We do not have record of conflict of interest certifications on unsolicited proposals that did not go through the PRB.”

#### **D. Matching Requirements of \$34 Million Were Not Carried Forward in Grant Modifications**

One of the justifications for awarding a grant non-competitively is that the grantee is providing external resources to support grant activities in addition to the DOL funds it is seeking. Specifically, DLMS 2-836(G)(5) provides an exception to competitive procurement procedures in the award of grants and cooperative agreements when, “The activity will be conducted by an organization using its own resources or those donated or provided by third parties, and DOL support of the activity would be highly cost effective.”

From our sample, we identified 9 grants that were awarded based on this DLMS exception. These grants totaled \$17 million and were subsequently modified to realign the budget. However, the matching requirements totaling \$34 million were not carried forward in grant modifications. If these grantees were not legally required to comply with the original matching requirements, the programs and levels of services provided could be significantly reduced from those intended in the original grants.

#### **Conclusion**

Our audit of 39 non-competitive grant awards found that for 35, or 90 percent, proper procurement procedures were not adequately documented. These occurrences resulted from a control environment that did not ensure adherence to applicable criteria, nor that decisions to award grants non-competitively were adequately documented. By relying on sole source awards, ETA could not demonstrate that it made the best decisions in awarding grants to carry out HGJTI. Further, since matching requirements were not carried forward in grant modifications, the programs and level of services provided could be significantly reduced from those intended in the original grants.

#### **Recommendations**

We recommend the Assistant Secretary for Employment and Training ensure:

1. Competition is encouraged when awarding discretionary grants.
2. Policy is established for documenting all decisions and discussions that lead to actions by DOL officials that affect how and to whom grant funds are distributed.
3. Any future non-competitive awards are properly justified and based on appropriate DLMS exceptions.
4. Decisions to exempt proposals from PRB review are properly researched, valid, and documented.
5. Agency officials are fully trained and aware of the procurement procedures for non-competitive awards, including documenting the decision-making process.



6. A separate document for conflict of interest certifications is completed and maintained.
7. Matching requirements of \$34 million are carried forward in grant modifications.
8. All HGJTI grants with matching requirements are reviewed to ensure matching requirements are maintained.

### **Agency Response**

The Assistant Secretary for Employment and Training agreed that documentation could be improved and generally concurred with our recommendations. However, ETA strongly disagreed with findings related to the procurement practices utilized for non-competitive grants under HGJTI, stating that sufficient documentation was provided to support that grants met DLMS exceptions. The Assistant Secretary also stated non-competitive awards were permissible if certain criteria were met, since Federal law only encourages competitive procurement practices, and that ETA has actively used competition as the vehicle for awarding HGJTI grants. ETA disagreed that inconsistencies in ETA's internal processes may have led to funding less than the "best" grants. ETA's response stated that a \$7 million grant with which we took exception in the draft report was awarded in response to Congressional direction.

### **OIG Conclusion**

ETA generally agreed with our recommendations. However, since ETA did not provide any specific action plan, the recommendations are unresolved.

ETA provided additional documentation showing that the \$7 million grant award was based on Congressional direction, and we have adjusted the final report accordingly. ETA did not provide any additional documentation demonstrating proper procurement procedures were followed in awarding non-competitive grants. ETA maintains that there were no specific requirements to document procurement decisions. Proper stewardship of Government funds necessitates maintaining documentation sufficient to demonstrate that funds were properly expended regardless of any explicit requirement to do so. Further, GAO's *Standards for Internal Control in the Federal Government*, dated November 1999, specifically require that ". . .all transactions and other significant events need to be clearly documented, and the documentation should be readily available for examination." More importantly, however, in response to a prior OIG report, the then-Deputy Secretary of Labor stated that ETA had implemented enhanced recordkeeping to promote transparency in the grant making process. Despite this assurance, ETA continues to assert there is no requirement to maintain specific documentation. The HGJTI documentation provided by ETA did not demonstrate what agency officials based their decisions on at the time of award. Rather, after the fact, ETA attempted to justify how individual awards met the DLMS exceptions allowing non-competitive procurement.

Although ETA responded that it has "actively used competition as the vehicle for awarding High Growth grants," 90 percent of HGJTI funds were awarded non-competitively. The justification for awarding a non-competitive grant, when documented, was based on a comparison of the grant proposal against a set of values established by ETA. It was not based on a comparison of that grant proposal to other proposals that were not, for whatever reason, singled out for award. Therefore, we continue to conclude that ETA cannot demonstrate that it identified the best proposals.



Elliot P. Lewis  
October 5, 2007

## **Exhibit**

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EXHIBIT

For the Period of July 1, 2001 through March 31, 2007  
Grant File Review Summary

	Grantee	State	Award Amount	Grant Award Date	Justification Not Demonstrated	Modified Under \$100,000	Grantee Misclassified as gov't	Abstract Missing	Abstract Incomplete	Conflicting Decision	Conflicting Funding	No Conflict of Interest Certifications	Matching not carried forward
					Finding A			Finding B				Finding C	Finding D
1	The Association of Career Management Firms Interna	DC	\$ 60,000	06/30/04								X	
2	Pennsylvania Automotive Association Foundation	PA	95,000	10/12/04								X	
3	Center for Energy Workforce Development	DC	98,270	08/09/06	X				X			X	
4	Brevard Community College	FL	98,560	11/23/04				X				X	
5	Association of Career Firms North America	DC	99,000	06/30/05								X	
6	National Center for Neighborhood Enterprise	DC	99,635	06/30/04	X	X		X				X	
7	National Retail Federation	DC	99,900	06/30/04	X			X				X	
8	Council on Competitiveness	DC	99,999	06/29/05	X	X		X				X	
9	U.S. Hispanic Chamber of Commerce	DC	136,000	12/16/04									X
10	1199 SEIU League Grant Corporation	NY	192,500	06/18/04					X				
11	Delaware Workforce Investment Board	DE	200,697	07/01/04						X		X	
12	Associated General Contractors	VA	235,500	12/14/04					X				
13	Research Foundation of CUNY	NY	494,386	06/29/05				X					X
14	The Manufacturing Institute	DC	498,520	01/10/05									X
15	League for Innovation in the Community College	AZ	500,000	06/30/04				X					
16	Geospatial Information & Technology Association	CO	695,362	06/30/05					X				X
17	The National Institute for Metalworking Skills, In	VA	939,815	01/10/05						X			X
18	MD Department of Labor, Licensing and Regulation	MD	1,000,000	07/01/04	X				X			X	
19	Arkansas Department of Workforce Services	AR	1,350,665	03/22/07					X			X	
20	Massachusetts Biotechnology Education Foundation	MA	1,372,250	07/01/04					X				X
21	St. Louis City Workforce Investment Board	MO	1,500,000	01/10/05							X	X	
22	Evangelical Lutheran Good Samaritan Society	SD	1,877,517	06/18/04					X				
23	Greater Peninsula Workforce Development Consortium	VA	1,965,000	05/03/05	X		X				X	X	
24	The Workplace, Inc.	CT	2,000,000	11/29/04			X					X	
25	Workforce Alliance, Incorporated	DC	2,325,303	06/30/04					X				
26	The Kentucky Community and Technical College	KY	2,480,852	04/11/06			X		X			X	
27	San Diego Workforce Partnership, Inc.	CA	2,510,117	07/01/04					X				
28	College of Eastern Utah	UT	2,737,804	02/03/06									X
29	Alabama Department of Economic & Community Affairs	AL	3,000,000	09/06/05				X				X	
30	West Kentucky Workforce Investment Board	KY	3,025,260	01/12/06	X		X					X	
31	Home Builders Institute	DC	4,268,454	12/29/04					X				
32	Board of Supervisors of Community and Technical Co	LA	4,998,800	03/06/06					X			X	
33	Downriver Community Conference	MI	5,000,000	06/30/04				X					X
34	National Retail Federation Foundation	DC	5,065,000	05/22/03				X					X
35	State of Arkansas-Department of Workforce Services	AR	5,935,402	03/07/06	X			X				X	
	<b>Subtotal</b>		<b>\$ 57,055,568</b>		<b>8</b>	<b>2</b>	<b>4</b>	<b>10</b>	<b>13</b>	<b>2</b>	<b>2</b>	<b>19</b>	<b>9</b>
36	Shoreline Community College	WA	1,496,680	02/03/05									
37	Community Transportation Development Center	MD	2,000,000	02/03/06									
38	COMPTIA	IL	2,818,795	06/24/03									
39	Alaska Dept. of Labor and Workforce Development	AK	7,000,000	07/19/05									
	<b>Total</b>		<b>\$ 70,371,043</b>		<b>8</b>	<b>2</b>	<b>4</b>	<b>10</b>	<b>13</b>	<b>2</b>	<b>2</b>	<b>19</b>	<b>9</b>

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# **Appendices**

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**BACKGROUND**

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HGJTI was a strategic effort to prepare workers to take advantage of new and increasing job opportunities in high growth, high demand, and economically vital sectors of the American economy. BRG served as the program office within ETA that was responsible for HGJTI. In carrying out this mission, DOL awarded grants to model programs using discretionary funding for this activity as authorized under Title I of the Workforce Investment Act, and starting in mid-2005, utilizing H-IB Nonimmigrant Petitioner fees under the amended American Competitiveness and Workforce Development Act of 1998.

During the period July 1, 2001 through March 31, 2007, ETA awarded 157 HGJTI grants totaling \$271 million in HGJTI grants. Of this, ETA accepted unsolicited proposals and awarded 133 grants totaling \$235 million (87 percent) through non-competitive procurement methods. One grant for \$7 million was awarded to a specific entity based on Congressional direction. The remaining 23 grants for \$29 million were awarded competitively.

This initiative was taken by ETA to engage business, education and the workforce investment system to work together to develop solutions to the workforce challenges facing high growth industries. Fields like health care, information technology, and advanced manufacturing have jobs and solid career paths left vacant due to a lack of people qualified to fill them. The purpose of HGJTI is to target education and skills development resources toward helping workers gain the skills they need to build successful careers in these and other growing industries.

ETA identified 13 sectors that fit within the following criteria: (1) they are projected to add substantial numbers of new jobs to the economy or affect the growth of other industries; or (2) they are existing or emerging businesses being transformed by technology and innovation requiring new skill sets for workers. BRG held a total of 52 meetings and seminars, and presented HGJTI grants as a funding source for unsolicited proposals. During the period 2001 through 2006, meeting participants responded and forwarded unsolicited proposals to BRG.

ETA officials stated that they awarded the first round of grants non-competitively with the intent to move to competitive opportunities in future rounds. According to officials, the non-competitive route allowed for the ability to fund demonstrations that closely aligned with each of the workforce challenges and solutions identified by industry. For Fiscal Year 2007, subsequent to the audit period, ETA was required by Congress to award HGJTI grants competitively. On January 4, 2007, Revised Continuing Appropriations Resolution, 2007 Chapter 6 Section 20601 a (3) states:

The Secretary of Labor shall award the following grants on a competitive basis... (B) grants for job training for employment in high growth

industries awarded during fiscal year 2007 under section 414(c) of the American Competitiveness and Workforce Improvement Act of 1998.

APPENDIX B

**OBJECTIVE, SCOPE, METHODOLOGY AND CRITERIA**

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Objective

Our audit objective was to determine if proper procurement procedures were followed in awarding non-competitive HGJTI grants during the audit period of July 1, 2001, to March 31, 2007.

Scope

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

We tested 39 of the 134, or 29 percent, of total non-competitive grants awarded. Grant costs were not audited to determine whether they were allowable, allocable, and reasonable with Federal regulations. Fieldwork was conducted at ETA Headquarters in Washington, D.C.

A performance audit includes an understanding of internal controls considered significant to the audit objectives and testing compliance with significant laws, regulations, and other compliance requirements. In order to plan our performance audit, we considered whether internal controls significant to the audit were properly designed and placed in operation.

Methodology

In planning and performing our audit, we considered internal controls of ETA's procurement procedures by obtaining an understanding of the program's internal controls, determining whether internal controls had been placed in operations, assessing control risk, and performing tests of controls in order to determine our auditing procedures for the purpose of achieving our objectives.

Our consideration of ETA's procurement controls would not necessarily disclose all matters that might be reportable conditions. Because of inherent limitations in internal controls, misstatements, losses, or noncompliance may nevertheless occur and may not be detected.

We reviewed grant files, justification of award program files, unsolicited grant proposals, and PRB files. We interviewed ETA staff and managers, including manpower analysts, known as "Industry Leads."

A reconciliation was performed between HGJTI grants reported as procured on ETA's website, and ETA's electronic database of all grants. The reconciliation determined that there were 157 HGJTI grants. There were seven grants over \$5 million, of which four grants were judgmentally selected. The remaining 150 grants totaling \$233 million were statistically sampled using an unrestricted attribute random sampling plan. From these, a sample was selected of 31 grants using a 10 percent error rate, 95 percent confidence level, and 9 percent precision. The analysis of the sample was conducted and the variance was within +/-5 percent. The sample was increased to judgmentally include the remaining four grants under \$100,000.

Included in the universe provided by ETA was a \$7 million grant that ETA later informed us should have been excluded from the universe because ETA awarded this grant to a specific entity based on Congressional direction. However, we kept the grant in the universe because it had an HGJTI grant number and was listed in ETA's grant database as HGJTI.

Criteria

Federal Grant and Cooperative Agreement Act

Workforce Investment Act (WIA) Section 171

Employment and Training (ET) Order 1-03

Department of Labor Manual Series <sup>5</sup>

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<sup>5</sup> **DLMS 2-836(G) - Exclusions and Exceptions to Competitive Procedures for grants and cooperative agreements**

The Federal Grant and Cooperative Agreement Act encourage competition, where deemed appropriate, in the award of grants and cooperative agreements. Competition is deemed appropriate in awarding discretionary grants and cooperative agreements unless one or more of the following exceptions apply:

- (1) A non-competitive award is authorized or required by the statute funding the program.
- (2) The activity to be funded is essential to the satisfactory completion of an activity presently funded by DOL, wherein competition would result in significant or real:
  - (a) harm (further harm) to the public good; or
  - (b) expenses in excess of any potential savings to the Government; or
  - (c) disruption to program services; or
  - (d) duplication of work at additional cost to the Government, or
  - (e) delay in the time of program completion.
- (3) Services are available from only one responsible source and no substitute will suffice; or the recipient has unique qualifications to perform the type of activity to be funded.
- (4) The recipient has submitted an unsolicited proposal that is unique or innovative and has outstanding merit.
- (5) The activity will be conducted by an organization using its own resources or those donated or provided by third parties, and DOL support of the activity would be highly cost effective.
- (6) It is necessary to fund a recipient that has an established relationship with the agency in order to:
  - (a) Maintain an existing facility or capability to furnish services or benefits of particular significance to the agency on a long term basis; or
  - (b) Maintain a capability for investigative, scientific, technical, economic, or sociological research.
- (7) The application for the activity was:
  - (a) evaluated under the criteria of the competition for which the application was submitted;
  - (b) rated high enough to have deserved selection under that competition; and
  - (c) not selected for funding because the Department mishandled the application.
- (8) The Secretary has determined that a noncompetitive award is in the public interest. This authority may not be delegated.

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**APPENDIX C**

**ACRONYMS AND ABBREVIATIONS**

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BRG	Business Relations Group
DLMS	Department of Labor Manual Series
DOL	Department of Labor
ETA	Employment and Training Administration
GAO	Government Accountability Office
HGJTI	High Growth Job Training Initiative
NCNE	National Center for Neighborhood Enterprise
OIG	Office of Inspector General
PRB	Procurement Review Board
PY	Program Year
WIA	Workforce Investment Act

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AGENCY RESPONSE TO DRAFT REPORT

U.S. Department of Labor

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



OCT 31 2007

MEMORANDUM FOR: ELLIOT P. LEWIS  
Assistant Inspector General for

FROM: EMILY STOVER DeROCCO *Emily Stover DeRocco*  
Assistant Secretary for Employment and Training

SUBJECT: High Growth Job Training Initiative  
Draft Report No. 02-08-201-03-390

The Employment and Training Administration (ETA) strongly disagrees with the primary findings in the Inspector General’s Draft Report related to the procurement practices utilized for non-competitive grants under the High Growth Job Training Initiative (HGJTI). In fact, we believe that the report is fatally flawed and misrepresents sole source requirements and issues. ETA adhered to federal procurement law and Department of Labor procedures as outlined in the Department of Labor Manual Series (DLMS) for awarding non-competitive grants, with minor technical issues identified.

During the course of the audit, ETA provided the Office of the Inspector General (OIG) with documentation in grant files sufficient to support that grants met the DLMS exceptions for non-competitive sourcing and provided information through staff interviews and written documents that fully support the non-competitive awards made under the HGJTI.

Below are specific responses to findings or content in the report:

- 1. While federal law encourages competitive procurement, non-competitive grant making is permissible if certain criteria are met. The non-competitive HGJTI grants met these criteria and competitive grant making has been a key component of the initiative.**

The OIG points out that federal laws and regulations encourage competition in assistance programs where appropriate. The OIG also points out on page 4 of the Executive Summary that, absent Congressional action, *there is no prohibition against awarding grants non-competitively*, as long as grants otherwise meet the procedural requirements for making non-competitive awards. [emphasis added] ETA met these procedural requirements, and nothing in the OIG’s report suggests any abuse or misuse of this method of procurement. In addition, ETA embraces the value of the competitive grant making process and, from the beginning of the initiative, expressed the intent to provide competitive grant opportunities for the second round of the HGJTI grants in each of the industry sectors. ETA has fully realized that intent and is in the process of issuing the fourth competitive opportunity under the HGJTI; the first such opportunity was announced and awarded in 2004.

- 2. There are no express requirements for documenting the decision making process for a non-competitive grant. ETA documentation can be improved, but is adequate to justify meeting DLMS exceptions for non-competitive awards.**

The OIG's draft report contains many references and assertions, and, in fact, is mainly based on the suggestion that ETA failed to meet a standard of documentation associated with the non-competitive procurement process. It is essential to note that no explicit DLMS requirement to document any decision making process exists regarding the selection of which grants to fund. ETA officials have continued to point this fact out to OIG auditors and have not been presented with any information to the contrary. In fact, the HGJTI process and documentation were unprecedented and provided much more justification than any past sole source grants. ETA does have documentation consistent with the DLMS requirement to assure that sole source procurements meet one of the DLMS exceptions for non-competitive sourcing, although not every grant record specifically identifies which exception was met. Independent of program office reviews, grant officer decisions to award grants non-competitively met the established federal standards. As the OIG points out, ETA relied heavily on the exceptions related to grants for innovative models and grants that are in the interest of the government as a result of leveraging other resources, which are both specific DLMS exceptions.

- 3. ETA decision making was based on significant research and engaged a wide array of participants to ensure that innovative workforce solutions addressing industry identified workforce challenges were selected.**

The OIG asserts that ETA could not assure the best qualified applicants were properly considered to carry out this important job training initiative. ETA disagrees with the inference in the report that inconsistencies in ETA's internal processes may have led to funding less than the "best" grants. Additionally, ETA did not enter into any grants indiscriminately as inferred on page 11.

As provided in greater detail in the attachment that was provided to the OIG, ETA implemented a comprehensive and thorough process to research high growth industries and to engage a wide array of strategic partners to better understand workforce challenges in order to set the stage for the grant making process. ETA had clear principles driving the decision making for funding High Growth grants:

- Was the proposed grant directly related to an industry identified workforce challenge in one of the targeted high growth, high demand industries?
- Was the solution the result of a collaborative process among strategic partners including business and industry, labor, education and the workforce investment system?
- Was the solution innovative?
- Was it a model that could be replicated – either as a workforce solution in the same industry in other locations or in other industry sectors?

- Where feasible, were other resources leveraged?

ETA consistently applied these principles in the decision making process in order to fund grants that were truly innovative and would model new solutions to complex workforce issues being faced in high growth industries – issues that were well explored in the High Growth executive and solutions forums.

As ETA received proposals, many individuals were engaged in reviewing them and discussing their merits for possible funding. The review process evolved over time and became more routinized, incorporating steps in the process such as development of abstracts as a starting point, in order to manage the large number of proposals requiring review and to ensure quality investments. Again, this entire process was unprecedented.

- 4. ETA decisions to exempt proposals from Procurement Review Board (PRB) review were properly researched and valid, and documentation supports that PRB review was not necessary in those cases where ETA did not seek PRB review.**

The OIG suggests in several places in the report that ETA does not have sufficient documentation to support that PRB review was unnecessary or that ETA did not properly apply the criteria. ETA strongly disagrees with both assertions. Once again, the OIG cites no express requirement for such documentation. ETA does not disagree that improved documentation may be valuable, but it is not expressly required. What is required is that the grant fall into one of the DLMS exceptions for not taking a proposal through the PRB process, such as a grant that falls under the simplified acquisition threshold of \$100,000 or a grant to a state or unit of government. ETA grants that were not reviewed by the PRB in all cases met one of the exceptions and have sufficient evidence to support that fact. ETA agrees that documenting the decision not to take a case to the PRB, while not expressly required, is desirable, and ETA will develop a form to assist in the determination and to provide file documentation.

- 5. While ETA believes the documentation provided regarding the \$7 million grant to Alaska demonstrates it was the equivalent of an earmark, the grant is also justifiable as an innovative workforce solution to ensure dislocated workers are provided education and training leading to employment in high growth, high demand industries.**

The OIG report suggests the Congressional direction related to this grant was not sufficient to require ETA funding of the grant. ETA strongly disagrees. Report language related to appropriations bills is given great weight by the Department, and there was specific language regarding the intent of Congress in this case. ETA was able to utilize H-1B fee money to fund the grant, given the activity to train workers for skills needed in high growth, high demand industries is fully aligned with the allowable uses of H-1B funds. ETA has consistently made the OIG aware that this grant was not made under the auspices of the HGJTI, but it is aligned with the Initiative on the ETA Web site because it represents a demand-driven workforce solution.

**6. ETA had a control environment that ensured adherence to applicable criteria.**

The OIG suggests that ETA did not promote an environment that ensured applying appropriate procurement criteria. ETA has worked collaboratively with both the Solicitor's Office and the PRB from the outset of the HGJTI to ensure that necessary procurement requirements associated with non-competitive grant making were followed. With minor technical exceptions related to completion of conflict of interest statements and the grant modification process, which are in the process of being corrected, ETA has fulfilled its obligation with regard to the requirements.

**7. The 11 grants (15 occurrences) identified in the report as not having demonstrated justification were, in fact, justified.**

In the chart developed by the OIG found in the Exhibit which details all of the grants reviewed as part of the audit, the OIG inaccurately identifies the 11 grants (15 occurrences) as not demonstrating justification for the applicable DLMS exemption. The OIG separates these occurrences into three different categories.

- The OIG asserts nine are not justified generally. While ETA may not have identified the specific applicable DLMS exception that applied at the time of the grant, ETA provided sufficient evidence in the grant files to support that each of the nine grants is innovative and/or meets one of the other criteria.
- The OIG suggests that funding a grant at less than the requested amount and under the simplified acquisition threshold is inappropriate. ETA strongly disagrees with the assertion that providing a grant for less than the simplified acquisition threshold of \$100,000 when the proposal request was for a greater amount was somehow improper. Both historically and currently, ETA frequently makes grants for less than the amount requested and applies statements of work and grant requirements accordingly. There is no express requirement for documentation of the decision to reduce funding in these cases, which the OIG has acknowledged. There is only the need to ensure they meet the DLMS criteria for non-competitive awards and the need to align the statement of work with the amount funded.
- The OIG also asserts that in four cases, ETA improperly identified the grantee as being a unit of state or local government and, therefore, should have taken the proposals to the PRB. ETA actively consulted with staff in the Office of the Solicitor to provide an opinion on this issue, a memorialization of which was provided to the OIG. The Solicitor's Office advice disagrees with the OIG's interpretation of the DLMS exception from PRB review for state or government entities (pages 9 and 11). DLMS 836(D)(1)(a) specifically exempts grants "awarded to state or local governments and agencies thereof (includes state and local entities designated by the state or chief elected

official as a program grant recipient . . .)” ETA, on the advice of the Solicitor’s Office, interprets this section to exempt from the PRB process grants to local workforce investment boards that are program grant recipients under the Workforce Investment Act and have been designated by chief elected officials. There is nothing in the DLMS that indicates this designation is related only to the grant in question. This section can also be similarly interpreted to exempt a community college that is a program recipient of a state-run community college system as in the case of the grant to the Kentucky Community and Technical College. Therefore, ETA disagrees with the inclusion of these grants in the OIG’s report as not being a proper exception to the DLMS requirement for taking a case to the PRB.

**8. There is no express requirement for “consistent documentation” of the review process for grants awarded non-competitively.**

Although there is no such requirement, ETA did develop procedures to support the review process, such as abstracting. Abstracting was not considered “documentation,” but rather was a tool to support the internal review and decision making process. Therefore, the OIG’s assertion that 39 grants did not have proper documentation due to something related to the abstracting process is erroneous.

The abstracts were seen as a beginning point for discussion as part of the decision making process. Additional information was frequently requested following the initial abstract, and it was not uncommon to reevaluate proposals and abstracts as part of the decision making process.

Citing that conflicting information on abstracts related to the final award amount is an indication of improper grant making is not accurate and only suggests that the author of the abstract had an opinion that was not ultimately shared by other ETA leadership engaged in the decision making process. The same is true for the two cases cited where the initial recommendation was not to fund the proposal. An initial recommendation not to fund was, in a number of cases, reversed after additional information was received and/or a proposal was refined to make it stronger and in line with the High Growth principles.

**9. There was no conflict of interest, but better documentation can occur.**

ETA emphatically asserts that there was no conflict of interest by any staff participating in the review process and the mere lack of a certification is not an indicator of any conflict existing. However, ETA acknowledges the lack of conflict of interest certifications for non-PRB reviewed awards, and is remedying that process. ETA will develop and implement a process to ensure that potential conflicts of interest or lack thereof by recommenders and approvers of sole source grant awards are identified and documented in the grant file.

**10. ETA acknowledges failure to carry forward matching requirements and has already instituted corrective action.**

ETA has already acknowledged the issue of not properly carrying forward match requirements when grants were modified, and corrective action is already in progress. In order to correct this administrative finding, we are developing procedures and formats to address these inconsistencies and appropriate staff training will be provided. ETA will implement procedures to ensure that all grantee commitments to provide leveraged resources or match (either cash or in-kind) are appropriately documented and maintained in the grant file and appropriately accounted for. ETA will ensure that, when applying DLMS 2-836 (G)(5), the activity conducted by the grantee or a partner organization using its own resources or those donated or provided by third parties is fully documented and accounted for and an assessment of cost effectiveness is completed.

While these procedures are being finalized, ETA will immediately implement a policy to ensure that grant officers verify all budget re-alignment modifications contain both pages of the SF 424A and any match requirements are clearly presented prior to approving such a modification. In addition to improving our procedures, ETA is in the process of updating Employment and Training Order No. 1-03 and will undergo an internal procurement review in the near future.

**Response to Specific Recommendations:**

1. Competition is encouraged when awarding discretionary grants.

As stated previously in the response, ETA agrees that competition is to be encouraged where appropriate and has actively used competition as the vehicle for awarding High Growth grants.

2. Policy is established for documenting all decisions and discussions that lead to actions by departmental officials that affect how and to whom grant funds are distributed.

ETA has provided specific action steps in the body of the response related to this recommendation and agrees that additional documentation of the processes related to awarding non-competitive grants is desirable and will take steps to do so.

3. Any future non-competitive awards are properly justified and based on appropriate DLMS exceptions.

ETA disagrees that any prior non-competitive awards were not justified and based on appropriate DLMS exceptions, but agrees that any future ones will also be made in accordance with all procurement requirements.

4. Decisions to exempt proposals from PRB review are properly researched, valid, and documented.

ETA asserts that prior decisions have been properly researched and were valid, but agrees that additional documentation is helpful.

5. Agency officials are fully trained and aware of the procurement procedures for non-competitive awards, including documenting the decision-making process.

ETA currently has a well-trained staff related to procurement procedures. However, to strengthen staff capacity and to implement enhanced documentation processes, ETA will develop and distribute a guide for procurements, including non-competitive awards, to assist agency officials. This guide will include current agency policy.

Attachment

## **High Growth Job Training Initiative**

### **Evolution of the High Growth Job Training Initiative**

The Department of Labor's (DOL) High Growth Job Training Initiative (HGJTI) is a systemic change initiative designed to propel the workforce investment system to become demand-driven and to approach workforce development more strategically by engaging business and industry, education partners, and others to collectively define the workforce challenges in the 21<sup>st</sup> century economy and to develop solutions to those challenges – solutions that leverage a wide array of resources among the partners.

Investments in model workforce solutions under the HGJTI have been part of a much larger strategic process that has grown and evolved as a result of learning gained and an ever changing economy. The HGJTI began with a tiered approach that included several key steps prior to making financial investments. Each phase built on the next, offering a systematic approach to developing solutions to workforce challenges defined by business and industry.

- **Identification of high growth, high demand industries.** Given that the HGJTI was designed to model how state and local partners could become more demand driven by identifying the high growth, high demand industries in their economies, it was never DOL's intent to identify all high growth industry sectors in the economy. Rather – to provide a framework for the process to be used at the state and local levels, we strategically chose industries that represent a variety of different sectors of the economy and all have significant demand for workers. Industries fell into four categories for inclusion as high growth, high demand: 1) industries that are truly high growth, such as health care and financial services; 2) industries that are transforming as a result of technology and innovation, such as advanced manufacturing; 3) emerging industry sectors such as biotechnology and geospatial technology; and, 4) those that are critical to the foundation of any economy such as energy and transportation. We began the process with advanced manufacturing and healthcare and gradually added additional industries or sectors based on these criteria.
- **Industry Scans.** Before reaching out to industry leaders and stakeholders, DOL completed a scan of the size, trends, and scope of each industry as well as any already identified workforce challenges in order to better prepare for dialogues on their workforce needs and challenges. The industry scans became the foundation for more complete published reports on each industry following the completion of the industry executive forums and workforce solutions forums discussed below.
- **Industry Executive Forums.** With a better understanding of the context of the industry overall, the next phase of the process involved convening industry executives at the CEO level, often with the help of industry trade associations, to hear about the growth potential of their industries and to understand workforce challenges critical to continued growth. This phase of the process was important for four reasons. First, it was the opportunity to learn directly from industry; second, it was an opportunity to set the stage for ongoing business engagement and strategic partnerships; third, it allowed us to identify where the private sector was already working on solutions; and fourth, it allowed us to validate and expand our industry scan information to help inform the next phases of our work. During this phase, DOL conducted 37 Executive Forums with industry leaders across each of the



industry sectors, reaching 815 industry partners through the process.

- Workforce Solutions Forums. With a solid understanding of the workforce challenges in each industry, DOL then hosted a series of Workforce Solutions Forums. These forums again brought together high-level executives, often those engaged in companies' human resources and training activities, with representatives from education, labor, and the public workforce system. Participants were identified as those leading the nation in developing new workforce approaches for each industry sector. The primary outcome from these forums was a set of industry-driven solutions for each industry, which were compiled and added to the overall industry summary reports. In total, DOL conducted 15 Workforce Solutions Forums, reaching 627 strategic partners.
- Investments in Workforce Solutions Addressing Industry Identified Challenges. One of the outcomes of the executive and solutions forums and our general focus on an industry sector was the receipt of many unsolicited proposals. DOL reviewed these proposals with an intent to choose for funding those proposals that were innovative; responded directly to the issue areas defined by industry; represented strategic partnerships that included business and industry, education, labor as appropriate, and the public workforce system; and, in many cases, leveraged both public and private funding from other sources. In carrying out this mission, the Department awarded grants to model programs using discretionary funding for this activity as authorized under title I of the Workforce Investment Act, and starting in mid-2005, utilizing H-1B Nonimmigrant Petitioner fees under the amended American Competitiveness and Workforce Development Act of 1998. The Department made sole source awards consistent with the Department's policies and procedures governing non-competitive awards and Federal procurement rules.

More specifically, sole source grants were reviewed and approved by the Department's Procurement Review Board, which rigorously screens proposals in accordance with Federal procurement policies (DLMS 2-836). Proposals were presented for review under the required criteria of [DLMS 2- 836 (g)(3)] where *services are available from only one responsible source and no substitute will suffice; or the recipient has unique qualifications to perform the type of activity to be funded; [DLMS 2- 836 (g)(4)] the project is unique or innovative and has outstanding merit; or [DLMS 2- 836 (g)(5)] the activity will be conducted by an organization using its own resources or those donated or provided by third parties, and DOL support of the activity would be highly cost effective.*

As the initiative began to mature, additional steps were needed to ensure our investment strategy was achieving our goals of a demand-driven workforce investment system and a more competitive workforce that meets the needs of business. To that end, the following additional strategies have been implemented.

- Follow-on competitive funding opportunities in targeted industry sectors as incentive to continue driving the demand-driven vision. It was DOL's intent from the early phases of the HGJTI to move to a competitive investment model in order to incent the workforce investment system and other strategic partners to use this model to drive demand-driven, innovative workforce solutions at the state and local levels. DOL completed the majority of its initial round of investments in most of the industry sectors by PY 2005. During that year, DOL focused on supporting the success of grantees to date and preparing for our second competitive solicitation in Advanced Manufacturing.

- Dissemination strategies for HGJTI Products. DOL has been committed to strategies designed to disseminate the innovative approaches, tools, and products developed as a result of HGJTI investments since the beginning. Below are key strategies:
  - Workforce<sup>3</sup> One ([www.workforce3one.org](http://www.workforce3one.org)), ETA's Web based, interactive learning and knowledge sharing network, offers the public workforce system, employers, economic development professionals, labor leaders, and education professionals access to a wide array of learning opportunities and is the central repository for HGJTI products. In addition to direct access to the products, Workforce<sup>3</sup> One hosts webinars, podcasts, and electronic newsletters featuring both HGJTI achievements and those developed with Community Based Job Training Grants, as well as other state or locally funded demand-driven approaches.
  - Partnership with League for Innovation in Community Colleges (League) and American Association of Community Colleges (AACC): DOL is working in close partnership with the League to distribute product CDs to 1,900 community colleges nationwide and the public workforce system to ensure broad dissemination of HGJTI products for replication. Examples of products include competency models, curriculum, course materials, career ladders, career guidance, and replication guides, and will be available on Workforce3 One for download by the over 18,000 registrants. In addition, the League and AACC are supporting efforts to promote products through their on-line resources and annual conferences.
  - Workforce Innovations Conference: DOL, in partnership with the American Society for Training & Development (ASTD), sponsors an annual conference at which more than 3,000 local, state and national workforce professionals have the opportunity to talk directly to grantees in workshops to gain first hand experience in replicating demand-driven strategies. In 2007, each conference participant will receive a CD set with over 125 products across all of the high growth, high demand industries.
  - Private Sector Promotion of Products: In addition to the avenues listed above, DOL receives frequent requests to share and promote these industry-driven products and tools from a myriad of industry associations and national organizations.
- Strategies for Assessing Outcomes and Performance. Below are the key strategies DOL has implemented related to tracking outcomes and performance for HGJTI grants:
  - All grantees are reporting on the number of individuals trained through the grants. Through the \$285.5 million investment, the HGJTI is expected to train over 130,000 participants under the grants awarded to date. (In comparison, 189,000 individuals completed training through the workforce investment system last year, with an investment of about \$4 billion.)
  - The Department has also been taking steps to collect the common performance

measures fully aligned with those required under the Workforce Investment Act on individuals participating in training.

- For grants that include capacity-building strategies to improve capacity to train and educate in high growth, high demand industries, grantees are required to track and report the impact of all capacity building products, models, and activities.
  - ETA is conducting a two phase evaluation of the HGJTI. The first component of the evaluation focuses on implementation and sustainability for 20 early HGJTI grants with a final report to be completed in 2007. The second component of the evaluation is a quasi-experimental analysis of the early impacts of training provided by six HGJTI grantees, using program data on trainees and state administrative data on employment and earnings. The goal is to evaluate the effects HGJTI grant-funded training has on worker employment and earnings and the final evaluation report is anticipated in early 2008.
  - DOL continuously collects anecdotal information on the adoption of demand-driven strategies by state and local areas. A number of states and local workforce investment boards have adopted and implemented demand-driven industry strategies that have informed the use of their Workforce Investment Act formula dollars including California, Texas, Pennsylvania, and local areas boards such as Southwest Connecticut, Houston, and Lancaster, PA.
- Ongoing industry engagement strategies. DOL continues to remain actively engaged with industry partners to advance understanding of the skill sets and competencies that are essential to educate, train and employ a globally competitive workforce. In each of our high growth industries, we have been working closely with business leaders to create comprehensive and readily accessible documentation of the skills and competencies required in a variety of high growth, high demand industries, which is used by educators and trainers to get workers the skills they need to succeed in the workplace.

In addition, DOL is working to develop cross-industry strategies to workforce challenges. For example, the shortage of skilled craftsmen and utility workers is a key challenge for the U.S. energy industry. DOL and its partners, including representatives from the energy industry and the construction firms and labor management organizations that support it, are embarking on an initiative to improve the pipeline of craftsmen and utility workers who can build, maintain, and operate the growing energy infrastructure.

DOL has now recognized the need to not only connect workforce development with education and industry leaders, but also to integrate it with economic development in the context of regional economies. The WIRED (Workforce Innovation in Regional Economic Development) initiative and framework builds on the demand-driven concepts in the HGJTI and is further leveraging those investments in new ways. DOL is now encouraging regional economies to clearly identify the industry sectors that will make them competitive and grow their economy and to focus on the talent development strategies that are key to ensure that workers have the skills they need to prosper in the global economy and that businesses have workers with the skills that will help them be competitive.

- **Cross-cutting Industry Strategies:** Through the HGJTI, DOL has identified a number of cross-cutting strategies that will help ensure a competitive U.S. workforce. In an increasingly global, knowledge-driven society, science, technology, engineering and math (STEM) education and development are critical to our economic competitiveness and growth as a nation. DOL intends to issue a competitive SGA for STEM talent development strategies that attract and prepare workers for STEM careers, including creating an alternative pathway for out-of-school youth. In addition, under the HGJTI, DOL recognized the need for new and alternative approaches to training workers, and plans to implement a competitive investment focused on innovative technology-based and remote learning strategies designed to provide training in real time and to promote increased access to educational opportunities for all workers.

The strategies discussed above continue to expand and evolve. The value of the HGJTI investments are continuing to be identified and leveraged in new ways.

#### **High Growth Awards**

There are a total of 150 HGJTI grants amounting to \$285,516,990. These investments leveraged almost \$335,000,000 in resources contributed by partners. 127 of these grants, totaling \$256,670,191, were awarded on a sole source basis after approval from the Department of Labor's Procurement Review Board.

23 High Growth grants were awarded on a competitive basis for \$28,846,799:

- **Health Care/Biotechnology** - In June 2005, under the High Growth Healthcare/Biotech Solicitation for Grant Applications (SGA), the Department reviewed close to 230 applications and awarded 12 grants totaling \$12,032,302.
- **Advanced Manufacturing** - In October 2006, the Department announced the award of \$16.8 million in grants to 11 organizations in 10 states to prepare workers for careers in advanced manufacturing. The 11 organizations were selected from among the 186 applicants competing for funding.
- **Health Care:** - In February 2007, the Department announced a grant competition for approximately \$3 million to be invested in training for the healthcare industry's long-term care sector. Grants awards were announced in June 2007.

Current and future competitions include:

- **Energy/Construction** - In the Fall 2007, the Department anticipates a grant competition for approximately \$10 million to be invested in training and capacity building in the energy and construction industries. This competition follows an Energy Skilled Trades Summit held in August 2007.
- **Science, Technology, Engineering and Math (STEM)** - In the Fall 2007, the Department anticipates a grant competition for approximately \$10 million for STEM talent development strategies that attract and prepare workers for STEM careers, including creating an alternative pathway for out-of-school youth.

**Grant Recipients**

Grants under the HGJTI have been awarded to a wide range of organizations as follows:

- 45 to public workforce investment system organizations, including Workforce Investment Boards, One-Stop Career Centers, and state/local workforce agencies;
- 36 to employers, industry associations and labor/management organizations (2 were awarded directly to unions and 5 grants have unions as partners);
- 48 to community colleges and educational institutions representing the continuum of education; and
- 21 to community-based organizations.

**High Growth Job Training Initiative Training Summary Overview**

Of the 130,767 individuals projected to be trained under the HGJTI, 89% are currently enrolled in or completed training.

Total Projected Trained	130,767
Total Trained as of March 29, 2007	61,186
Total Enrolled as of March 29, 2007	55,588
Total Trained + Enrolled	116,774