

U.S. Department of Labor

Office of Inspector General—Office of Audit

**REPORT TO THE EMPLOYMENT
AND TRAINING
ADMINISTRATION**



**ETA HAD NO REASONABLE
ASSURANCE THAT \$183 MILLION IN
H-1B TST GRANT FUNDS HELPED
PARTICIPANTS GET H-1B JOBS**

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BRIEFLY...

ETA HAD NO REASONABLE ASSURANCE THAT \$183 MILLION IN TST GRANT FUNDS HELPED GET H-1B JOBS

September 27, 2019

WHY OIG CONDUCTED THE AUDIT

Past audits from both the Government Accountability Office (GAO) and OIG have identified instances where Technical Skills Training (TST) participants were not trained in the same skills that employers had solicited from foreign workers in the H-1B program.

TST grants were funded from H-1B program user fees paid by employers who hired temporary foreign workers for jobs in highly skilled occupations. TST grants were intended to raise the technical skills of American workers and help businesses reduce their need for the H-1B program.

WHAT OIG DID

Given these previously identified issues, we conducted an audit to determine the following:

Did ETA provide reasonable assurance TST grantees provided training that resulted in participants obtaining and retaining jobs in H-1B occupations?

To answer this question, we reviewed 79 TST grantees worth \$343 million, with periods of performance from November 2011 to June 2016. We reviewed the training proposed by all 79 TST grantees and identified 42 grantees whose training plans involved some training in non H-1B occupations. We visited 3 grantees to determine the training provided and whether participants obtained employment in H-1B occupations.

READ THE FULL REPORT

<http://www.oig.dol.gov/public/reports/oa/2019/06-19-001-03-391.pdf>

WHAT OIG FOUND

ETA did not provide reasonable assurance TST grantees provided training that resulted in participants obtaining and retaining jobs in H-1B occupations. Systemic weaknesses in the grant award processes, oversight, and performance measurement indicated ETA did not design the program to ensure non H-1B training provided had a clear pathway to H-1B jobs as required by the grant solicitation. Forty-two (53 percent) of the 79 TST grants were awarded to grantees providing non-H-1B training. The 42 grants, totaling \$183 million, were at risk of not meeting the intent of the program.

We reviewed 3 of 42 grantees and found ETA awarded them TST grants although they had no clear plan for how the non H-1B training they proposed would lead to H-1B occupations. Furthermore, despite ETA's oversight, only 7 percent of the 400 sampled participants received H-1B training and only 5 percent obtained and retained H-1B jobs. However, ETA was unaware of these outcomes because they used generic performance measures. Our review of the three grantees confirmed the systemic weaknesses we identified.

This occurred because ETA's primary focus was not on training participants along career pathways to H-1B jobs. Instead, ETA focused on increasing the number of applicants to create a more competitive applicant pool, and getting participants jobs. As a result, 42 (53 percent) of ETA's 79 TST grants risked not meeting the program's intent during their periods of performance.

WHAT OIG RECOMMENDED

We recommend the Assistant Secretary for Employment and Training ensure future H-1B training grants are evaluated and awarded to grantees who clearly demonstrate how participants will transition into H-1B jobs; ensure future grantees provide the proposed training to help participants obtain H-1B jobs or advance along the career pathway; and develop performance measures to report H-1B training-related placement outcomes.

ETA agreed with 2 of our 3 recommendations and has already started taking some action.

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INSPECTOR GENERAL'S REPORT

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This report presents the results of our audit of the Employment and Training Administration's (ETA) H-1B Technical Skills Training (TST) Grant Program. In response to shortages of skilled workers in high-growth industries and occupations, Congress established the H-1B visa category for foreign non-immigrants seeking work in high-skill or specialty occupations and imposed a user fee on employers filing H-1B applications. The American Competitiveness and Workforce Improvement Act of 1998, as amended, authorized the Department of Labor (DOL) to use a portion of those fees to finance the H-1B TST Grant Program.

In 2002, both Government Accountability Office (GAO) and Office of Inspector General (OIG) issued audit reports¹ of TST grants and reported that grantees did not train in skills for which employers were hiring foreign workers. Given this issue, we conducted an audit to see if the same problem still exists and to answer the following question:

Did ETA provide reasonable assurance TST grantees provided training that resulted in participants obtaining and retaining jobs in H-1B occupations?

To perform this audit, we reviewed ETA's TST grant award processes, oversight, and performance measurement. We also reviewed training plans submitted by the 79 grantees awarded TST grants and identified 42 grantees whose training plans involved some training in non H-1B occupations. We sampled 400

¹ DOL OIG Reports 02-02-207-03-390 and 02-02-211-03-390 and GAO-02-881

participants at 3 grantees to identify the training they provided and determine if the training led participants to H-1B jobs.

ETA awarded \$343 million in TST funds to 79 grantees during November 2011 through April 2012 (with periods of performance extending from November 14, 2011 through June 30, 2016). TST grants were intended to raise the technical skills of American workers and, over time, help businesses reduce their need for the H-1B program. Of the 79 grantees, ETA awarded \$160 million to the 37 who proposed only H-1B training, and awarded \$183 million to the 42 who proposed H-1B and/or non H-1B training. Occupations for which non-H-1B training was provided included machinists, welders, advanced manufacturing technicians, licensed practical and vocational nurses, and health care technicians.

RESULTS

ETA did not provide reasonable assurance TST grantees provided training that resulted in participants obtaining and retaining jobs in H-1B occupations. Systemic weaknesses in the grant award processes, grant oversight, and performance measurement indicated ETA did not design the program to ensure non H-1B training provided had a clear pathway to H-1B jobs as required by the grant solicitation. Forty-two (53 percent) of the 79 TST grants were awarded to grantees providing non-H-1B training. The 42 grants, totaling \$183 million, were at risk of not meeting the intent of the program.

Specifically, ETA's grant award process allowed applicants to propose non H-1B training along a career pathway that would lead to an H-1B job. However, ETA's guidance for scoring grant proposals did not adequately define how applicant plans for providing non H-1B training were to be scored. For example, ETA did not assign point values to the evaluation factors and allowed panelists to use their discretion when they assigned a score to each factor. This created an opportunity for applicants whose proposed training was not along a career pathway to H-1B jobs to be awarded grants. We reviewed training proposals submitted by three grantees and points awarded to each proposal to determine if ETA's unclear guidance had an impact on the award process. We found two grantees' proposals did not clearly explain how the non H-1B training they proposed would lead to H-1B jobs, and one grantee did not cite evidence that the targeted industry and/or occupations were ones that employers currently used H-1B visas. Yet, ETA deducted no or minimal points for these weaknesses and awarded training grants for these proposals.

ETA's grantee oversight also did not place sufficient emphasis on non H-1B training. For example, ETA's policies required monitors to determine if grantees

provided the training they stated in the grant agreement. However, ETA's monitoring procedures did not require monitors to ensure grantees provided training along a career pathway that would lead to H-1B occupations. A review of the three grantees identified 93 percent of the training they provided was in non H-1B occupations and it was not evident how the training would result in H-1B jobs for the participants. We found no evidence ETA identified any of these issues during on-site monitoring reviews or desk reviews performed over the course of the 4 year performance period.

Additionally, ETA's TST performance measures required grantees to report generic outputs such as the number of participants trained and the number of participants who obtained and retained jobs rather than outcomes specific to H-1B related training and jobs. Our review of the three grantees confirmed that the information reported to ETA did not provide ETA with the knowledge necessary to evaluate the effectiveness of the TST program. For example, the three grantees reported 82 percent of their participants completed training and 39 percent obtained and retained employment following training. However, only 7 percent of the 400 participants we sampled received H-1B related training, and only 5 percent obtained and retained H-1B occupations. Using generic output measures, ETA could not be aware of how grantees were actually performing.

These systemic weaknesses occurred because ETA's primary focus was not on training participants along career pathways to H-1B jobs. Instead, ETA focused on increasing the number of applicants to create a more competitive applicant pool, and getting participants jobs. As a result, 42 (53 percent) of ETA's 79 TST grants were at risk of not meeting the program's intent. Our review of three grantees confirmed that their use of grant funds did not meet the program's intent. If ETA had corrected its deficiencies in the three noted areas, we believe the total value of these three grants (\$13 million) would have been put to better use. Moreover, if all 42 grantees providing non-H-1B training had similar deficiencies, up to \$183 million, the total value of the 42 grants, would have been put to better use. While we agree that it is important for participants to get jobs, the purpose of the program was to provide participants with training that would lead to H-1B jobs; and over time, reduce employers' dependency on foreign workers.

**ETA DID NOT PROVIDE REASONABLE
ASSURANCE TST GRANTEES PROVIDED
TRAINING THAT RESULTED IN
PARTICIPANTS OBTAINING AND RETAINING
JOBS IN H-1B OCCUPATIONS**

To meet the legislative intent of training American workers to reduce the need for foreign workers under the H-1B visa program, ETA's solicitation for TST grant applications required applicants to design their education and training programs to support industries and occupations for which employers were using H-1B visas to hire foreign workers. ETA was particularly interested in training for occupations within the information technology, advanced manufacturing, and health care industries. According to ETA, the programs would, over time, reduce the use of skilled foreign professionals permitted to work in the U.S. on a temporary basis under the H-1B visa program.

Systemic weaknesses in the grant award processes, grant oversight, and performance measurement indicated ETA did not design the program to ensure non H-1B training provided had a clear pathway to H-1B jobs as required by the grant solicitation. Our review of three grantees who provided training in nonH-1B jobs confirmed the systemic weaknesses. Specifically, we found ETA awarded the three TST grants although the grantees provided no clear plan for how the non H-1B training they proposed would lead to H-1B occupations. Furthermore, we found only 7 percent of the 400 sampled participants received H-1B training and only 5 percent obtained and retained H-1B jobs. Moreover, ETA was unaware of these outcomes because they used generic performance measures.

This occurred because ETA allowed training in non H-1B occupations only to increase the number of applicants and create a more competitive applicant pool. However, ETA did not adjust its grant award processes, grant oversight, and performance measurement to adequately incorporate the non H-1B training. As a result, 42 (53 percent) of ETA's 79 TST grants were at risk of not meeting the program's intent. If ETA had corrected its deficiencies in the three noted areas, we believe up to \$183 million, the total value of the 42 grants, could have been put to better use.

***ETA AWARDED GRANTS TO GRANTEES THAT WERE
AT HIGH RISK OF NOT MEETING THE INTENT OF
THE GRANT***

According to GAO's Standards for Internal Controls in the Federal Government, management should design controls necessary to meet the objective. Even

though ETA allowed grantees to train in non H-1B occupations, it did not design its award process in a way that would meet the objective of the TST program. The guidance for scoring proposals was unclear and led to ETA awarding grants to the three grantees that did not clearly explain how the non H-1B training they proposed could lead participants to H-1B jobs. This also created a risk the other 39 grantees who proposed training in H-1B and/or non H-1B occupations would not meet the intent of the program.

ETA evaluated applicants' proposals, based on 3 main criteria, 7 sub-criteria and 34 factors. Each factor provided requirements the applicants needed to incorporate into their proposals in order to receive all the points available under the sub-criteria. ETA also required applicants to provide a graphic display of the proposed career pathway that highlighted point(s) along the pathway where the skills training would occur and which reflected participants' entry into and progression along the pathway. ETA assigned point values for the three criteria and seven sub-criteria established to evaluate the TST grant proposals. As shown in Figure 1, ETA assigned a total of 45 points to the Program Activities and Project Management criterion which included 15 points assigned to the Description of Training Strategies sub-criterion.

FIGURE 1: SCORING CRITERIA

Criteria	Sub-Criteria	Points
Statement of Need (30 Points)	• Targeted Industries and Occupations	20
	• Targeted Population	10
Program Activities and Project Management (45 Points)	• Description of Training Strategies	15
	• Program Activities	20
	• Project Management	10
Outcomes (25 Points)	• Projected Performance Outcomes	15
	• Cost per Participants and Ability to Report Outcomes	10

Each sub-criterion included 2-8 factors. Each factor provided requirements the applicants needed to incorporate into their proposals (see Exhibit 1). For example, the Description of Training Strategies sub-criterion included 5 factors. One factor required applicants to clearly explain how their proposed projects

would directly address skills and training gaps which would allow eligible participants to obtain H-1B employment or advance along the career pathway. However, ETA did not assign point values to the factors associated with this critical sub-criterion. ETA allowed evaluation panelists to use discretion when assigning a score to each factor.

Of the 42 grantees, we reviewed training proposals submitted by 3 grantees and the points awarded to each proposal to determine if ETA's inadequate scoring guidance had an impact on the award process. We found two grantees proposed training that ranged from welders and machinists to engineering technicians and to engineers. However, the grantees did not clearly explain how the training provided to welders and machinists would lead participants to obtain the skills or education required to obtain an engineering occupation. According to the Department of Labor's Bureau of Labor Statistics, entry into welding or machining required a high school diploma or equivalent, while engineers were generally required to have a bachelor's degree. The grantees did not explain how participants with a high school diploma and welding/machining training would obtain the skills and additional education necessary to obtain a job as an engineer. Moreover, when scoring the two grantees' proposals, ETA deducted no or minimal points for not providing career pathways to H-1B occupations. For one grantee, ETA stated the grantee's logic for H-1B was a stretch but deducted only 2 points for proposed training in the construction industry², which was outside of the 3 industries the solicitation targeted. Furthermore, the grantee's proposal acknowledged the construction industry had not typically used H-1B workers to a great extent.

The third grantee reviewed did not cite evidence that the targeted industry and related occupations were ones for which employers currently used H-1B visas. According to one of the factors under the Targeted Industries and Occupations sub criterion, applicants must cite evidence that the industry and/or occupation is one that employers currently seek H-1B visas for and/or is an occupation(s) along the career pathway to the occupation or in the relevant industry.

The grantee's agreement stated they would target the advanced manufacturing industry and related occupations such as computer numeric control operator, machinist, maintenance, and tool and die maker; none of these occupations were considered H-1B occupations. However, the grantee specified the list of targeted occupations was not an exhaustive list and incorporated a career pathway map which included engineers and managers, similar to the other two grantees. Even

² Because ETA approved the grantee's construction industry application, we included the construction industry jobs within the advanced manufacturing category because the jobs were similar.

though the grantee's proposal did not meet evaluation criteria, ETA did not deduct any points for not providing career pathways to H-1B occupations.

Furthermore, since the grantee's proposal failed the Targeted Industries and Occupations sub criterion in its entirety, ETA's scoring methodology should have included a mechanism to eliminate this and similar grantees from the award competition. If ETA determines a grantee does not sufficiently target appropriate occupations, the proposal should be denied or returned for revision.

*ETA DID NOT PLACE SUFFICIENT EMPHASIS ON
NON H-1B TRAINING DURING GRANT OVERSIGHT*

According to GAO's Standards for Internal Controls in the Federal Government, management should design controls necessary to meet the objective. ETA's grant oversight policies required monitors to determine if TST grantees provided the training included in the grant agreement. However, ETA used generic grant oversight procedures they used for all grants when monitoring TST grantees. This created a risk that the remaining 39 grantees who provided non H-1B training would also not meet the intent of the TST program.

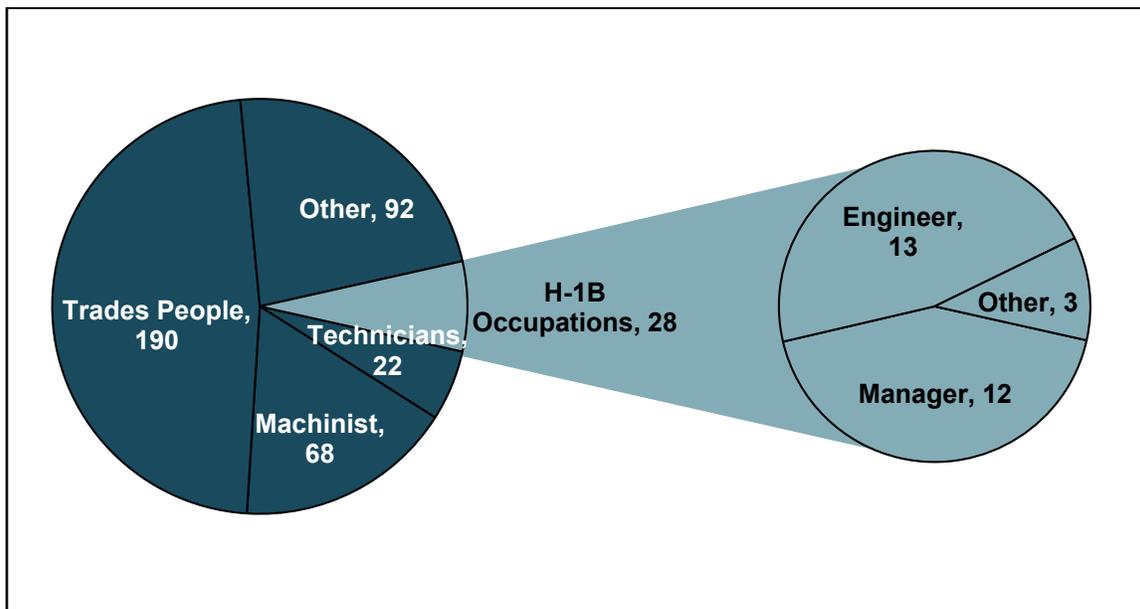
ETA used its core monitoring guide to perform on-site visits of the TST grantees. The guide stated that ETA's oversight and monitoring practices reinforce their mission while ensuring program outcomes are achieved and a high level of integrity is maintained. ETA's core monitoring guide further stated it is generic and limited to an examination of basic core activities that are found in all ETA grants – design and governance; program and grant management systems; financial management systems; service delivery; and performance accountability. For example, the service delivery section of the guide, required monitors to evaluate the grantee's capacity and effectiveness in delivering services to participants and employers in accordance with the grant agreement. However the guide focused on high-growth occupational areas rather than H-1B occupations. ETA stated high-growth occupations and H-1B occupations should go hand in hand. However, according to BLS, high-growth occupations projected between 2010 and 2020 could include occupations such as physicians and engineers (H-1B occupations), but also included occupations such as construction laborers and nurse's aides which are not normally considered H-1B occupations. Using this monitoring guide would not allow ETA to determine if TST grantees were meeting the intent of the grant.

ETA also monitored grantees' progress throughout the grant period by performing quarterly desk reviews. ETA used the same quarterly desk review procedures on all ETA grants. During quarterly desk reviews ETA reviewed the grantees' financial and performance reports, as well as any available information collected from other oversight tools, such as on-site monitoring and

communication with the grantee. However, during quarterly desk reviews, ETA did not include procedures to determine if participants received training in an H-1B occupation or along the career pathway of an H-1B occupation.

During our review of the 3 grantees, we identified 372 of the 400 (93 percent) sampled participants received training in non H-1B occupations, while only 28 (7 percent) received training in H-1B occupations. Figure 2 shows the training provided by the 3 grantees.

FIGURE 2: OCCUPATIONS GRANTEES PROVIDED TRAINING



It was not evident how the non H-1B training provided to the 372 participants would lead participants to obtain the skills or education required to obtain H-1B jobs. We found no evidence ETA identified any of these issues during on-site monitoring reviews or desk reviews performed over the course of the 4 year performance period. In fact, one grantee received a favorable grant close out rating although it did not meet the intent of the grant. Further, this grantee was forced out of business shortly upon completion of the TST grant due to a legal judgement resulting from a Department of Commerce OIG report questioning costs of approximately \$12.6 million.

ETA DID NOT DESIGN PERFORMANCE MEASURES THAT INDICATED PROGRAM EFFECTIVENESS

According to GAO’s Standards for Internal Controls in the Federal Government, management must define objectives in measurable terms so that performance

toward achieving those objectives can be assessed. GAO's Standards also state management must design a process that uses the entity's objectives and related risks to identify the information requirements needed to achieve the objectives and address the risks. Information requirements consider the expectations of both internal and external users.

GAO defines quality information as appropriate, current, complete, accurate, accessible, and provided on a timely basis and states management should use the quality information to make informed decisions and evaluate the entity's performance in achieving key objectives and addressing risks.

ETA's TST performance measures required grantees to report generic outcomes such as the number of participants trained and the number of participants who obtained and retained jobs rather than outcomes specific to H-1B related training and jobs. According to ETA's performance reports, 79 TST grantees provided training to 87,000 participants, of which 56 percent obtained jobs or retained their current jobs. Without information regarding the occupations for which participants received training or obtained employment, ETA could not determine if the 87,000 received training in H-1B or non H-1B occupations and if the 49,000 participants obtained and retained employment in H-1B or non H-1B occupations. The information ETA gathered from grantees, did not provide it with the knowledge necessary to make informed decisions or evaluate whether they met the intent of the TST program.

ETA's performance measures did not identify how many participants received training in H-1B occupations, nor did it identify the types of jobs participants obtained after training. While ETA allowed grantees to train in occupations that were along the career pathway of an H-1B occupation, ETA did not require grantees to report the information necessary to determine if participants were trained and obtained employment in H-1B occupations or non H-1B occupations.

ETA did not develop performance measures based on the intent of the TST program, which was to provide education, training, and job placement assistance in occupations for which employers were using H-1B visas to hire foreign workers. Instead, ETA measured the impact of the TST grants by requiring grantees to report outputs such as the number of participants who completed training or obtained training-related employment not whether they received H-1B jobs. (see Exhibit 2 for ETA's required performance report)

Our review of the 3 grantees confirmed that the information reported to ETA did not provide ETA with the knowledge necessary to evaluate the effectiveness of the TST program. Specifically, the 3 grantees reported 82 percent of their participants completed training, and 39 percent obtained and retained employment following training; however, we found only 7 percent of the 400

sampled participants received H-1B related training and only 5 percent obtained and retained H-1B occupations. Using these generic measures, ETA could not be aware of how grantees were actually performing.

ETA PUT \$183 MILLION OF TST FUNDING AT RISK

ETA allowed grantees to propose training in non H-1B occupations with clear paths to H-1B jobs. However, ETA did not adjust their grant award process, grant oversight, and performance measures to adequately ensure grantees who provided non H-1B training still met the intent of the TST program. These systemic weaknesses occurred because ETA's primary focus was not on training participants along career pathways to H-1B jobs. Instead, ETA focused on increasing the number of applicants to create a more competitive applicant pool, and getting participants jobs. As a result, 42 (53 percent) of ETA's 79 TST grants were at risk of not meeting the program's intent. Our review of three grantees confirmed the systemic weaknesses as their use of grant funds did not meet the program's intent. If ETA had corrected its deficiencies in the three noted areas, we believe the total value of these three grants (\$13 million) would have been put to better use. Moreover, if all 42 grantees providing non H-1B training had similar deficiencies, up to \$183 million, the total value of the 42 grants, would have been put to better use. While we agree that it is important for participants to get jobs, the purpose of the program was to provide participants with training that would lead to H-1B jobs; and over time, reduce employers' dependency on foreign workers.

RECOMMENDATIONS

We recommend that the Assistant Secretary for Employment and Training oversee and monitor the development and implementation of:

1. A policy to ensure future H-1B training grants are evaluated and awarded to applicants who clearly demonstrate in their career pathways and proposals how participants will transition from the training into H-1B occupations.
2. Monitoring procedures to ensure future H-1B training grantees provide the proposed training to help participants obtain employment in an H-1B occupation or advance along the career pathway.
3. Performance measures that require future H-1B training grantees to report H-1B related training and H-1B training-related placement outcomes.

SUMMARY OF ETA'S RESPONSE

In its response, ETA agreed with our recommendation to refine the selection criteria for awarding grants that clearly demonstrate career pathways to jobs. ETA also agreed to design a performance management system to capture training related outcomes. ETA did not agree with our recommendation to provide monitoring to ensure future grantees provide training to help participants obtain employment in an H-1B occupation or advance along the career pathway. We included management's response in its entirety in Appendix B.

We appreciate the cooperation ETA extended us during this audit. OIG personnel who made major contributions to this report are listed in Appendix C.



Elliot P. Lewis
Assistant Inspector General for Audit

EXHIBIT 1: ETA'S EVALUATION CRITERIA

Criteria 1: Statement of Need (30 Points)

- Sub-Criteria: Targeted Industries and Occupations (20 Points)
 1. Factor: Clear Identification of the high-growth industries and/or occupations targeted by the project. Applicants must cite evidence that the industry and/or occupation is one that employers currently seek H-1B visas for and/or is an occupation(s) along the career pathway to the occupation or in the relevant industry.
 2. Factor: Clear description of the skills and/or credentials necessary for entry into or retention in the industry/occupation and a clear discussion of the education and training required to attain the competencies, and degrees/credentials required for the targeted high-growth industry or occupations.
 3. Factor: Clear identification of the average, current wages offered in the industry and/or occupation, based on national, state or local data.
 4. Factor: Clear description of the current and future workforce needed by the required employer(s) and/or employer cluster.
 5. Factor: Clear description of evidence that the local or regional employers face a gap in skills of the available workforce and in the training available to the workforce, including a description of the current and future projected demand for employment, including how that demand coincides with the proposed program.
- Sub-Criteria: Targeted Population (10 Points)
 1. Factor: Clear description of the recruitment and selection process for program participants, employed and/or unemployed.
 2. Factor: Clear description of the criteria to be used to assess and enroll individuals for H-1B level education and training and a discussion of the role of the employer partner(s) in the selection, and a determination of whether the selection process might affect the diversity of the program.
 3. Factor: Clear description of methods that will be used to insure that a diverse and inclusive set of program participants will be recruited, identifying specific strategies of outreach to diverse populations that will be used, including the choice of the private or public partner in the proposal, particularly if the selection process might affect achieving a diverse set of program participants.
 4. Factor: Clear description of the prerequisites for the occupational training being proposed; the minimum educational level requirements proposed for trainees; and how these requirements position trainees to enter occupations for which H-1B visas are currently used and/or into the higher-levels of the career pathway

- (not entry-level); including a determination of whether the prerequisites might affect the diversity of program participants.
5. Factor: Clear description of the existing diversity of the workforce, and a clear description of how the proposal will maintain or improve the diversity of the workforce.
 6. Factor: Clear description of the commitment from employers to hire workers who successfully complete the program and the anticipated wages that participants may expect to earn.

Criteria 2: Program Activities and Project Management (45 Points)

Sub-Criteria: Description of Training Strategies (15 Points)

1. Factor: Clearly identify the specific activities to be used in the proposed project, beginning with a description of the On the Job Training (OJT) or the other training strategies and how the selected project will assist workers in gaining the skills and competencies needed to obtain or upgrade employment in high-growth industries and occupations, or along the career pathways for such industries and occupations. Factor: Clearly describe how the applicant and its required partners will develop and implement the career training program(s), and ensure that work begins immediately to deliver training and assistance with job placement to participants.
 2. Factor: Identify the degrees and industry-recognized credentials that will result from the training programs Implemented by the project, or the specific documentation that you will gather from the employer(s) to validate the completion and attainment of the specific skills trainees obtained from training. Describe these credentials or skills in the context of how they fit the specific H-1B occupation or into those along the career pathway. The applicant must include a graphic display of the career pathway along which the skills training will occur.
 3. Factor: Clearly explain how the proposed project will directly address the skills and training gaps identified earlier, allowing eligible participants to obtain employment or advance along the career pathway.
 4. Factor: Clearly explain how the proposed project will help eligible participants to obtain employment or advance along the career pathway following exit from the program, including any activities that will be customized to long-term unemployed workers.
- Sub-Criteria: Program Activities (20 Points)
 1. Factor: Present a coherent and comprehensive program that demonstrates the applicant's complete understanding of all responsibilities and costs required to implement each phase of the project within the timeframe of the grant.

2. Factor: Include feasible timeframes for accomplishing all procurement and other necessary grant start-up activities immediately following the grant start date.
 3. Factor: Include specific timeframes for accomplishing the activities performed during operation.
 4. Factor: Explain how the costs in the proposed project work plan align with the proposed budget, specifically the budget narrative, and are justified as adequate and cost-effective for the resources requested.
- Sub-Criteria: Project Management (10 Points)
 1. Factor: The professional qualifications that the applicant will require of the full-time project manager and demonstrate that these qualifications are sufficient to ensure proper management, including management of partner activities.
 2. Factor: An organizational chart that identifies all relevant leadership, program, administrative, and advisory positions and demonstrates that the project will be implemented through a comprehensive management structure that allows for efficient and effective communication between all levels of the project and across partner organizations.
 3. Factor: A description of the applicant's procurement processes and procedures including a description of the accounting system being used that demonstrates that the applicant is equipped to meet Federal, State (if applicable), and other relevant procurement requirements.
 4. Factor: If the applicant has previously closed down a training program, a description of how the applicant has closed down other training programs, either federally-funded or not, including a description of how effective practices were integrated into general operations, how participants were able to access resources after the training program ended (if at all) or how the applicant secured resources to continue operations with a different funding source.

Criteria 3: Outcomes (25 Points)

- Sub-Criteria: Projected Performance Outcomes (15 Points)

The applicant must provide projections for the entire project and track outcomes quarterly for each of the following outcome categories for all participants served with grant funds. Applicants must present their information in a performance outcomes table to include:

 1. Factor: Total participants served;
 2. Factor: Total participants beginning education/training activities;

3. Factor: Total participants completing education/training activities;
 4. Factor: Total participants who complete education/training activities that receive a degree, or other type of credential;
 5. Factor: Total number of credentials each participant is expected to receive;
 6. Factor: Total participants who complete education/training activities who enter unsubsidized employment.
 7. Factor: Total participants who complete education/training activities who are placed into unsubsidized employment, who retain an employed status in the first and second quarters following Initial placement.
 8. Factor: The average wage that participants will earn at placement into unsubsidized employment.
- Sub-Criteria: Cost per Participant and Ability to Report Outcomes (10 points)
 1. Factor: A description of how the cost per participant proposed through this program aligns with similar training programs that the applicant, a partner or another organization has conducted, including how the costs may be impacted by the characteristics of participants served and the jobs for which they are being trained.
 2. Factor: A description of systems in place for tracking the participant characteristics and services provided to participants, the attainment of skills and the employment outcomes of participants throughout the life of the grant, including a description of how the applicant will collect data on employment outcomes of participants.

EXHIBIT 2: ETA'S PERFORMANCE REPORT

A. GRANTEE IDENTIFYING INFORMATION			
1. Grantee Name:			
2. Grant Number:			
3. Program/Project Name:			
4. Grantee Address:			
City:	State:	Zip Code:	
5. Report Quarter End Date:			
6. Report Due Date:			
	Previous Quarter (A)	Current Quarter (B)	Cumulative Grant-to-Date (C)
B. CUSTOMER SUMMARY INFORMATION			
1. Total Exiters			
2. Total Participants Served			
3. New Participants Served			
C. PARTICIPANT SUMMARY INFORMATION			
Gender	1a. Male		
	1b. Female		
Ethnicity/Race	2a. Hispanic/Latino		
	2b. American Indian or Alaska Native		
	2c. Asian		
	2d. Black or African American		
	2e. Native Hawaiian or Other Pacific Islander		
	2f. White		
	2g. More Than One Race		
Other Demographics	3a. Eligible Veterans		
	3b. Individuals with a Disability		
	3c. Employed Individuals		
	3d. Incumbent Workers		
	3e. Unemployed Individuals		
	3f. Dislocated Workers		
	3g. Long-term Unemployed		

Education Level	4a. High School Graduate or Equivalent			
	4b. 1-4 Years or More of College, or Full-time Technical or Vocational School			
	4c. Associates Diploma or Degree			
	4d. Bachelor's Degree or Equivalent			
	4e. Advanced Degree Beyond Bachelor's			
D. PROGRAM SERVICES				
Training Indicators	1. Number Began Receiving Education/Job Training Activities			
	2. Number Entered On-the-Job Training Activities			
	3a. Number Entered in Classroom Occupational Training Activities			
	3b. Number Entered in Contextualized Training Activities			
	3c. Number Entered in Distance Learning Activities			
	3d. Number Entered in Customized Training Activities			
	3di. Number Entered in Incumbent Worker Training Activities			
	4. Number Completed Education/Job Training Activities			
	5. Number Completed On-the-Job Training Activities			
E. PROGRAM OUTCOMES - PERFORMANCE INDICATORS				
Education Outcomes	1. Number Completed Program Activities and Obtained a Credential			
	2. Total Number of Credentials Received			
Unemployed Worker Outcomes	3. Number Entered Unsubsidized Employment			
	3a. Number Entered Unsubsidized Training-Related Employment			
	3b. Number Retained Employment			

Employed Worker Outcomes	4a. Total Number of Employed Retained Current Position			
	4b. Total Number of Employed that Advanced into New Position			
F. COMMON PERFORMANCE MEASURES				Cumulative 4 Quarters
	1. Entered Employment Rate			
	2. Employment Retention			
	3. Average Earnings			
G. REPORT CERTIFICATION/ADDITIONAL COMMENTS				
<p>1. Report Comments/Narrative: Attach a separate document that provides a discussion of the grant narrative items outlined in the reporting instructions found in the accompanying DOL H-1B Quarterly Performance Handbook.</p>				
2. Name of Grantee Certifying Official/Title:			3. Telephone Number:	
4. Email Address:				
<p>Persons are not required to respond unless this form displays a currently valid OMB number. Obligation to respond is required to obtain or retain benefits (Workforce Investment Act [Section 185(a)(2)]. Public reporting burden for this collection of information, which is to assist with planning and program management and to meet Congressional and statutory requirements, averages 2.66 hours per record, including time to review instructions, search existing data sources, gather and maintain the data needed, and complete and review the collection of information. Send comments regarding this burden estimate to the U.S. Department of Labor, ETA, Room C-4518, 200 Constitution Avenue, NW, Washington, DC 20210-0001</p>				
DOL, ETA Internal User Only				
Additional Comments:				
Regional Federal Project Officer:				
National Program Office:				

APPENDIX A: SCOPE, METHODOLOGY, & CRITERIA

SCOPE

The scope of this audit covered the 79 grantees who were awarded TST grants in November 2011 and April 2012. Our audit covered the period of performance from the grant award until the reporting period June 30, 2016.

We selected 3 grantees for review; Oklahoma Department of Commerce (ODOC), Florida Manufacturing Extension Partnership (FMEP), and Waukesha-Ozaukee-Washington Workforce Inc. (WOW). We performed on-site reviews at ODOC in Oklahoma City, OK and its sub-grantee, Oklahoma State University-Institute of Technology in Okmulgee, OK and WOW Workforce Inc. in Waukesha, WI. We conducted work for FMEP and its sub-grantee TimeWise Inc, through phone conferences and e-mail correspondence. We also conducted work at ETA Regional Offices responsible for these three grantees. We performed an on-site review at ETA's Regional Offices in Dallas, TX, Atlanta, GA and Chicago, IL.

Our universe included 79 grantees, 42 of which provided training in non H-1B occupations. We selected 3 of the 42 grantees to review. The 3 grantees provided training to 1,711 participants. We utilized both statistical and judgmental sampling techniques to select 400 of the 1,711 participants.

The audit team obtained multiple types of evidence to support the audit results including interviews with ETA, grant staff, training providers and participants; review of documentation including the 79 grantees' proposals, participant case files, training policies, ETA's awarding procedures and workbooks, ETA's monitoring policies and reports, e-mails, and grantee databases; and observations of grant staff including data entry for reporting purposes.

METHODOLOGY

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 objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

To answer our objective we obtained an understanding of ETA's grant award and monitoring processes and the training proposed by the TST grantees. We reviewed federal laws and regulations, ETA's TST grant solicitation, and 79

grantees' abstract summaries and training proposals. We interviewed ETA National Office grant staff concerning awarding, monitoring and reporting. We also reviewed ETA's technical assistance documents.

We gained an understanding of ETA's award process for the H-1B TST grant. We interviewed National Office staff and grant specialist. We reviewed their checklist of the entire grant selection process. We reviewed the evaluation guidance and the 3 grantees' rating workbooks.

We gained an understanding of H-1B TST grant monitoring activities at 3 of the 6 ETA Regional Offices. We interviewed Federal Project Officers (FPOs) and supervisors. We reviewed monitoring policies used by the FPOs. We reviewed quarterly desk reviews performed by the FPO for the selected grantees. We reviewed on-site monitoring reports conducted by the FPOs for the selected grantees. We obtained and reviewed all technical assistance provided by the FPOs to the selected grantees.

We performed work at 3 of the 79 grantees and interviewed grant staff, training and employer partners and participants. We reviewed grant agreements, grant modifications, training policies, Memoranda of Understanding with partners, quarterly narrative reports, quarterly performance reports, and quarterly financial reports. We obtained the grantees' database of participants. We selected a sample of participants trained. We reviewed participant case files for the sampled participants, if available, and interviewed the sampled participants or employers.

We obtained Office of Foreign Labor Certification's 2010 H-1B disclosure data from its website to determine the occupations certified for H-1B visas. We compared the certified occupations with the grantees' targeted occupations to determine if the targeted occupations were H-1B occupations. We also used the certified occupations to determine if the participants' on-the-job training and employment was an H-1B occupation.

SAMPLING PLAN

We used a statistical and judgmental sampling approach to test ETA's monitoring of TST grantees and the training provided by the TST grantees. Specifically, we selected a judgmental sample of three grantees that proposed training in H-1B and/or non H-1B occupations to determine what training they provided to their participants. We also selected a statistical sample of participants from two of the three selected grantees and a judgmental sample from the remaining grantee³ to

³ This grantee was out of business during the time of the audit. Since the grantee held training classes based on employers and class sizes varied we judgmentally selected employers in order to efficiently obtain information for the largest number of participants.

determine the training participants received and their outcomes following exit from the program.

RELIABILITY ASSESSMENT

We obtained performance reports for the three grantees and reconciled them to the grantees' performance data. We confirmed our understanding of the grantees' data and ETA's reporting requirements through interviews, walkthroughs, and documentation reviews. We performed multiple analytical tests and completeness checks on the performance reports and identified the data was complete and valid for testing. We traced the sampled participant information back to source documents and did not reveal any unsupported information. We did not rely on any grantee data to support findings, conclusions, or recommendations.

INTERNAL CONTROLS

In planning and performing our audit, we considered ETA's and the three grantees' internal controls relevant to our audit objective by obtaining an understanding of those controls, and assessing control risks for the purpose of achieving our objective. The objective of our audit was not to provide assurance of the internal control; therefore, we did not express an opinion on ETA's and the three grantees' internal controls. Our consideration of internal controls for administering the accountability program would not necessarily disclose all matters that might be significant deficiencies. Because of the inherent limitations on internal controls, or misstatements, noncompliance may occur and not be detected.

CRITERIA

We used the following criteria to perform this audit:

- American Competitiveness and Workforce Improvement Act of 1998
- American Competitiveness in the Twenty-First Century Act of 2000
- Solicitation for Grant Applications, SGA/DFA PY-10-13
- GAO's Standards for Internal Controls in the Federal Government September 2014 and November 1999

APPENDIX B: AGENCY RESPONSE

U.S. Department of Labor

Employment and Training Administration
200 Constitution Avenue, N.W.
Washington, D.C. 20210



SEP 26 2019

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

FROM: JOHN PALLASCH

SUBJECT: Response to Office of Inspector General (OIG) Draft Audit Report
No. 06-19-001-03-391, *ETA Had No Reasonable Assurance That
\$183 Million in H-1B TST Grant Funds Helped Participants Get
H-1B Jobs*

Thank you for the opportunity to respond to the draft audit report related to the H-1B Technical Skills Training (TST) program. The report provides the opportunity for the Employment and Training Administration (ETA) to reflect on how its H-1B funded grants have been designed and implemented, and how they can be improved.

In reviewing the draft audit report from OIG, it is apparent that ETA did not fully convey its expectations for preparing workers for high-growth jobs and targeted sectors to align with Section 414(c) of the American Competitiveness and Workforce Improvement Act (ACWIA) of 1998 (codified at 29 USC § 3224a). ETA commits to working with OIG to ensure that its solicitations reflect the legislative authority to train American workers for in-demand occupations within targeted industry sectors.

H-1B Occupations and Industries under ACWIA

Section 414(c) of ACWIA requires the Department to use funds generated by the H-1B program¹ for demonstration programs or projects to provide technical skills training for workers, including both employed and unemployed workers. As specified in 29 USC § 3224a(2)(A), H-1B funds “may be used to provide job training services and related activities that are designed to assist workers (including unemployed and employed workers) in gaining the skills and competencies needed to obtain or upgrade career ladder employment positions in the industries and economic sectors identified pursuant to paragraph (4),” which states:

High growth industries and economic sectors
For purposes of this section, the Secretary of Labor, in consultation with State workforce

¹ 8 USC § 1356(s)(2) requires that 50 percent of amounts deposited into the H-1B Nonimmigrant Petitioner Account remain available to the Secretary of Labor until expended for demonstration programs and projects described in section 3224a of Title 29.

investment boards, shall identify industries and economic sectors that are projected to experience significant growth, taking into account appropriate factors, such as the industries and sectors that—

(A) are projected to add substantial numbers of new jobs to the economy;

(B) are being transformed by technology and innovation requiring new skill sets for workers;

(C) are new and emerging businesses that are projected to grow; or

(D) have a significant impact on the economy overall or on the growth of other industries and economic sectors.

For each solicitation, applicants are asked to provide evidence that they are designing their programs to support occupations and industries that fall within the broad categories above. The H-1B training grants may be used to provide low-skilled participants with entry-level training that gives them the skills needed to eventually be employed in middle- to high-skilled positions.

ETA's Responses to OIG's Recommendations

OIG made the following recommendations based on its review of ETA's grant award processes, oversight and performance measurement. It came to these conclusions by reviewing a sample of three grantees out of a total of 79, and drawing a sample of 400 participants out of the 87,000 individuals served by the program. While OIG did review training plans for all 79, it applied the information gleaned from its limited review to the entire program.

OIG Recommendation 1: A policy to ensure future H-1B training grants are evaluated and awarded on applicants clearly demonstrate in their career pathways and proposals how participants will transition from the training into H-1B occupations.

ETA Response: ETA agrees with this recommendation and has worked to refine the selection criteria for awarding grants that clearly demonstrate career pathways to jobs within in-demand or high-growth jobs within targeted sectors. More than one-half of the evaluation factors contained in the solicitation reflected an emphasis on H-1B industries and occupations. However, while ETA placed an emphasis on H-1B industries and occupations within the TST scoring criteria, it did not provide panelists specific guidance that connected the information that applicants conveyed in their project narratives to the scoring criteria. ETA has already made improvements in the precision of its scoring factors in its most recent Funding Opportunity Announcements (FOA) by assigning point values to all scoring factors within each of the scoring sections.

OIG Recommendation 2: Monitoring procedures to ensure future H-1B training grantees provide the proposed training to help participants obtain employment in an H-1B occupation or advance along the career pathway.

ETA Response: ETA does not agree with this recommendation for two reasons. First, ETA already has a core monitoring guide that its Federal Project Officers use to monitor all ETA's grant recipients. H-1B funded training programs are by their nature demonstration grants and change program design with each FOA. ETA has worked to standardize the monitoring of all

ETA-administered grants and it would not be an effective or efficient use of resources to develop specific monitoring guides for each individual H-1B grant program.

Second, the TST grants were monitored using ETA's core monitoring guide in accordance with ETA standard operating procedures for monitoring. Part of the monitoring process is ensuring that the grant recipient is providing training and is otherwise operating in a manner that is consistent with what was published in the FOA and what the grant recipient proposed in response to the FOA. Thus, ETA monitored the TST grant recipients according to these standards and the training discussed in their grant awards.

OIG Recommendation 3: Performance measures that require future H-1B training grantees to report H-1B related training and H-1B training-related placement outcomes.

ETA Response: ETA agrees with this recommendation and has designed performance management systems to capture these outcomes. ETA required TST grant recipients to provide projections for the entire project and track outcomes quarterly for each of the following outcome categories for all participants served with grant funds:

- Total participants served;
- Total participants beginning education/training activities;
- Total participants completing education/training activities;
- Total participants who complete education/training activities who receive a degree, or other type of credential;
- Total number of credentials each participant is expected to receive;
- Total participants who complete education/training activities who enter unsubsidized employment;
- Total participants who complete education/training activities who are placed into unsubsidized employment, who retain an employed status in the first and second quarters following initial placement; and
- The average wage that participants will earn at placement into unsubsidized employment.

The draft audit report asserts on page 9 that "ETA could not determine if the 87,000 [participants] received training in H-1B or non H-1B occupation [sic]" However, ETA maintains that the TST performance data accurately reflect that participants received training in either H-1B occupations or occupations that are along a career ladder leading to an H-1B occupation as allowed by ACWIA.

Regarding the statement on page 9 of the draft audit report that ETA's performance measures for the TST program did not identify the types of jobs participants obtained after training, ETA acknowledges that there was no specific performance outcome measure that captured the specific occupations participants entered into after training. However, as noted in the draft audit report, grant recipients were required to track and report "training-related employment" outcomes. This measure indicated whether, after training program completion, the participant entered employment that used a substantial portion of the skills taught in the training received by the individual. As the intent of the TST grants was to "assist workers in gaining the skills and competencies needed to obtain or upgrade employment in high growth industries and

occupations, or along the career pathways for such industries and occupations,” ETA believes this “training-related employment” measure more accurately reflects grant outcomes.

ETA appreciates the opportunity to respond to your draft audit report and its recommendations. In addition, ETA looks forward to working with OIG to continue to refine its FOAs that use H-1B funding to train individuals along career pathways to attain high-growth, middle- to high-skilled jobs within targeted sectors all defined in the statutory language. If you have questions, please contact Kim Vitelli, Acting Administrator, Office of Workforce Investment, at 202-693-3639.

APPENDIX C: ACKNOWLEDGEMENTS

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