



May 28, 2021

MEMORANDUM FOR: SUZAN G. LEVINE
Principal Deputy Assistant Secretary
for Employment and Training

Carolyn R. Hantz

FROM: CAROLYN R. HANTZ
Assistant Inspector General
for Audit

SUBJECT: Review of Appropriated Funds to Administer the
Industry-Recognized Apprenticeship Program
Report No. 22-21-006-03-375

The purpose of this memo is to communicate the results of a matter reviewed during the financial statement audit conducted by KPMG LLP, as contractors of the Office of Inspector General (OIG), regarding concerns raised by Congress on the Department of Labor, Employment and Training Administration's (ETA) use of appropriated funds for Industry-Recognized Apprenticeship Program (IRAP) activity.

On November 20, 2019, ETA's former Assistant Secretary disclosed in a Congressional inquiry the possible misapplication of ETA's Training and Employment Services (TES) appropriated funds in direct support of activities related to the IRAP, and the corrective action taken by ETA. TES funds were appropriated to expand opportunities related to the Registered Apprenticeship program. As IRAP is not considered a Registered Apprenticeship program, any activity that was done or created to carry out the functions and purpose of IRAP could not be funded from this appropriation. The testimony delivered by ETA's former Assistant Secretary followed Congressional letters raising concerns with regards to the use of appropriated funds for IRAP activities.

Based on the results of our review, we found that ETA had initially used TES appropriated funds for certain IRAP activities and, after identifying the misapplication of those funds, subsequently corrected the funding source to Program Administration funds. Furthermore, no information came to our attention that would indicate ETA improperly used Program Administration appropriated

funds in 2018 and 2019 to administer IRAP activities. We noted that absent appropriations language designating the funds for a specific purpose or program, ETA may exercise discretion in allocating them to expenses related to the administration of its employment and training programs, such as IRAP.

Background

The National Apprenticeship Act of 1937 authorized the Secretary of Labor to:

- 1) formulate labor standards to safeguard the welfare of apprentices and to encourage their inclusion in apprenticeship contracts;
- 2) bring together employers and labor for the formulation of programs of apprentices; and
- 3) cooperate with state agencies engaged in the formulation and promotion of standards of apprenticeship.

Under this authority, the Office of Apprenticeship established a process for the recognition of qualified third-party entities, known as Standards Recognition Entities (SREs) to evaluate and recognize IRAPs. IRAPs, established under Executive Order 13801¹, are high-quality apprenticeship programs that provide individuals with opportunities to obtain workplace-relevant knowledge and progressively advancing skills.

In 2018, Congress appropriated \$145 million to apprenticeship programs registered under the National Apprenticeship Act. These funds are specifically allocated for Registered Apprenticeship programs. As IRAP is not a Registered Apprenticeship program, any activity that is done or created to carry out the functions and purpose of IRAP could not be funded from this appropriation.

Congress later appropriated an additional \$109 million for program administration, i.e., for expenses of administering employment and training programs. Congress did not restrict or designate a specific purpose as to how ETA could use the funds. Because the language of this line item does not mention a specific purpose, the agency has some discretion on how to use this appropriation.

On February 17, 2021, DOL announced it was suspending its acceptance and review of new or pending applications for SREs in the IRAP due to Executive Order 14016. This order revoked Executive Order 13801 and directed agencies, including DOL, to take steps to rescind any orders, rules, regulations, guidelines, or policies implementing or enforcing that order, which included IRAPs.

OIG Analysis of Concerns

¹ Executive Order 13801, Expanding Apprenticeships in America, issued on June 15, 2017

The OIG, with the assistance of KPMG, performed certain inquiries and procedures to address the Congressional inquiry into whether ETA properly used appropriated funds for IRAP activity. The OIG and KPMG met with representatives from ETA management and their Office of Solicitor representative to discuss those IRAP expenditures that had been identified as inappropriately funded using TES funds. ETA management indicated that around February 2019, they became aware of certain expenditures that were potentially associated with IRAP and were incorrectly recorded against TES funds. Management initially identified one contract it believed was linked to these expenditures. Management assessed the contract and identified \$480,000 in IRAP expenditures incorrectly charged to TES funds. In July 2019, management corrected the funding code to instead draw the funds from Program Administration.

In August 2019, ETA management identified two additional contracts with potential TES-funded IRAP expenditures. As a result, management established a working group consisting of members within ETA to review all potential TES-funded IRAP expenditures on the three identified contracts and assess each expenditure to determine its appropriate funding source.

In September 2019, ETA completed its assessment and documented the results in an apprenticeship deliverable tracking document. ETA's assessment identified an additional \$634,590 for a total of \$1,114,590 in expenditures that should have been charged to Program Administration funds instead of TES funds. Management indicated that the funding source for the additional expenditures was corrected in September 2019.

Following a November 2019 meeting with ETA to obtain an understanding of the actions it had taken, KPMG requested the supporting documentation related to the funding corrections from ETA. They also obtained and reviewed ETA's apprenticeship deliverable tracking document, which contained the name of the deliverables associated with the three examined contracts, a description of each deliverable, and the associated expenditure of each deliverable. It also included the purpose of each deliverable and the related justification, which was used to determine what percentage of each deliverable related to IRAP. The percentages were then applied to the expenditure for each deliverable to determine the total amount of expenditures to adjust from TES to Program Administration. KPMG recalculated the percentages applied to each deliverable's expenditure and summed the total expenditures allocated to IRAP, calculated for each deliverable under each contract. The tracking document identified IRAP expenditures totaling \$1,114,590 that were required to be adjusted from TES to Program Administration. Moreover, KPMG obtained the contract modification documents created to correct the funding source on the three identified contracts, and verified the modifications adjusted the funding source to Program Administration.

according to the correct amounts indicated in the apprenticeship deliverable tracker document.

Use of Program Administration Funds for IRAP

In addition to the procedures performed above, we reviewed the appropriation language to determine whether ETA had inappropriately used Program Administration funds to administer IRAP-related activities. We concluded that ETA's use of Program Administration funds was appropriate for their administration of IRAP activities. Specifically, the Consolidated Appropriations Act, 2018, appropriates Program Administration funds for the expenses of administering employment and training programs. Congress does not further restrict ETA's authority to allocate these funds. Absent appropriations language specifically designating the funds for a specific purpose or program, ETA may exercise discretion in allocating them to expenses related to the administration of ETA employment and training programs.

Applying applicable law and the Government Accountability Office precedent, the allocation of the Program Administration funds would be at the agency's discretion. IRAP is one of many programs that ETA administers. Any expenditure that resulted from the administration of IRAP would constitute proper usage of the Program Administrative funds, according to the Consolidated Appropriations Act, 2018. For example, ETA applied funds from Program Administration to pay its contract vendors for work that established IRAP. This is an appropriate use as the purpose of creating and establishing the program is an ETA expense for administering one of its programs. Accordingly, ETA did not inappropriately use Program Administration funds when using the funding to cover IRAP expenses².

Conclusion

Based on the results of our review, we found that ETA had initially funded certain IRAP activities with TES appropriated funds and, after identifying the misapplication of those funds, subsequently corrected the funding source to Program Administration funds. Furthermore, no information came to our attention that would indicate ETA had improperly used Program Administration appropriated funds in 2018 and 2019 to administer IRAP activities. We noted that absent appropriations language designating the funds for a specific purpose or program, ETA may exercise discretion in allocating them to expenses related to the administration of its employment and training programs such as IRAP.

cc: Nancy Rooney, Deputy Assistant Secretary for Employment and Training

John Ladd, Administrator for Office of Apprenticeship, ETA

² In March 2021, ETA disclosed in a congressional report that it had spent approximately \$4.3 million of Program Administration funds to implement IRAP during fiscal years 2018, 2019, and 2020.

Kevin Brown, Deputy Chief Financial Officer

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