

U.S. Department of Labor

Office of Inspector General—Office of Audit

**EMPLOYMENT AND TRAINING
ADMINISTRATION**



AUDIT OF THE TEXAS NATIONAL EMERGENCY GRANT

Date Issued: September 28, 2007
Report Number: 04-07-007-03-390

**U.S. Department of Labor
Office of Inspector General
Office of Audit**

BRIEFLY...

Highlights of Report Number: 04-07-007-03 390, to the Assistant Secretary for Employment and Training.

WHY READ THE REPORT

In August and September, 2005, Hurricanes Katrina and Rita hit the Louisiana, Mississippi and Texas coasts. These storms caused estimated losses of more than \$100 billion. In response, President Bush declared a major disaster for each of these States under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act.

To assist in the recovery efforts, the Employment and Training Administration awarded the Texas Workforce Commission (TWC) a \$75 million National Emergency Grant (NEG). The purpose of the NEG grant was to create temporary jobs to assist in disaster cleanup and restoration efforts, and to provide training opportunities that might lead to permanent employment.

WHY OIG DID THE AUDIT

The OIG conducted a performance audit to ensure that the TWC spent NEG funds in accordance with Federal requirements, and reported NEG activities and outcomes accurately. Our audit covered expenditures of \$20,924,190 and NEG activities and outcomes as of March 2006.

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/2007/04-07-007-03-390.pdf>

September 2007

Audit of the Texas National Emergency Grant

WHAT OIG FOUND

OIG found that with few exceptions, Texas spent its NEG funds in accordance with Federal requirements.

However, TWC did not report activities and outcomes accurately.

- Forty-eight percent of tested participants were not enrolled in the NEG program.
- Thirty-seven percent of participants who had exited the program or should have exited the program were not reported as having exited.
- Program eligibility was not sufficiently documented for 63 percent of tested participants. Additionally, local boards failed to document their decision to provide intensive services as required by program regulations.

WHAT OIG RECOMMENDED

We recommended that the Assistant Secretary for Employment and Training ensure that TWC:

- Not report individuals as participants for whom an eligibility determination has not been made or who only received self-help services through the WorkInTexas.com system.
- Report NEG program exits consistent with Federal policies and procedures.
- Adequately document participant eligibility and decisions to provide intensive services.

In response to the draft report, TWC stated that it believes the report does not adequately portray the scale of the statewide disasters. TWC also stated that it believes it properly reported the number of NEG program participants.

Table of Contents

EXECUTIVE SUMMARY	3
ASSISTANT INSPECTOR GENERAL'S REPORT	7
Tested grant expenditures were allowable, reasonable, allocable, and accurately reported	8
TWC did not report National Emergency Grant activities and outcomes accurately	8
EXHIBIT	19
A. Performance Test Results by Sample Type	21
APPENDICES	23
A. Background	245
B. Objectives, Scope, Methodology, and Criteria	29
C. Acronyms and Abbreviations	33
D. Auditee's Response	35

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Executive Summary

The Office of the Inspector General conducted a performance audit of the \$75 million National Emergency Grant (NEG) awarded to the Texas Workforce Commission (TWC) to assist individuals affected by hurricanes Katrina or Rita. The grant's period of performance was August 29, 2005 through August 31, 2007. The audit covered grant expenditures and performance results from September 1, 2005, through March 31, 2006.

Traditionally, disaster grants provide a variety of services to eligible individuals, including the temporary employment of individuals to help provide humanitarian assistance and to work on projects that perform cleaning, repair and renovation of facilities and lands located in the disaster area. The grant awarded to Texas in response to Hurricane Katrina and Rita was different, as it was intended to serve hurricane victims from Texas and evacuees from Louisiana, Mississippi and Alabama.

Our overall objectives were to answer the following questions:

- Were the NEG expenditures allowable, reasonable, allocable, and reported accurately?
- Were the NEG activities and outcomes reported accurately?

Results

On August 29, 2005, Hurricane Katrina made landfall along the Gulf Coast of the United States. Katrina was one of the deadliest and costliest natural disasters in U. S. history. Hundreds of thousands of residents of southern Louisiana and Mississippi were left unemployed. Many thousands of refugees were evacuated to Texas.

Despite the large number of evacuees relocated to Texas and in need of emergency assistance, we found that, with few exceptions, tested grant expenditures were allowable, reasonable, properly allocated and accurately reported.

TWC did not report NEG activities and outcomes accurately. Performance results were frequently overstated, understated, or not supported by adequate documentation.

- Forty-eight percent (57 of 120) of tested individuals who were reported as participants were not enrolled in the program. We found no evidence that these individuals' eligibility had been assessed. In most instances, they received nothing more than self-help services that are universally available through the Wagner-Peyser funded WorkInTexas.com employment services

- system. Additionally, two other participants were ineligible for the program because they failed to register for selective service.

TWC officials stated that they requested guidance from the Employment and Training Administration (ETA) regarding technical specifications for program reporting in April 2006, but did not receive guidance until December 2006 that excluded WorkInTexas.com self-service customers from the definition of an NEG participant. The self-service customers will now be reported in the comment field.

- Thirty-seven percent (29 of 78) of participants who had exited or who should have been exited from the program were not reported as having exited or continued to be enrolled past their required exit date.
- Program eligibility was not sufficiently documented for 63 percent (75 of 120) of tested participants. Additionally, local board officials failed to document their decision to provide intensive services to 52 percent (29 of 56) of those participants reported as having received intensive services, as required by 20 Code of Federal Regulations (CFR), section 663.160(b).

Given ETA's guidance regarding NEG grantees' initial determinations of eligibility to participate in NEG programs, and its assurance that costs would not be disallowed for individuals subsequently determined to be ineligible (Training and Employment Guidance Letter No. 16-03, Change 3), we have not questioned costs related to ineligible participants.

Auditee Response

In its response to the draft report, the TWC expressed concern that the Executive Summary of OIG's audit report does not adequately portray the scale of the statewide disasters.

TWC disputes that they improperly included self-service individuals in the participant count. Additionally, TWC claims that they never claimed that the WorkInTexas.com self-service participants were ever determined eligible or enrolled. TWC stated that, by virtue of including these individuals in the NEG participant counts, it was asserting that these individuals were hurricane-affected and received NEG-funded one-stop services.

OIG Conclusion

The OIG recognizes the scale of the state-wide disasters and acknowledges TWC's significant role in responding to the needs of the tens of thousands of individuals who sought their services.

We disagree with TWC's statement that it properly reported the number of individuals enrolled in the NEG program. The NEG program is a specially funded program under the Workforce Investment Act, and program participants must meet certain criteria to be enrolled. TWC acknowledges in their response that they never asserted that these individuals were determined eligible or enrolled. Counting all individuals who received any services from TWC as NEG program participants overstates the level of services these individuals received. Further, excluding these individuals from the NEG participant count would not have denied those individuals any services that they received or were entitled to receive.

Recommendations

We recommend that the Assistant Secretary for Employment and Training ensure that TWC:

1. Not report as NEG participants individuals for whom an eligibility determination has not been made or individuals who only receive self-help services through the Wagner-Peyser funded WorkInTexas.com system.
2. Verify that local workforce boards comply with WIA Section 189(h), which requires the registration of certain individuals for selective service.
3. Report NEG program exits consistent with Federal policies as described in TEGL 17-05 and the Quarterly Progress Report Definitions of Performance Factors.
4. Comply with TEGL No. 16-03, Change No. 3, 5.b., regarding documentation of participant eligibility.
5. Adhere to 20 CFR, section 663.160(b), which requires program staff to document their decision to provide intensive services.

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U.S. Department of Labor

Office of Inspector General
Washington, DC 20210



Assistant Inspector General's Report

Ms. Emily Stover DeRocco
Assistant Secretary for Employment and Training
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200 Constitution Avenue, N.W.
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We conducted a performance audit of the National Emergency Grant (NEG), grant number EM-15072-05-60, awarded to the Texas Workforce Commission (TWC). The Employment and Training Administration (ETA) awarded the \$75 million grant to help TWC serve victims of hurricanes Katrina and Rita during the period August 29, 2005 through August 31, 2007. The funds provided short-term disaster relief employment; adjustment assistance that included core, intensive and training services; and supportive services as determined necessary.

Our audit covered the period September 1, 2005, through March 31, 2006. Our audit objectives were to answer the following questions:

- Were the NEG expenditures allowable, reasonable, allocable, and reported accurately?
- Were the NEG activities and outcomes reported accurately?

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

Objective 1 – Were the NEG Expenditures Allowable, Reasonable, Allocable, and Reported Accurately?

Results

On August 29, 2005, Hurricane Katrina made landfall along the Gulf Coast of the United States. The effects of Katrina were catastrophic and widespread. It was one of the deadliest and costliest natural disasters in U. S. history. Hundreds of thousands of residents of southern Louisiana and Mississippi were left unemployed. Many thousands of refugees were evacuated to Texas.

As of March 31, 2006, TWC reported total NEG expenditures of \$51,951,362. These expenditures were made at the grantee level and at all 28 of the State's Local Workforce Development Areas (WDA). We selected and tested transactions at four locations, including the TWC administrative offices and the following three WDAs: Capital Area, Gulf Coast, and East Texas. The four locations we visited had combined reported expenditures of \$20,924,190. We tested 223 transactions with combined expenditures of \$9,377,350, or 18 percent of total reported expenditures.

Given the large number of evacuees to Texas in need of emergency assistance, we found that, overall, TWC spent its NEG funds in accordance with Federal requirements. Tested grant expenditures were found to be allowable, reasonable, properly allocated and accurately reported.

Objective 2 – Were NEG Activities and Outcomes Reported Accurately

Results and Findings

TWC did not report NEG activities and outcomes accurately. Cumulative performance results for the quarter ending March 31, 2006, were overstated, understated, or not supported by adequate documentation.

NEG recipients are required to report cumulative financial and performance information using the ETA 9104 Quarterly Report Form (Quarterly Report). TWC provided us with two versions of the Quarterly Report for the quarter ended March 31, 2006. The initial version reported a total of 42,114 participants and the subsequent report revised this number to 61,397.

Because there was such a large increase in the number of participants reported on the revised Quarterly Report, we selected one sample of participants from the universe of participants who were included on both the initial and revised Quarterly Reports and a second sample from the universe of participants who were unique to the revised report. We randomly selected 60 participants from each of these universes and tested their

eligibility and the accuracy of the performance results reported for each participant. The results of our tests are summarized below and by sample type at the Exhibit found on page 13 of the report. We found reported performance was:

- overstated, as to the number of enrollments, because 48 percent (57 of 120) of tested individuals who were reported as participants were not enrolled in the program. We found no evidence these individuals' eligibility had been assessed, and in most instances, they did not receive any services beyond Wagner-Peyser funded self-help employment services. Additionally, two other participants were ineligible for the program because they failed to register for selective service.
- understated, as to the number of exiters, because 37 percent (29 of 78) of the tested participants who were exited or should have exited from the program were not reported as having exited on the Quarterly Report, or continued to be enrolled past their required exit date.
- not supported because program eligibility was not sufficiently documented for 63 percent (75 of 120) of tested participants. Further, the receipt of intensive services was not supported for 52 percent (29 of 56) of those tested participants who were reported as having received those services.

TEGL No. 16-03, Change 3, Paragraph 5.b, "Expanded Eligibility for Disaster Relief Employment," states the following:

Documentation of Participant Eligibility. In view of the catastrophic nature of Hurricane Katrina, many individuals will not have the documentation necessary for a determination of eligibility to participate in the program. Other ways should be used to document eligibility such as self-certification or unemployment insurance (UI) or disaster unemployment assistance (DUA) information provided by partner programs. . . . The grantee must have systems in place to review eligibility determinations once the project has begun to operate more routinely and needed documentation becomes more readily available. If such systems are in place and the grantee subsequently identifies individuals who were not eligible to participate as a result of the review, costs incurred prior to the determination will not be disallowed.

Given ETA's guidance regarding NEG grantees' initial determinations of eligibility to participate in NEG programs, and its assurance that costs would not be disallowed for individuals subsequently determined to be ineligible, we did not question costs related to ineligible participants.

Reported Enrollments Were Overstated

The TWC incorrectly reported individuals (57 of 120 tested) as program participants. We found no evidence that TWC had assessed the eligibility of these 57 individuals. Additionally, we found no evidence that 50 of the 57 individuals received any services beyond self-help employment services that were universally available.

Fifty-six of 60 individuals we tested from the universe of participants uniquely reported on the revised Quarterly Report were not enrolled in the NEG program. Their eligibility for the program was not assessed and TWC provided no evidence that most of the individuals received any services beyond the Wagner-Peyser funded self-help employment services available to anyone seeking those services. One participant was enrolled in the Workforce Investment Act (WIA) Youth Program but not the NEG program.

ETA's NEG application procedures were published in Federal Register Part V (Vol. 69, No. 81). Part VII(C) of those procedures instructs grant recipients to submit a Quarterly Report Form (ETA 9104) on actual performance to date. This form includes the total number of program participants.

WIA, Title I, Subtitle A, Section 101(34), defines a program participant as an individual who has been determined eligible and is receiving services under a program authorized under Title I of WIA.

The Flexibility for Displaced Workers Act authorized special rules for NEGs related to Gulf of Mexico hurricanes in calendar year 2005.¹ These special rules include expanded eligibility as described at Public Law 109-72, section 2(b). Eligible participants include those:

- individuals who had been temporarily or permanently dislocated from their jobs as a result of the disaster;
- the long-term unemployed; and
- eligible dislocated workers as defined by WIA section 101(9). This definition generally includes those who have been terminated or laid off, the unemployed who were formerly self-employed, and displaced homemakers.

¹ The Flexibility for Displaced Workers Act was initially passed to aid victims of Hurricane Katrina, but it was later amended by Public Law 109-148, Section 5012, to include all Gulf of Mexico hurricanes in calendar year 2005.

Subsequent to hurricanes Katrina and Rita, the TWC devised special methods to identify participants who were adversely impacted by either or both hurricanes. Initially, the participants' names were entered into The Workforce Investment System of Texas (TWIST) with a "KAT" identifier added to their names. Later, job seekers were allowed to identify themselves as Hurricane Katrina or Hurricane Rita evacuees when they registered. If the job seeker identified himself/herself as an evacuee, a capital letter "H" was then displayed on the job seeker's home page. TWC used the hurricane evacuee flag to identify and count individuals as NEG participants. However, TWC provided no evidence that the individuals who registered themselves in the Wagner-Peyser funded WorkInTexas.com (WIT) system met with One-Stop staff, received an eligibility determination, or received any services funded by the NEG grant. Section 6.A.2 of Training and Employment Guidance Letter (TEGL) 17-05, Common Measures Policy for the Employment and Training Administration's (ETA) Performance Accountability System and Related Performance Issues, directs that individuals who receive core services in a self-service, facilitated self-help, or staff-assisted modality funded by the Wagner-Peyser Act are to be included in the Wagner-Peyser performance accountability system, but not under WIA.

In addition to the individuals that TWC should not have reported as program participants, we found two participants who should not have been enrolled because they failed to register for selective service. In each case, the participant's file documented that the person had not registered for selective service. Yet, in each instance, the person was enrolled in the program.

WIA Section 189(h) states in part:

The Secretary shall ensure that each individual participating in any program or activity established under this title, or receiving any assistance or benefit under this title, has not violated section 3 of the Military Selective Service Act (50 U.S.C. App. 453) by not presenting and submitting to registration as required pursuant to such section....

We did not examine a statistically valid sample of the participant universe; therefore, we could not accurately estimate TWC's overstatement of the participant count. However, our test results from those unique to the revised Quarterly Report (93 percent not enrolled) indicate that most of the individuals from that group were incorrectly included in the participant count.

TWC officials, in their response to our Statement of Facts (SOF), stated:

On April 7, 2006, TWC requested technical specifications for 9104 Quarterly Performance Report (QPR) reporting categories in order to

ensure proper reporting. TWC also noted that reporting under the NEG is inconsistent with the reporting requirements under TEGL 17-05...On December 3, 2006, TWC received clarification on the definition of a NEG participant that excluded WorkInTexas.com self-service only customers. As a result of the clarification, TWC has revised 9104 QPRs and WorkinTexas.com self-service only customers have been removed from the NEG participant count....

TWC supplied us with a revised participant count after accepting ETA's definition of a NEG participant. The cumulative participant count for the quarter ended March 31, 2006, was revised from 61,397 to 53,835. We did not perform any tests to assess the accuracy of this later number; however, TWC stated it has removed from that number the participants who only received self-help services through WIT, which would more accurately reflect program participation.

The material overstatement of program participants included on the Quarterly Report has two consequences: (1) the reported performance data, including all performance activities and outcomes, cannot be relied upon; and (2) the Quarterly Report has materially overstated the number of program participants. The lack of reliable performance data hampers ETA's ability to evaluate Texas's need for additional grant funds and the impact that expended grant funds have had.

Exiters Were Understated

From our sample of 120 participants, we identified 78 exiters. However, TWC reported only 49 of the participants as having exited the program. The TWC failed to report 37 percent (29 of 78) of participants who had or should have been exited from the program as of March 31, 2006. We reviewed documentation for the 120 participants we tested and found that 78 of these participants had been exited from the program by program staff or should have been exited because they had received no documented services for a period of at least 90 days.

A WIA program exit is defined at TEGL 17-05, 6.B.1, as occurring when a "...participant has not received a service funded by the program or funded by a partner program for 90 consecutive calendar days, and is not scheduled for future services. The exit date is the last date of service."

The Quarterly Progress Report Definitions of Performance Factors, which ETA provided to TWC shortly after the NEG was awarded, was even more restrictive in its description of who should be counted as a program exit. The definition states in part:

...This will include non-positive terminations, those who enter employment within the grant period...and those who have received services through the NEG and have been transferred to other funding sources....

TWC agreed that 22 of 29 participants should have been exited but were not counted in the exit file for the quarter ended March 31, 2006. TWC stated that it is working to identify the source of the error that caused these participants to be excluded from the exit file for the quarter ending March 31, 2006.

For 7 of the 29 participants that we found should have been exited from the program, TWC officials stated that the participants received a qualifying service within 90 days of the exit date listed in the TWIST and, therefore, were properly reported in the March 31, 2006, Quarterly Report. We did not find evidence to support that these participants received any qualifying services beyond what we initially found. In fact, we found a number of instances where participants were enrolled in September 2005 or October 2005, and for whom there was no documentation of services beyond the date of their initial enrollment, yet who still remained enrolled as of March 31, 2006.

By not exiting program participants timely, the TWC understated the number of program exits while overstating the number of participants who were actively receiving program services. As with the overstated participant enrollments, the failure to timely exit participants could mislead ETA officials regarding resource requirements of the State of Texas and the various local workforce development areas within the State.

Performance Results Were Not Supported by Documentation

The TWC could not support the eligibility for 63 percent (75 of 120) of the participants we tested from the universe of participants reported on both the original and revised Quarterly Reports for March 31, 2006. For the sample selected from TWC's revised March 31, 2006, Quarterly Report, TWC could not support the eligibility for 93 percent (56 of 60) of the participants we tested.

The lack of documentation was the result of a variety of circumstances:

- 57 participants (56 from the revised sample) were not enrolled in the NEG program. We found no evidence that an eligibility determination had been made for these participants or that most had received any services beyond self-help employment services;
- 16 participants were enrolled in the NEG program but we did not find independent documentation or self-certification forms to support the participants' eligibility; and
- 2 participants' eligibility was supported only with a signed self-certification document without further verification by TWC.

In October 2005, ETA issued TEGL No. 16-03, Change No. 3, National Emergency Grant (NEG) Policy Guidance – Use of NEG Funds to Support Disaster Relief Employment and Training Assistance for Individuals Impacted by Hurricane Katrina.

Section 5.b, includes guidance for the documentation of participant eligibility, which states in part:

...Other ways should be used to document eligibility such as self-certification or unemployment insurance (UI) or disaster unemployment assistance (DUA) information provided by partner programs...The grantee must have systems in place to review eligibility determinations once the project has begun to operate more routinely and needed documentation becomes more readily available. If such systems are in place and the grantee subsequently identifies individuals who were not eligible to participate as a result of the review, costs incurred prior to the determination will not be disallowed.

TWC agreed that eligibility was not documented for most of the 75 individuals we identified as lacking eligibility documentation. Their response to our Statement of Facts stated in part:

TWC **agrees** that 19 participants' eligibility may not have been supported, based upon the documentation reviewed....

TWC **agrees** 50 participants' eligibility may not have been supported. However, all 50 participants were WorkinTexas.com self-service only customers who have been removed from the revised 9104 QPRs.

TWC officials disagree that the remaining 6 participants' eligibility was not supported. Their justifications for why these participants were eligible vary from the participant having signed a self-certification document to the local office having verified the participant's selective service registration, which is an eligibility requirement for those males required by law to register for Selective Service.

We disagree that a signed self-certification document or verification of a participant's registration with selective service without documentary evidence of eligibility, either provided by the participant or through independent verification, is sufficient evidence that a participant is program eligible.

In addition to the participants whose eligibility was not supported, we also found reported intensive services were not adequately documented. The receipt of intensive

services, in the form of Job Search Enhanced², was not supported in 52 percent (29 of 56) of the instances where participants were reported as having received intensive services.

As required by 20 Code of Federal Regulations (CFR), Section 663.160(b), program personnel are required to document the need for intensive services in the participant's case file using the initial assessment or through the individual's inability to obtain employment through the core services provided.

The TWC responded to this issue by stating that "...all participants received Job Search (service code 12)...using the Job Search service code to document receipt of intensive services is consistent with TWC policy."

We did not find that TWC's stated policy to support Job Search services by entering the service code in TWIST was consistent with program regulations, nor do we believe that this practice sufficiently supports that any service was actually provided, what such service(s) may have been, or the outcome of providing the service(s).

TWC's inability to document eligibility and services for such a large number of the individuals we tested casts doubt on all of the performance data reported on the Quarterly Report. TWC reported the 120 individuals in our sample as eligible program participants. This was done without documentation to support that nearly two-thirds of these individuals were eligible for program services.

Agency Response

The Texas Workforce Commission (TWC) expressed its concern that the Executive Summary of OIG's audit report does not adequately portray the scale of these state-wide disasters.

TWC disputes that its inclusion of participants who self-served or received informational services under the NEG is not an over-statement of the numbers of participants served. The TWC further states that OIG's report, as currently written, turns its back on the thousands of impacted individuals desperate for NEG assistance for which they are legally entitled.

TWC further stated that they promoted the WorkInTexas.com system and that it yielded a significant number of job postings. They believe that the large number of self-help customers reflects the success of this effort. The WorkInTexas.com system was even modified to allow TWC to track participants who received services.

² Job Search Enhanced is described as all services that are designed to assist individuals in developing or enhancing their employment-seeking skills. This assistance can be provided through individual or group activities that are designed to help the participant secure immediate employment.

TWC claims that they never asserted that WorkInTexas.com self-service-only participants were determined eligible and enrolled in the NEG program. TWC stated that, by virtue of including these individuals in the NEG participant counts, it was asserting that these individuals were hurricane-affected and received NEG-funded one-stop services.

OIG Conclusion

The OIG recognizes the scale of the state-wide disasters and acknowledges TWC's significant role in serving the needs of the tens of thousands of individuals affected by the hurricanes.

We disagree with TWC's statement that it properly reported the number of individuals enrolled in the NEG program. The NEG program is a specially funded program under the Workforce Investment Act, and program participants must meet certain criteria to be enrolled. TWC acknowledges in their response that they never asserted that these individuals were determined eligible or enrolled. Counting all individuals who received any services from TWC as NEG program participants overstates the level of services these individuals received. Further, excluding these individuals from the NEG participant count would not have denied those individuals any services that they received or were entitled to receive.

Recommendations

We recommend that the Assistant Secretary for Employment and Training ensure that TWC:

1. Not report as NEG participants individuals for whom an eligibility determination has not been made or individuals who only receive self-help services through the WorkInTexas.com system.
2. Verify that local workforce boards comply with WIA Section 189(h), which requires the registration of certain individuals for selective service.
3. Report NEG program exits consistent with Federal policies as described in TEGL 17-05 and the ETA 9104 Quarterly Progress Report Definition of Performance Factors.
4. Comply with TEGL No. 16-03, Change No. 3, 5.b, regarding documentation of participant eligibility.
5. Adhere to 20 CFR, Section 663.160(b), which requires program staff to document their decision to provide intensive services.



Elliot P. Lewis
December 6, 2006

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Exhibit

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Exhibit A

Performance Test Results by Sample Type

Overstated:	Sample 1	Sample 2	Combined Samples
Not enrolled	1	56	57
Not registered for selective service	2	0	2
Understated:			
Were or should have been exited	38	40	78
Not reported as exited	28	1	29
Not Supported by Documentation:			
Eligibility not documented	19	56	75
Intensive services reported	43	13	56
Intensive services not supported	16	13	29

Sample 1 – Sampled from the universe of participants who were reported on both the original and revised ETA 9104 Quarterly Report Forms.

Sample 2 – Sampled from the universe of participants who were uniquely reported on the revised ETA 9104 Quarterly Report Form.

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Appendices

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Appendix A

BACKGROUND

The NEG Program

The National Emergency Grants (NEG) were established by Title I, Subtitle D, Section 173 of the Workforce Investment Act (WIA).³ The NEG's are discretionary grants awarded by the Secretary of Labor to provide time-limited funding assistance in response to significant dislocation events. Eligible dislocation events include natural disasters as defined by the Robert T. Stafford Disaster Relief and Emergency Assistance Act. Eligible entities may apply for natural disaster assistance once the Federal Emergency Management Agency (FEMA) has declared an area eligible for disaster-related public assistance.

ETA provided guidance to NEG applicants through publication of the NEG application procedures in Federal Register, Vol. 69, No. 81, dated April 27, 2004, and also through information available on their internet website. NEG applications for disaster assistance are made by submitting Standard Form 424 – Application for Federal Assistance. The application can be considered an emergency application if it is submitted within 15 days of the FEMA public assistance declaration. The initial application is expected to address the temporary job creation component. Other services may be provided as needed, but a fully documented plan or a separate modification request to use NEG funds to provide the other services is required. The submission of the fully documented plan should occur at a point in time when an adequate assessment of the various needs has been made. This occurs generally no more than 4 to 6 months after the initial grant award. Most grants are funded incrementally, with a maximum level of funding approved by the Secretary of Labor, but typically a lesser amount is awarded initially. The balance of funds is awarded after a need for those funds has been supported by enrollments and expenditures.

Disaster relief grant recipients may provide some or all of the following services to eligible individuals:

- adjustment assistance that includes core, intensive and training services as authorized at WIA sections 134(d) and 173;
- supportive services as determined necessary to help workers who require such assistance to participate in program activities; and

³ The WIA was passed by Congress in 1998. It was passed to reform federal job training programs and create a comprehensive investment system.

- short-term disaster relief employment.

Hurricanes Katrina and Rita

On August 29, 2005, Hurricane Katrina came ashore along the Louisiana, Mississippi and Alabama coasts, causing estimated losses of more than \$100 billion. President Bush declared a major disaster for each of these states under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C., Sections 5121-5206.

The Texas Workforce Commission (TWC) submitted an application for Federal assistance related to Hurricane Katrina on September 2, 2005, requesting \$75 million in Federal assistance. In their application, TWC officials estimated that 75,000 displaced victims of Hurricane Katrina would arrive in Texas in need of assistance. They further estimated that they would serve 37,500 participants at an average planned cost of \$2,000 per participant.⁴

Congress passed the Flexibility for Displaced Workers Act, P. L. 109-72, on September 23, 2005. This Act established special rules for the NEG related to Hurricane Katrina. Some of these rules are:

- Grant funds provided to States that have submitted applications may be used for disaster relief employment or other assistance outside the disaster area.
- Expanded eligibility for disaster relief employment and other assistance that includes individuals who were affected by Hurricane Katrina, including those who have relocated from States in which a major disaster was declared, and were
 - unemployed at the time of the disaster; or
 - were without employment history.
- Temporary employment of eligible individuals was authorized in general public sector employment.
- Disaster relief employment may be extended beyond the usual 6-month maximum duration to an additional 6 months due to the extraordinary circumstances.

⁴ TWC provided us with a database of NEG participants to support their March 31, 2006, ETA 9104 Quarterly Report. The database included 61,393 unique participants. Of this number, 45,845 were affected by Hurricane Katrina, 16,947 by Hurricane Rita, and 1,399 were affected by both hurricanes. The database contained four fewer participants than reported by the TWC. This difference represents less than .01 percent of the total and the difference was considered immaterial.

On September 23, 2005, Hurricane Rita came ashore along the border of Texas and Louisiana, causing estimated losses of more than \$10 billion. President Bush declared a major disaster for each of these two states.

The Flexibility for Displaced Workers Act was amended by P. L. 109-148, Section 5012, dated December 30, 2005. The Act was amended by striking "Hurricane Katrina" in each place it appeared and inserting "hurricanes in the Gulf of Mexico in calendar year 2005". As related to Texas, this included individuals affected by Hurricane Rita.

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Appendix B

Objectives, Scope, Methodology, and Criteria

Objectives

Our overall objective was to answer the following questions:

- Were the NEG expenditures allowable, reasonable, allocable, and reported accurately?
- Were the NEG activities and outcomes reported accurately?

Scope

We audited the \$75 million NEG awarded to the Texas Workforce Commission (TWC) to serve individuals affected by Gulf of Mexico hurricanes in calendar year 2005. The grant's period of performance was August 29, 2005, through August 31, 2007. We selected and tested selected reported expenditure and performance data cumulatively reported through March 31, 2006.

Our audit was conducted in accordance with Government Auditing Standards for performance audits issued by the Comptroller General of the United States and included such tests as we considered necessary to satisfy the audit objectives. A performance audit requires obtaining 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 audit, we considered whether internal controls significant to the audit were properly designed and placed in operation. Fieldwork was conducted from March 21, 2006, through December 6, 2006.

Methodology

To achieve our objectives, we obtained an understanding of relevant internal controls through inquiries with appropriate personnel and inspection of relevant documents, policies and procedures at the State and local level. We performed audit work in four locations:

- TWC administrative offices in Austin, Texas;
- Worksource-Greater Austin Area Workforce Development Board offices in Austin, Texas;

- Gulf Coast Workforce Development Board offices in Houston, Texas; and
- East Texas Workforce Development Board offices in Kilgore, Texas.

TWC provided us with two ETA 9104 Quarterly Reports for the quarter ended March 31, 2006. The second Quarterly Report revised the performance data reported on their initial report. The revised report materially altered the performance data reported on the initial report. Significantly, the revised version reported 61,397 participants, whereas the original version reported only 42,114. This difference was the result of TWC counting individuals as participants who only received self-help WorkInTexas.com (WIT) assistance. The WIT is Texas's employment services system. Self-help participants were allowed to identify themselves as hurricane victims in the WIT, which allowed TWC to distinguish them from regular applicants when providing employment services.

The Quarterly Report includes cumulative financial and performance data from the inception of the grant up to and including the report quarter. We reconciled the revised ETA 9104 report with financial data collected at the TWC administrative level and as electronically reported by Texas's 28 local workforce boards, and performance data as collected using The Workforce Information System of Texas (TWIST).

We tested financial transactions at the TWC administrative offices and at 3 of 28 local WDAs. We also tested participant eligibility and performance data at the WDAs that we visited. The WDAs we visited (Capital Area, Gulf Coast and East Texas) were judgmentally selected. The WDAs we visited were selected due to their location, the amount of grant expenditures reported during our audit period and the types of expenditures reported. Although we did incorporate random sampling for many of our tests, we did not use statistical sampling methods for our tests of financial transactions, participant eligibility or reported performance data; therefore, the results of our tests can not be projected to their respective audit universes.

As of March 31, 2006, TWC reported total NEG expenditures of \$51,951,362. We selected and tested transactions at four locations with combined reported expenditures of \$20,924,190. We randomly selected transactions to test at the TWC administrative offices and Capital Area WDA. To maximize our audit resources, we revised our audit plan after our visit to the Capital Area WDA, and judgmentally selected transactions for testing at the Gulf Coast and East Texas WDAs. The transactions we tested at the four locations had combined expenditures of \$9,377,350, or 18 percent of total reported expenditures. The reported expenditures, number of transactions tested, and tested expenditures by location are displayed in the table found on page 21.

Reported Grant Expenditures by Locations Audited
As of March 31, 2006

Locations	Reported Expenditures	Tested Transactions	Tested Expenditures
TWC Administrative Offices	\$ 2,823,092	51	\$1,529,186
Greater Austin Area WDB	3,274,429	85	1,785,296
Gulf Coast WDB	11,954,224	37	5,539,183
East Texas WDB	2,872,445	50	523,685
Total	\$20,924,190	223	\$9,377,350

We randomly selected a total of 120 participants (40 participants at each of the 3 local areas we visited) to test the accuracy of reported performance activities and outcomes for each participant. We selected two samples of 20 participants at each location. One sample was selected from the universe of participants reported on both the original and revised Quarterly Reports, and the second sample was selected from the universe of participants unique to the revised Quarterly Report.

We compared participant eligibility documentation acquired by the local officials for each participant selected to the NEG eligibility requirements as amended by the Flexibility for Displaced Workers Act. We tested the accuracy and completeness of the reported performance data by requesting lists of participants who were said to support each performance factor on the Quarterly Report. For each sampled participant, we identified each performance factor on which the participant was included. We then reviewed each participant's documentation to determine if he or she was appropriately reported or not reported for each performance factor.

Criteria

The principal criteria that governed the work performed were as follows:

- WIA Section 173, National Emergency Grants (NEG)
- WIA Section 195, General Program Requirements
- Public Law 109-72, Flexibility for Displaced Workers Act (provided special rules for NEG grants for Gulf of Mexico hurricanes in calendar year 2005)
- 20 Code of Federal Regulations (CFR), Part 671, Federal Regulations pertaining to NEG
- 29 CFR Part 97, Uniform Administrative Requirements for State/Local Governments and Indian Tribes

- Office of Management and Budget (OMB) Circular A-87, Cost Principles for State/Local Governments and Indian Tribes
- Training and Employment Guidance Letter (TEGL) NO. 5-05, Waiver Flexibility for Hurricane Katrina Recovery
- TEGL NO. 16-03, NEG Policy Guidance
- TEGL NO. 16-03, Change No. 3, NEG Policy Guidance. Use of NEG Funds to Support Disaster Relief Employment and Training Assistance for Individuals Impacted by Hurricane Katrina
- TEGL NO. 17-05, Common Measures Policy for the Employment and Training Administration's (ETA) Performance Accountability System and Related Performance Issues
- NEG Application Procedures
- Quarterly Progress Report Definitions of Performance Factors

Appendix C

Acronyms and Abbreviations

ACS	Affiliated Computer Services, Inc.
CFR	Code of Federal Regulations
ETA	Employment and Training Administration
FEMA	Federal Emergency Management Agency
NEG	National Emergency Grant
OMB	Office of Management and Budget
QPR	Quarterly Performance Report
SOF	Statement of Facts
TEGL	Training and Employment Guidance Letter
TWC	Texas Workforce Commission
TWIST	The Workforce Information System of Texas
WDA	Workforce Development Area
WDB	Workforce Development Board
WIA	Workforce Investment Act
WIT	WorkInTexas.com

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Appendix D

AGENCY RESPONSE

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Texas Workforce Commission

A Member of Texas Workforce Solutions

September 26, 2007

Mr. Dwight Gates
Acting Audit Director
U.S. Department of Labor, Office of the Inspector General
61 Forsyth Street SW
Atlanta, GA 30303

Diane D. Rath, Chair
Commissioner Representing
the Public

Ron Lehman
Commissioner Representing
Employers

Ronald G. Congleton
Commissioner Representing
Labor

Larry E. Temple
Executive Director

Re: Texas National Emergency Grant Audit (Report Number 04-70-007-03-390)

Dear Mr. Gates:

The Texas Workforce Commission (TWC) appreciates the opportunity to respond to the U.S. Department of Labor (DOL), Office of the Inspector General (OIG), audit of Texas' Hurricane Katrina Evacuee/Rita Workforce Investment Act (WIA) National Emergency Grant (NEG) program. TWC must, however, express disappointment in the characterization of TWC's reporting and response. First, TWC believes that the executive summary does not present an accurate portrayal of the scale of these state-wide disasters; OIG's statement that "many thousands of people were evacuated to Texas" grossly under-represents the true nature of these back-to-back, unprecedented natural disasters. Furthermore, the executive summary simply fails to recognize Texas as an affected state and, consequently, neglects the services provided to Texans with NEG funds.

As the OIG is well aware, Hurricanes Katrina and Rita were not typical national emergencies. Just as the events surrounding these disasters were extraordinary, so was Texas' response. Consequently, TWC urges OIG to reconsider the characterization of these events and of Texas' response. Without the proper characterization of the events, the draft report fails to demonstrate just how well DOL and Texas responded to these national crises. To do less, is to make DOL and Texas' actions insubstantial when, in fact, these actions were swift, effective, and carried out on a scale that was unprecedented.

To be accurate, more than 480,000 Katrina impacted individuals evacuated to Texas. Within a few short weeks, tens of thousands were displaced by Hurricane Rita. As the largest state adjacent to Louisiana, Texas absorbed the most evacuees of any state. More than 480,000 people sought assistance from the Federal Emergency Management Agency (FEMA) in Texas. In addition, TWC handled nearly 400,000 Unemployment Insurance-related phone calls on behalf of Louisiana claimants.

Within 30 days of the influx of over 480,000 evacuees, Hurricane Rita destroyed southeast Texas and sent waves of Texans seeking shelter while scattering the Katrina evacuees. In other words, Katrina evacuees were re-evacuated to dozens of cities and communities across Texas, some as far away as El Paso and Lubbock. Katrina evacuees were uprooted just as they were poised to use workforce services effectively as their basic needs for shelter, food, and communication were stabilized.

While the NEG program originally may have been intended to serve Hurricane Katrina evacuees, Texas—as an eligible state—sought authorization to use the NEG funds for Hurricane Rita. For the next five months, TWC administered two completely different disaster programs.

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Dwight Gates
Page 2
September 26, 2007

Because the Flexibility for Displaced Workers Act of 2005 granted Katrina victims special consideration under the NEG program and caused a disparity in services between Texans affected by Hurricane Rita and evacuees who had taken shelter in Texas, Texas was compelled to seek relief from the U.S. Congress. Congress recognized Texas' barriers to service and took specific action to remedy the disparity. As many of the evacuees were both Katrina- and Rita-impacted, identifying whether they were eligible under one disaster or the other in order to limit the services that were available to them was not always a simple task. Many of these Katrina evacuees were unable to complete the process to secure identification they had lost or left behind in their passage to Texas. Congress, therefore, allowed Texas to serve Katrina and Rita evacuees similarly.

In the October 2005 request to waive siloed WIA reporting requirements, TWC cited its development of system-wide, integrated performance measures that were based on the federal Common Measures. TWC operated the NEG program in the context that we would be held fully accountable for reporting on the full spectrum of NEG-funded services provided in any context: in Texas Workforce Centers, in mobile units, over the Internet and in Red Cross shelters. TWC notes that in June 2007, before the Subcommittee on Higher Education, Lifelong Learning, and Competitiveness, Committee on Education and Labor (House of Representatives), Mr. Sigurd R. Nilson, Director of the Government Accountability Office, offered testimony critical of DOL's approach to recording self-service participants:

WIA performance data do not include information on all customers receiving services...WIA excludes job seekers who receive core services that are self-service or informational in nature from being included in the performance information.... *Customers who use self-services are estimated to be the largest portion of those served under WIA.* [emphasis added]

DOL has consistently recognized Texas for furthering DOL's long-standing goals of promoting integration of service delivery and improving reporting on all one-stop customers. Is OIG now officially contradicting the GAO's characterization of WIA customers as including those who are self-service participants? If so, this is a wholesale change to WIA services that Congress could never have intended. TWC's approach to tracking customers and reporting on their outcomes is consistent with the GAO's call for complete information on WIA customers and reflects the policy principles articulated under the federal Common Measures.

The inclusion of participants who self-served or received informational services under the NEG is not an over-statement of the numbers of participants served. Texas' count is accurate. The implication of the draft report is that serving these individuals under the NEG was somehow improper. That result entirely undercuts DOL's effectiveness in responding to the disasters. The report, as it is currently written, turns its back on the thousands of impacted individuals desperate for NEG assistance for which they were legally entitled. Furthermore, reporting self-service customers in the "footnote" section of a quarterly performance report does not recognize the tremendous effort, coordination, and public service provided to evacuees in the temporary Workforce Centers set up in shelters, disaster recovery and other locations accessible only to them across the state—services that Texas was able to fund solely by virtue of the directing NEG funds to these activities. As a result, TWC disagrees with the December 2006 guidance that directed TWC to exclude self-service participants and contends that self-service participants should be included in the total number of participants served by the NEG.

Dwight Gates
Page 3
September 26, 2007

It is important to emphasize that, in the midst of the humanitarian crisis, efforts to document eligibility through a "case file" system would have been rightly perceived as a bureaucratic waste of time and resources. *Every evacuee in the Red Cross shelters or FEMA disaster recovery centers where Boards co-located their services was eligible for NEG-funded services.* OIG would no doubt have criticized Texas for not quickly serving these impacted individuals because their "file was not complete." In fact, TWC believes that by establishing a basis for future electronic record matching with FEMA participant records as well as other states' UI records, WorkInTexas.com provided a best practice for capturing services that are provided under extremely challenging conditions. We, likewise, request that you take into account Congress' actions in regard to Texas' unique challenges when serving both Katrina and Rita impacted individuals.

Enclosed is TWC's complete response to the audit objectives. We request that OIG amend the executive summary to depict the true scale of these disasters and to provide context for the programmatic challenges imposed on states when operating NEGs outside of the federal Common Measures.

If you have questions, please contact Laurence M. Jones, Director, Workforce Development Division, at (512) 936-0697 or larry.jones@twc.state.tx.us.

Sincerely,



Larry E. Temple
Executive Director

Enclosure

cc: Diane Rath, Chair and Commissioner Representing the Public, TWC
Ron Lehman, Commissioner Representing Employers, TWC
Ronald G. Congleton, Commissioner Representing Labor, TWC
H. E. "Gene" Crump, Deputy Executive Director, TWC

TWC Response to Audit Objectives for Texas' NEG

- **Were the NEG expenditures allowable, reasonable, allocable, and reported accurately?**

TWC appreciates OIG's determination that tested grant expenditures were allowable, reasonable, properly allocated, and accurately reported.

- **Were the NEG activities and outcomes reported accurately?**

TWC disagrees with OIG's determination regarding the accuracy of NEG reporting.

Issue One: Participant Eligibility

TWC issued directives to establish temporary Texas Workforce Centers at major hurricane shelters, FEMA disaster recovery centers, and shelters or centers established by other governmental entities to provide a *one-stop experience* for disaster assistance. These on-site centers benefited evacuees by allowing them to file for Unemployment Insurance (UI) benefits, receive career and professional counseling, conduct job searches, or prepare résumés. Employers wanting to recruit hurricane evacuees were allowed to set up recruitment tables inside the temporary Texas Workforce Centers. Employers used banks of computers installed inside temporary Texas Workforce Centers to post jobs, and recruited and interviewed potential hires on the premises.

For both logistical and practical purposes, TWC directed that the services and activities in these locations be tracked through WorkInTexas.com. Given evacuees' circumstances following these disasters, promoting the use of WorkInTexas.com allowed evacuees to establish an early connection to Texas' labor market and provided them with the ability to reconnect to job seeker services from any location throughout Texas or the nation. As a result, TWC provided robust, portable, highly valued services.

As TWC's NEG-funded Employer Hotline strategy began yielding a significant number of job postings, TWC immediately launched an extensive outreach campaign to promote the use of WorkInTexas.com to evacuees in Texas and to Louisiana employers. During the first three program quarters, the number of WorkInTexas.com self-service-only customers reflects the results of these NEG-funded efforts.

NEG Participants		
Quarter Ending	Staff-Assisted	WorkInTexas.com Self-Service Only
Sep. 06	20,814	3,470
Dec. 06	45,100	11,097
Mar. 06	53,740	15,729

NOTE: Totals are cumulative.

TWC took the following steps to track NEG participants who received services in temporary shelters and disaster recovery centers:

- Provided guidance on appending “Katrina” or “Rita” to last names until automation changes were completed; and
- Modified WorkInTexas.com to allow individuals to self-attest to their eligibility.

TWC converted all WorkInTexas.com records to a hurricane-flagged record.

Upon receipt of FEMA participant data and with a data-sharing agreement in place with Louisiana UI, TWC conducted an exhaustive effort to cross-reference each prospective NEG participant from all available data resources and transmitted this information to the Local Workforce Development Boards (Boards). TWC continued its attempts to obtain updated FEMA participant data as the original files shared with TWC contained addresses such as “the Houston Astrodome.” TWC even tracked returned mail. The chart below summarizes the application of the data by TWC and the Boards.

Data Source	Variables, Frequency	Match To	Produces	Distribution
Louisiana (LA) UI	SSN; Name; Address; City; State; ZIP code. Two types: All and Active (weekly)	WorkInTexas.com	Not in WorkInTexas.com In WorkInTexas.com	1. LA UI outreach list to local workforce development area (workforce area) 2. LA UI (document WorkInTexas.com Hires)
		TWIST (NEG)	In Temporary Employment	3. LA UI (document wages received in NEG) 4. Workforce area outreach on behalf of LA UI (to ensure LA UI claimants reporting wages)
		TWIST (all)	Served in other programs	5. LA DOL (document services from TWC)
		Mailing	Returned mail	6. LA UI – returned mail list 7. LA UI – updated addresses 8. Workforce area outreach to LA UI claimants updates – no further outreach possible
FEMA	SSN; Name; Workforce Area; Address; City; State; ZIP code; Disaster Number; Location: Hotel/Motel, Family/Friend, Mass Shelter, Damaged Dwelling,	WorkInTexas.com TWIST (all)	WorkInTexas.com outreach Workforce area outreach list	9. FEMA outreach list to workforce areas

	N/A, Other; E-mail; Phone Number; # of Dependents; Where they originated from (e.g., Orleans Parish)			
LA Repatriation Project—FEMA Austin Joint Field Office	FEMA Registration Number; Applicant Name; Last four digits of SSN; Does applicant want to return to LA?; Will applicant live in a travel trailer?; Is applicant a homeowner or renter?; Damaged property address; Current mailing address; Current phone number	WorkInTexas.com	In WorkInTexas.com	10. Workforce area _99 to outreach for LA employers
			Not in WorkInTexas.com	11. Workforce areas for WorkInTexas.com registration
		TWIST (NEG)	In Temporary Employment	12. Workforce Area _99 to outreach for LA employers
		TWIST (all)	In NEG or other	13. Workforce areas to outreach for LA employers

TWIST: The Workforce Information System of Texas; workforce area: local workforce development area; Workforce area_99: TWC Employer Hotline temporary staff

Issue Two: Self-Service Participants

As OIG notes, TWC engaged DOL in April 2006 to obtain definitions and specifications for report production and performance reporting, as these are not provided by DOL in the *Federal Register* NEG Quarterly Progress Report Definitions of Performance Factors for Common Measures. Based on the anticipated approval of TWC’s October 2005 WIA performance reporting waiver request, TWC vetted these discussions on NEG reporting within the Employment and Training Administration (ETA), Office of National Response, with the assistance of the Office of Performance and Technology.

TWC never asserted that WorkInTexas.com self-service-only participants were determined eligible and enrolled in the NEG program. However, TWC did assert—by virtue of including these individuals in the participant counts—that these individuals were hurricane-affected and received NEG-funded one-stop services. Consequently, it is misleading to state that TWC did not report NEG activities and outcomes accurately. TWC maintains that the inclusion of self-service participants in the NEG participant

count is consistent with the guidance to states in TEGL 17-05 and ensures the uniform application of ETA policy.

In Training and Employment Guidance Letter (TEGL) No. 17-05, DOL articulates that one purpose for the introduction of Common Measures is “to more accurately reflect the true number of individuals who benefit from the One-Stop system.” It is ETA’s intended purpose to “provide Congress, the public, and other interested stakeholders with more complete and accurate information on participation levels and types of services being provided through the nation’s workforce investment system, *including data on customers who access services via electronic technologies.*” [emphasis added]

Specifically, TEGL 17-05, Attachment D, directs states to assist Boards in making these determinations:

In accordance with policy principles articulated in the TEGL, if a participant is served by a specific funding stream, he/she will be counted as a participant in that funding stream’s reporting system and/or performance calculations. For example, Wagner-Peyser Act funds are often used to support and maintain One-Stop Career Center operations, electronic tools, job banks, and workforce information services. In these situations, it would be appropriate to include participants who accessed or received Wagner-Peyser Act-funded services in the Wagner-Peyser Act performance accountability system. Where WIA program funds are used in similar ways, participants who receive self-service or informational activities would only be included in the WIA participant and services counts, but would not be counted in the WIA performance measures.

State workforce agencies are in the best position to assist local workforce investment boards and One-Stop Career Centers in making these determinations and are accountable for assuring uniform application of ETA policy. [emphasis added]

Under Common Measures, states are encouraged to report on participants—i.e., all individuals who receive services within the one-stop environment funded by that program—but only include program participants in program performance measures. OIG narrowly construes the term “participant” to have the same meaning as “program participant”—that is, an individual determined eligible and enrolled in a program. Therefore, OIG uses the terms “participant” and “program participant” interchangeably, which is misleading because Texas was an early implementer of federal Common Measures.