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

EMPLOYMENT AND TRAINING ADMINISTRATION

FLORIDA CONTINUED TO MISUSE JTPA FUNDS FOR ITS PERFORMANCE BASED INCENTIVE FUNDING PROGRAM DURING THE PERIOD JUNE 10, 1998, TO JUNE 30, 2000

Date Issued: September 28, 2007
Report Number: 04-07-009-03-340

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

BRIEFLY…

Highlights of Report Number: 04-07-009-03 340, to the Assistant Secretary for Employment and Training Administration.

WHY READ THE REPORT

In 1994, the State of Florida established the Performance Based Incentive Funding (PBIF) program, funded in part with Job Training Partnership (JTPA) funds, to provide supplemental funding to community colleges and school districts. Florida statutes required funds to be used for such purposes as upgrading equipment and expanding vocational and technical programs.

OIG conducted a prior audit of Florida's PBIF program for the period March 1, 1995, through June 9, 1998, and concluded that PBIF was not a bona fide program meeting JTPA's requirements, but rather a funding mechanism to supplement Florida's State and local adult educational costs. On April 24, 2006, the U.S. Court of Appeals upheld the DOL Administrative Review Board's (ARB) decision, which required Florida to return nearly $11.6 million of JTPA funds to the U.S. Department of Labor.

WHY OIG DID THE AUDIT

After receiving the appellate court decision, the OIG conducted an audit to determine if JTPA-funded PBIF payments to Florida's community colleges and participating school districts were made in accordance with applicable laws and regulations during the period June 10, 1998, through June 30, 2000.

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/2007/04-07-009-03-340

September 2007

Florida Continued to Misuse JTPA Funds for Its Performance Based Incentive Funding Program

WHAT OIG FOUND

Florida continued to operate the PBIF program in the same manner as prior years while its appeal of the Grant Officer's decision was pending. Consequently, the State continued to misuse PBIF funds to supplement State and local adult educational costs from June 10, 1998, until the program ended on June 30, 2000.

The OIG questioned $6,176,454 of JTPA funds paid by the State of Florida to school districts and community colleges as PBIF incentive payments, funds reclassified as Title II-A used to supplement the schools normal operating budget, and funds spent in administering the PBIF program.

WHAT OIG RECOMMENDED

We recommended that the Assistant Secretary for Employment and Training recover $6,176,454 of JTPA funds that Florida misspent on the PBIF program from June 9, 1998, through June 30, 2000.

In its response to the draft report, Florida requested that the OIG waive the questioned costs and not subject the State to repayment of additional funds for various reasons, such as the program's benefit to many dislocated workers and the length of time since the program ceased operations. Florida also disagreed with the methodology used to determine questioned administrative costs.

The OIG does not have the authority to waive questioned costs.

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Executive Summary

We conducted an audit of Florida's Performance Based Incentive Funding (PBIF) program, established to provide supplemental funding to community colleges and school districts with adult educational programs. The PBIF program was funded in part with Job Training Partnership Act (JTPA) Title III funds. JTPA was repealed effective July 1, 2000.

Schools that participated in the PBIF program received fixed fee "incentive" payments for JTPA participants enrolled in approved courses. A school received a portion of the fee after a JTPA participant enrolled. Another portion of the fee was paid after a JTPA student completed his or her training. A final "incentive" payment was made when the JTPA student found a job.

In a prior audit (Report No. 04-98-005-03-340, issued September 25, 1998), we found that Florida's PBIF program was not a bonafide program meeting JTPA's requirements, but rather a funding mechanism that used JTPA monies as a means of supplementing Florida's State and local adult educational costs. The PBIF program did not provide JTPA participants with instruction or assistance that was distinguishable from instruction or assistance available to the general student population who attended the public schools. As a result, we recommended that the Employment and Training Administration (ETA) recover more than $11.4 million of JTPA funds that Florida misspent on the PBIF program. ETA's Grant Officer agreed with our audit findings, and disallowed the entire questioned cost amount. Florida appealed the Grant Officer's decision; however, on April 24, 2006, the U.S. Court of Appeals upheld the audit results. In July 2006, Florida repaid the more than $11.4 million plus statutory interest.

In response to a request from the Department of Labor's Office of the Solicitor, we initiated this followup audit covering the period June 10, 1998 to June 30, 2000. Our audit objective was to determine if JTPA-funded PBIF payments to Florida's community colleges and participating school districts were made in accordance with applicable laws and regulations. To accomplish this objective, we designed our audit to answer the following question:

Did Florida continue to operate the PBIF program as a means of supplementing Florida's State and local adult educational costs after June 9, 1998?

Results

We found that Florida continued to misuse $6,176,904 of PBIF funds to supplement State and local adult educational costs during the period June 10, 1998, to June 30, 2000.

Florida continued to operate the PBIF program in the same manner as prior years while its appeal of the Grant Officer's decision was pending. Consequently, the State continued to misuse PBIF funds to supplement State and local adult educational costs from June 10, 1998, until the program ended on June 30, 2000. We question $6,176,904 of JTPA Title III funds used to fund the PBIF program during this time. The questioned costs include the following:

- $5,155,687 of JTPA Title III funds related to incentive payments made to community colleges and school districts for enrolling, training and placing JTPA participants;

- $550,270 of JTPA Title III funds reclassified as Title II-A and used to make additional incentive payments to schools at the direction of Regional Workforce Development Boards (RWDB); and

- $470,947 related to JTPA Title III funds spent to administer the PBIF program

Agency Response

Florida officials requested that we consider the following factors as a basis for waiving the questioned costs and not subjecting the State to payment of additional funds: there was a benefit to many dislocated workers; there was no willful disregard of federal requirements; the State has already repaid in excess of $11 million; the State's current budget crisis; a different administrative structure currently exists; and the length of time since the program ceased operation.

Florida officials disagreed with the methodology used to determine the amount of questioned administrative costs. They argue that only one-seventh of the amount received from the DOL should be questioned, because only one of seven positions contributed to the administration of the PBIF program.

OIG Conclusion

OIG does not have the authority to waive the questioned costs identified during the audit. Florida did not provide sufficient documentation to support their contention that administration of the PBIF program was limited to one-seventh of the funds received from the DOL; therefore, the questioned costs related to funds spent to administer the PBIF program remain unchanged.

Recommendation

We recommend that the Assistant Secretary for Employment and Training recover $6,176,904 of JTPA funds that Florida misspent on the PBIF program during the period June 10, 1998, to June 30, 2000.

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
U. S. Department of Labor
200 Constitution Avenue, N.W.
Washington, D.C. 20210

We conducted a performance audit of Florida's Performance Based Incentive Funding (PBIF) program for the period June 10, 1998, to June 30, 2000. The PBIF program provided funding to Florida's community colleges and school districts to improve or expand vocational and technical education programs. Florida operated the PBIF program using Job Training Partnership Act (JTPA) funds, as well as grants funds from the U. S. Department of Health and Human Services, proceeds from the Florida lottery, and monies from other State sources.

In response to a request from the Department of Labor's Office of the Solicitor, we initiated an audit to follow up on findings resulting from our prior audit of Florida's PBIF program (Report No. 04-98-005-03-340 entitled "Florida Misused JTPA Funds in Its Performance Based Incentive Funding Program," issued September 25, 1998). The prior audit covered the period March 1, 1995, through June 9, 1998, and found that the PBIF program was not a bona fide program that satisfied JTPA requirements. Rather, it was a funding mechanism that used JTPA monies as a means of supplementing Florida's State and local adult educational costs. We found nothing to distinguish assistance provided JTPA participants, for whom the schools received PBIF program monies, from the services provided to the general student population. Consequently, we questioned $11,419,499 (hereafter rounded to $11.4 million) of JTPA funds spent on the PBIF program.

The ETA Grant Officer, in a Final Determination dated July 6, 1999, disallowed the entire questioned cost amount of $11.4 million. Florida requested a hearing before an Administrative Law Judge (ALJ), who reversed the Grant Officer. However, ETA appealed the ALJ's decision to the Administrative Review Board (ARB). In February 2005, the ARB overruled the ALJ, finding that Florida had violated the requirement that JTPA funds not be used to pay for activities that would be available even in the absence of federal assistance. Florida then appealed the ARB's decision to the U. S. Court of Appeals for the Eleventh Circuit. On April 24, 2006, the appeals court upheld the finding of the ARB that Florida had misspent JTPA funds and should repay the $11.4

million of questioned costs. In July 2006, Florida repaid the $11.4 million plus statutory interest.

Our initial audit covered the period March 1, 1995 through June 9, 1998. The objective of our followup audit was to determine if JTPA-funded PBIF payments to Florida's community colleges and participating school districts were made in accordance with applicable laws and regulations during the period June 10, 1998 through the end of the program on June 30, 2000.

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

Objective – Were JTPA-funded PBIF Payments to Florida's Community Colleges and Participating School Districts Made in Accordance with Applicable JTPA Laws and Regulations During the Period June 10, 1998, to June 30, 2000?

Results and Finding -- Florida Continued to Misuse JTPA Funds for its Performance Based Incentive Funding Program After June 9, 1998

OIG's prior audit of the PBIF program found that it did not provide JTPA participants with instruction or assistance that was distinguishable from instruction or assistance available to the general student population who attended the public schools. The prior audit questioned more than $11.4 million of JTPA funds used in the PBIF program, and ETA's Grant Officer disallowed the entire questioned cost amount. Florida appealed the Grant Officer's decision, but continued to operate the PBIF program in the same manner while the case was in litigation. In April 2006 the U. S. Court of Appeals upheld the Grant Officer's decision and required Florida to return nearly $11.6[1] million ($11.4 million of questioned costs plus $159,866 interest) to the U. S. Department of Labor. Because Florida continued to operate the PBIF program in the same manner while its appeal of the Grant Officer's decision was pending, the State continued to misuse PBIF funds to supplement State and local adult educational costs during the period June 10, 1998, to June 30, 2000. We question $6,176,904, of JTPA funds used to fund the PBIF program during this time. The questioned costs include the following:

1. $5,155,687 of JTPA Title III funds related to incentive payments made to community colleges and school districts for enrolling, training and placing JTPA participants;

2. $550,270 of JTPA Title III funds reclassified as Title II-A and used to make additional incentive payments to schools at the direction of Regional Workforce Development Boards (RWDB); and

[1] Florida was required to return $11,579,365. This amount includes $11,419,499 of questioned costs and $159,866 in interest.

3. $470,947 related to JTPA Title III funds spent to administer the PBIF program.

1. <u>Incentive Payments Made to Community Colleges and School Districts for Enrolling, Training and Placing JTPA participants</u>

Florida continued to misuse JTPA funds by paying $5,155,687 of incentive payments to schools for instruction or assistance that was not distinguishable from instruction or assistance available to the general student population.

The purpose of JTPA was to fund programs that provided training and services to participants that allowed them to overcome employment barriers and participate in the workforce. The PBIF program, funded in part with JTPA monies, provided funding to community colleges and school districts to improve or expand vocational and technical education programs and for such purposes as upgrading equipment.

Schools that participated in the PBIF program received fixed fee "incentive" payments for JTPA participants enrolled in approved courses. The fees were loosely based on calculations of the schools' average per-student instructional costs for the previous year. The fee was recalculated annually.

A school received a portion of the fixed fee after a JTPA participant enrolled. Another portion of the fee was paid to the school after a JTPA student competed his or her training. A final "incentive" payment was made when a JTPA student found a job. See Exhibit A for an overview of PBIF Program Payment System.

OIG concluded in its prior audit that Florida's PBIF program was not designed to assist individual JTPA participants. OIG found nothing to distinguish assistance provided JTPA participants, for whom the schools received incentive payments, from the services provided to the general student population. The payments were contrary to Section 141(b) of the JTPA, which required that funds only be used for:

> *...activities which are in addition to those which would otherwise be available in the area in the absence of such funds.*

OIG also questioned the necessity and reasonableness of the incentive payments made using JTPA funds. These incentive payments were based upon calculations of the schools' average per-student instructional costs for the previous year. Florida's statute established the portion of instructional costs to be funded from the students' tuition payments and the portion to be borne by the State. Therefore, additional charges to JTPA, in excess of participants' tuition and fees, violated Section 164 (a)(2)(A) of the Act, which required that to be allowable, costs charged to JTPA programs must:

> *...be necessary and reasonable for proper and efficient administration of the program under this Act....*

Lastly, OIG concluded that improvements made to programs available to all students who met enrollment requirements were general costs of education and should be funded with State monies. While improving the State's adult education programs may have been a laudable objective, it was not a proper use of JTPA funds and violated Section 164 (a)(2)(C) of the Act, which prohibited expenditures for:

> *...a general expense required to carry out the overall responsibilities of State, local, or federally recognized Indian tribal governments....*

Because Florida continued to operate the PBIF program in the same manner as prior program years while it appealed the Grant Officer's decision, the State continued to misuse JTPA funds and, therefore, we question all JTPA funds used in the operation of the PBIF program during the period June 10, 1998, through the end of the program on June 30, 2000.

Florida made JTPA incentive payments of $3,280,918 in FY 1998 and $3,188,424 in FY 1999.[2] Payments were made to 24 school districts and 28 community colleges. The scope of our prior audit went through June 9, 1998; consequently, a portion of the FY 1998 incentive payments paid by the State was questioned in the prior audit report. To avoid duplicative questioned costs, we subtracted incentive payments questioned in the prior audit report from total incentive payments reported on the PBIF Program Funding Sources and State Expenditures summary schedule provided by Workforce Florida, Inc.,[3] for FY 1995 through FY 1999. Questioned costs for incentive payments paid from JTPA funds during the period June 10, 1998, to June 30, 2000 were calculated as follows:

Incentive Payments Made Using JTPA Funds, as of June 30, 2000:	$15,767,752
Less: Incentive Payments Questioned in Prior Audit:	< 10,612,065>
Questioned Costs for the Period June 10, 1998 to June 30, 2000:	**$ 5,155,687**

2. Additional Incentive Payments to Schools by RWDBs

In addition to incentives that Florida paid to schools for its PBIF program using Title III funds, Florida also paid incentives of $550,270 using JTPA Title II-A funds.

[2] FY 1999 also includes FY 1999 funds that were expended in FY 2000.
[3] The PBIF program was initially administered by Florida's Jobs and Education Partnership (JEP). In 2000, the Florida Workforce Innovation Act created Workforce Florida, Inc. and Agency for Workforce Innovation (AWI), which assumed the responsibilities of the Florida Department of Labor and Employment Security (FDLES) relative to the PBIF program.

ETA's Training and Employment Guidance Letter 7-95, dated July 31, 1996 stated the following:

> *In the 1996 Omnibus Appropriations Act, Congress authorized the transfers of PY 1996 funds between JTPA titles II-A and III for adults and between title II-B and II-C for youth. The current authorization in JTPA sections 206, and 266 for the transfer of funds between titles II-A and II-C is unaffected. This local flexibility provided to service delivery areas (SDAs) and substate areas (SSAs) in planning and fund transfer requires the approval of the Governor prior to implementation.*

Subsequent legislative actions extended the authority for such transfers through PY 1999.

Officials of Workforce Florida, Inc., stated that Jobs and Education Partnership (JEP) transferred excess Title III funds to the Florida Department of Labor and Employment Security (FDLES) for use by Florida's RWDBs in the Title II-A program. At the direction of the RWDBs, FDLES used the transferred funds to make PBIF payments to 14 schools for services provided to Title II-A participants. FLAIR, the state accounting system, reflects a total of $550,270[4] in incentive payments paid by the FDLES to the 14 schools. See Exhibit A for details regarding these payments.

The same restrictions regarding the use of JTPA Title III funds to supplement State and local adult educational costs also apply to JTPA Title II-A funds. We question all $550,270 of the JTPA Title II-A funds used to make PBIF payments.

3. <u>Florida Used JTPA Funds to Pay PBIF Administrative Costs</u>

Because the incentive payments paid to schools were improper, we also question $470,947 of JTPA funds spent in administering the PBIF program.

The PBIF program was administered by JEP. JEP charged administrative costs of $905,667 to the FY 1998 and FY 1999 JTPA Title III grants ($414,805 and 490,862, respectively). The charges relate to a number of JTPA programs administered by JEP, including the PBIF program.

JEP's financial records did not allow direct identification of the portion of Title III administrative costs associated with the PBIF program. Therefore, we applied the method used during our prior audit of the PBIF program to calculate the amount of administrative costs allocable to the PBIF program for FY 1998 through FY 1999 as follows:

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[4] According to the Controller for AWI Financial Management, PBIF was not tracked uniquely in FLAIR, the state accounting system. Therefore, the Controller looked within category 100757 (*Contracts* category) in the FLAIR system under grant numbers A0817 and A0818, which represent FY 1998 and FY 1999 respectively, and searched for payments made to the schools listed in the two grant modifications. A total of $550,270 was allocated to fourteen schools, all of which were charged under grant A0818 for FY 1999.

Title III PBIF Expenditures	$5,155,687	(52%)
Title III Other Project Expenditures	+ 4,687,598	(48%)
Total Title III Expenditures	$9,843,285	(100%)

Title III Administrative Cost	$905,667
Title III PBIF Percentage	x 52%
Title III PBIF Administrative Cost	$470,947

Questioned costs for JTPA funds spent in administering the PBIF program totaled $470,947. Florida disagrees with our allocation method, stating that only a portion of one of the seven positions funded by JTPA administrative funds was associated with the PBIF program. However, no supporting documentation was provided, with the exception of position descriptions, showing the variety of responsibilities assigned to the individuals whose positions were funded by JTPA administrative funds.

Agency Response

Florida officials requested that we consider the following factors as a basis for waiving the questioned costs and not subjecting the State to payment of additional funds: there was a benefit to many dislocated workers; there was no willful disregard of federal requirements; the State has already paid in excess of $11 million; the State's current budget crisis; a different administrative structure currently exists; and the length of time since the program ceased operation.

Florida officials disagreed with the methodology used to determine the amount of questioned administrative costs. They argue that only one-seventh of the amount received from the DOL should be questioned, because only one of seven positions contributed to the administration of the PBIF program.

OIG Conclusion

OIG does not have the authority to waive the questioned costs identified during the audit. Florida did not provide sufficient documentation to support their contention that administration of the PBIF program was limited to one-seventh of the funds received from the DOL; therefore, the questioned costs related to funds spent to administer the PBIF program remain unchanged.

Recommendation

We recommend that the Assistant Secretary for Employment and Training recover $6,176,904 of JTPA funds that Florida continued to misspend on its PBIF program from June 10, 1998, to June 30, 2000.

Elliot P. Lewis

Elliot P. Lewis
April 26, 2007

Exhibits

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EXHIBIT A

PBIF Incentive Payments for Title II-A Participants			
Regional Board	**School Name**	**Date**	**Amount**
Region 7	Lake City Community College	03/27/00	$14,163.19
Region 7	Lake City Community College	06/28/00	33,712.86
Region 8	St. Johns County School District	06/06/00	23,102.94
Region 8	Florida Community College, JAX	06/28/00	129,640.85
Region 8	St. Johns Community College	06/28/00	4,367.72
Region 12	Orange County School District	02/16/00	55,745.90
Region 12	Lake Sumter Community College	03/27/00	7,241.22
Region 12	Seminole Community College	03/27/00	3,208.07
Region 12	Valencia Community College	03/27/00	5,505.65
Region 12	Lake County School District	06/06/00	1,379.28
Region 12	Lake Sumter Community College	06/06/00	3,907.96
Region 12	Orange County School District	06/06/00	22,413.30
Region 12	Seminole Community College	06/06/00	24,367.28
Region 12	Valencia Community College	06/06/00	23,698.87
Region 14	Pinellas County School District	03/27/00	7,586.04
Region 14	St. Petersburg Community College	03/27/00	34,252.12
Region 14	Pinellas County School District	06/06/00	3,909.29
Region 14	St. Petersburg Community College	06/06/00	49,998.90
Region 14	Pinellas County School District	06/28/00	2,297.47
Region 16	Pasco Hernando Community College	06/28/00	52,218.89
Region 20	Indian River School District	03/27/00	804.58
Region 20	Indian River Community College	06/06/00	45,943.30
Region 20	Indian River School District	06/06/00	804.58
	TOTAL		**$550,270.26**

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Appendices

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APPENDIX A

BACKGROUND

The purpose of the Job Training Partnership Act (JTPA) was to establish programs that would prepare youth and adults facing serious barriers to employment for participation in the labor force by providing job training and other services that would result in increased employment and earnings, increased educational and occupational skills, and decreased welfare dependency. JTPA was repealed, effective July 1, 2000.

In 1992, the Florida Legislature established Enterprise Florida Incorporated (EFI) with the goal of creating a competitive economy characterized by high-wage employment. Then in 1994, the Florida Legislature established a Performance Based Incentive Funding (PBIF) program funded in part with JTPA funds. The PBIF program was initially administered by Jobs and Education Partnership (JEP), a subsidiary of EFI. Four years later in 1998, the State Workforce Development Board was established and assumed the role of the JEP. In 2000, the Florida Workforce Innovation Act created Workforce Florida, Inc. and the Agency for Workforce Innovation, which assumed the responsibilities of the Florida Department of Labor and Employment Security (FDLES) relative to the PBIF program.

The PBIF program provided funding to community colleges and school districts with adult vocational programs. PBIF funds were to be used to improve or expand vocational and technical education programs, and for such purposes as upgrading equipment. In addition to JTPA funds, the PBIF program received grant funds from the U.S. Department of Health and Human Services, proceeds from the Florida Lottery and monies from other State sources. Funding for the PBIF program was determined by Florida's annual legislative appropriation process.

JEP ensured that invoices submitted to the Office of Tourism, Trade, and Economic Development (OTTED) for payment of performance based incentives were based on an accurate analysis of student performance data reported to JEP by participating school districts and the Division of Community Colleges on behalf of individual colleges. OTTED was the fiscal agent for the receipt of JTPA Title III Governor's Discretionary Funds, which included PBIF funds, and processed payments to JEP subrecipients (schools and community colleges).

In 1997, the Office of Inspector General (OIG) conducted an audit on Florida's PBIF program. The audit was initiated in response to a hotline complaint which alleged that the State of Florida had improperly spent JTPA funds through its PBIF program. In an audit report issued on September 25, 1998 (Report No. 04-98-005-03-340), OIG concluded that the PBIF program was not a bona fide program meeting JTPA's requirements, but rather a funding mechanism that used JTPA monies as a means of supplementing Florida's State and local adult educational costs. The PBIF program did not provide participants with services or assistance that was not available to the general population of students, and OIG recommended that Title III funds used in the PBIF program be recovered. On April 24, 2006, the U. S. Court of Appeals upheld the Administrative Review Board's decision requiring Florida to return nearly $11.6 million to the U.S. Department of Labor, including $159,866 in interest. In July 2006, Florida repaid the $11.4 million plus statutory interest.

APPENDIX B

OBJECTIVE, SCOPE, METHODOLOGY, AND CRITERIA

Objective

The Office of Inspector General conducted a followup audit of Florida's JTPA PBIF program. The objective of our followup audit was to determine if JTPA-funded PBIF payments to Florida's community colleges and participating school districts were made in accordance with applicable laws and regulations during the period June 10, 1998 through the end of the program on June 30, 2000. To accomplish this objective we designed our audit to answer the following question:

> Did Florida continue to operate the PBIF program as a means of supplementing Florida's State and local adult educational costs after June 9, 1998?

Scope

Our audit covered the State of Florida's PBIF program activities from June 10, 1998, until funding for the program ended on June 30, 2000. The audit examined the FY 1998 and FY 1999 JTPA Title III Discretionary Funds used to fund the PBIF program (Grant Nos. A-6189-7-00-87-50 and A-6693-8-00-87-50, respectively). During this time period, Florida spent approximately $6,176,904 to operate the PBIF program. Florida Officials were not able to provide invoices or cancelled checks for $600,634.56 of the incentive payments to which they attested. We conducted our audit at the offices of Workforce Florida, Inc., located in Tallahassee, and the scope of our work included payments made to community colleges and school districts located in a variety of places within Florida.

Methodology

To determine if Florida continued to operate the PBIF program as a means of supplementing Florida's State and local adult educational costs after June 9, 1998, we interviewed officials at Workforce Florida, Inc., and the Agency for Workforce Innovation, Financial Management Department. We also reviewed prior audit reports and contract agreements.

To determine the total amount of JTPA funds Florida spent to operate the PBIF program from June 10, 1998, to June 30, 2000, we reviewed the PBIF Funding Sources and State Expenditures summary schedule of incentive payments paid to school districts and community colleges. To validate the summary schedule, we examined supporting documentation such as checks and accompanying invoices. We also reviewed EFI consolidated financial statements.

We also determined the amount of JTPA Title III funds that were reclassified as Title II-A. According to the Controller for AWI Financial Management, PBIF program costs were not tracked uniquely in FLAIR, the state accounting system. Therefore, the Controller looked within category 100757 (Contracts category) under grant numbers A0817 and A0818, which represented FY 1998 and FY 1999, respectively, and searched for payments made to the schools listed in the two grant modifications.

Internal Controls

We did not perform an evaluation of EFI's internal control systems or individual schools' internal controls over JTPA-funded PBIF payments or participants' eligibility for the JTPA program. Our testing was designed to determine if Florida continued to operate the PBIF program as a means of supplementing Florida's State and local adult educational costs after June 9, 1998. Our prior audit of the PBIF program covered the period March 1, 1995, through June 9, 1998.

Compliance with Laws and Regulations

Our testing of Florida's compliance with applicable JTPA laws was limited to PBIF incentive payments made to school districts and community colleges. This testing was not intended to form an opinion on compliance with laws and regulations as a whole, and we do not render such an opinion.

Auditing Standards

We conducted our audit in accordance with Government Auditing Standards for performance audits issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives. We performed fieldwork at Workforce Florida, Inc., from March 13, 2007 through April 26, 2007.

Criteria

We used the following criteria to perform this audit:

- JTPA as amended by the Job Training Reform Amendments of 1992 and the School-to-Work Opportunities Act of 1994
  - *Section 141 (b)*
  - *Section 164 (a)(2)(A)*
  - *Section 164 (a)(2)(C)*

- U.S. DOL – ETA, Training And Employment Guidance Letter No. 7-95 – *JTPA Intertitle Transfers of Funds*

- U.S. Court of Appeals Decision (*Florida Agency for Workforce Innovation v. DOL,* 11th Cir., No. 05-11664, *unpublished decision,* 4/24/06)

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APPENDIX C

ACRONYMS AND ABBREVIATIONS

ARB	Administrative Review Board
AWI	Agency for Workforce Innovation
EFI	Enterprise Florida Incorporated
ETA	Employment and Training Administration
FDLES	Florida Department of Labor and Employment Security
JEP	Jobs and Education Partnership
JTPA	Job Training Partnership Act
OIG	Office of Inspector General
OTTED	Office of Tourism, Trade, and Economic Development
PBIF	Performance Based Incentive Funding
FY	Fiscal Year
RWDB	Regional Workforce Development Board
WAGES	Work and Gain Economic Self-Sufficiency

APPENDIX D

AGENCY RESPONSE TO DRAFT REPORT

Larry T. Champion, Interim President
Workforce Florida, Inc.

Monesia T. Brown, Director
Agency for Workforce Innovation

September 27, 2007

Mr. Michael K. Yarbrough
Regional Inspector General for Audit
United States Department of Labor
Office of Inspector General
61 Forsyth Street SW
Atlanta, Georgia 30303

Re: Audit of the Job Training Partnership Act Performance Based Incentive Funds Program for the period after June 9, 1998 – Report Number 04-07-009-03-340

Dear Mr. Yarbrough:

By letter of September 10, 2007, you provided a draft report on Florida's Performance Based Incentive Funds program (Report Number 04-07-009-03-340). Please find enclosed our response for your consideration. We hope that you will find our comments to be of assistance in finalizing your report.

If you have questions or require additional information, please contact Mr. Larry T. Champion, at Workforce Florida, Inc., (850) 921-1119 or James F. Mathews, Agency for Workforce Innovation Inspector General at (850) 245-7141.

Sincerely,

Larry T. Champion
Workforce Florida, Inc.

Monesia T. Brown
Agency for Workforce Innovation

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Response to the
Draft Audit
Performance Based Incentive Funding (PBIF) Program
For the Period after June 9, 1998

I. Background

In 1994, thirteen years ago, the Florida Legislature established the Performance Based Incentive Funding program (PBIF) which was designed to train dislocated workers and enhance employment opportunities for Florida citizens. The program was initially administered by the Jobs and Education Partnership (JEP), a subsidiary of Enterprise Florida, Inc. (EFI), through a Florida Department of Labor and Employment Security contract with the Executive Office of the Governor, Office of Tourism, Trade and Economic Development (OTTED). Four years later in 1998, the State Workforce Development Board was established and assumed the role of the JEP. In 2000, the Florida Workforce Innovation Act was passed to implement federal legislation requiring a new locally-operated, customer-focused system for workforce development in the states. This act created Workforce Florida, Inc. and the Agency for Workforce Innovation and consolidated the responsibilities of the State Workforce Development Board with new responsibilities for Work and Gain Economic Self-Sufficiency (WAGES).

Beginning operation on October 1, 2000, the Agency for Workforce Innovation (the Agency) assumed the responsibilities of the FDLES several months after the PBIF program ended on June 30, 2000. The Agency currently serves as the administrator of Florida's workforce development programs under contract with Workforce Florida, Inc. Since its inception, the Agency has been streamlining internal processes, while continuing to provide core services to customers. In response to the changing workforce environment and legislative mandates, the Agency has made substantial operational changes and productivity enhancements.

Florida state government has changed in many ways since the initiation and administration of the PBIF program. There have been two new gubernatorial administrations elected with numerous changes in state organizational structures, initiatives and oversight. The responsible organizational entities for PBIF have been long since dissolved or abolished.

In July 2006, the State of Florida paid $11.6 million to repay grant funding related to the PBIF program. Furthermore, numerous students who were PBIF participants have become employed and have used skills learned in the program to further their economic sufficiency. Lastly, lessons learned from the PBIF situation have been used to enhance administrative structures of successor workforce entities. The State of Florida is proud of the accomplishments of its current workforce system.

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II. Comments on Audit Results:

We request that consideration be given to the following factors as a basis for waiving and not subjecting the State to payment of additional funds as a result of this follow-up audit of the PBIF program.

- There was a benefit to many dislocated workers:

Many JTPA participants did in fact receive training and assistance and were placed into targeted occupations. The PBIF program was fully supported by the Governor's Office and the Legislature through other funding sources which exceeded the amounts of JTPA funds used. Disallowing the total amount would fail to take into consideration that many dislocated workers benefited from the program.

- There was no willful disregard of federal requirements, fraud, gross negligence or failure to observe accepted standards of administration.

- The State has already paid in excess of $11 million:

The State requests that consideration be given to the fact that it has already paid $11, 579, 365.35 in non-federal funds to satisfy the disallowance resulting from the 1997 audit. This combined with the fact that many JTPA individuals received benefits should be strongly considered as a basis for resolving this audit without further required payment.

- Current State budget crisis:

Requiring additional payment at this time would create additional hardships and adversely affect the State's services to Florida citizens in need of workforce services. Based on actual revenue collections, it is anticipated that recurring general revenue for Fiscal Year 2007-08 will not be sufficient to support the levels of appropriations approved by the Florida Legislature. As a result, the State is currently facing corresponding recurring budget reductions for each State agency. Reduction options equal to 10% of the recurring general revenue appropriations have bee requested from each State agency. Thus, the available general revenue to pay additional amounts as a result of the latest PBIF audit has been reduced due to the current financial condition of the State.

- A different administrative structure currently exists that affords more administrative oversight and control; internal control reviews and monitoring; and enhances the State's current accountability for federal funds:

The Agency for Workforce Innovation has determined that monitoring, auditing and general reviews are the most effective ways to address any programmatic deficiencies and to identify corrective actions in a timely manner. The Agency quickly identifies and

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rigorously monitors any non-compliance with federal guidelines. The Agency currently operates all of the programs as opposed to operating a program through another agency with approval by a non-profit organization as was the case with PBIF. All of the audit findings associated with the Department of Labor and Employment Security have been successfully resolved. For the past three years, the Agency for Workforce Innovation has conducted financial and programmatic monitoring of workforce programs.

All federal grant awards are monitored by financial and programmatic staff daily to assure the allowability and proper expenditures of taxpayer funds. The Agency undergoes an annual audit conducted by the Auditor General and each sub recipient or applicable provider receives an annual A-133 audit conducted by private certified public accounting firms. These audits are reviewed by the Office of Inspector General and the Office of Financial Management for compliance with federal regulations and federal/state reporting requirements and to ensure that appropriate correction action is taken.

Beginning in fiscal year 07-08, to enhance the accountability of the programs it administers, the Agency received an appropriation of non-federal funds from the Florida Legislature. The funds will be used to conduct an expansive review of the internal controls of the Agency and selected organizations that receive agency funding (i.e. grantee organizations).

Federal regulations require the Agency to monitor the activities of grantee organizations to ensure that federal funds are accounted for properly. This review of internal controls will help ensure that this objective is met. It will also enhance Governor Crist's priorities of increasing transparency in government and ensuring ethical spending of the People's tax dollars.

This initiative will include an educational component to train staff and the governing boards of the Agency's grantee organizations. Topics will include fraud detection and fraud prevention, best practices for internal controls and the roles and duties of the governing boards. Internal control evaluations will be conducted for all regional workforce boards and any identified deficiencies will require corrective action plans.

- Length of time since PBIF program operation:

The PBIF program ceased operation in 2000. The first audit covered the period of March 1, 1995 to June 9, 1998. The period audited in the follow-up audit is June 9, 1998 through June 30, 2000. Thus, there is a seven year time period since the cessation of the program and a nine year period since the first audit.

III. Position Regarding the Methodology of the Audit

In the alternative, if it is decided not to waive the total disallowance of the follow up audit, we respectfully disagree with the allocation of JTPA administrative funds calculated by the auditors. During the course of the on-site audit, Board staff shared

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specific information with the OIG auditors which clearly showed the relationship of funding for the Board to positions allocated under each fund source. This information showed staff positions transferred from Florida Department of Labor (7 JTPA funded positions), positions transferred from the Department of Commerce (8 positions, all state funded), and existing state funded positions (3 positions, state funded).

As discussed at length with the auditors, seven positions and associated funding ($490, 862 and $414,805 for fiscal year 2000 and 1999 respectively) was transferred from the Florida Department of Labor to the State Board for purposes of funding the Board and all associated programs, of which PBIF was only one. However, only one of these seven positions had anything to do with the PBIF program, and that only on a part time basis. Specific budget documents, appropriation records, organization charts, and position descriptions were given to the auditors during the last visit. Also explained to the auditors was the fact that salary costs associated with the PBIF program, including a Data Base Analyst and three Government Analyst positions, were positions transferred from the Department of Commerce, and as such, were paid from state funds, not JTPA. These state funded positions performed the pre-audits, invoicing, data consolidations, and grant monitoring functions for PBIF and other JTPA contracts.

In addition to the one PBIF position partially funded by JTPA, six positions worked specifically on the following:

- Federally required JTPA data analysis and reporting requirements,
- maintained the required HRIC Board membership composition,
- coordinated with the federal and state Departments of Labor, and subsequently the Agency for Workforce Innovation, as well as other mandatory workforce partners, in the development and distribution of federal and state policies, guidance, and memoranda,
- assisted regional workforce boards with policy clarifications, questions, and concerns, and
- Staffed the state board relative to these issues.

However, these six positions did not administer, manage, or assist with the PBIF program in any way. Consequently, in allocating the above mentioned appropriate, required, and certainly legitimate salary costs for mandatory components of the JTPA program through the proposed allocation methodology as suggested by the auditors; the auditors are now disallowing or questioning expenditures which would otherwise be allowed without question.

Consequently, the position of the State and this Board is that the auditors utilized an erroneous basis to allocate administrative costs in the initial audit which overstated the costs of administering the PBIF program, and likewise is proposing the same erroneous allocation with the same outcome for the last two years. A more appropriate and reasonable allocation would be 1/7th of the amounts received from the Department of Labor – even this allocation assumes that the one position attributed 100% of his time to PBIF, which is wrong and still overstates the allocation.

Because of these concerns, we would ask for reconsideration of the proposed audit adjustment which allocates an inordinate and unfair percentage of JTPA funding as questioned costs, as well as an offset of the previous adjustment for PBIF costs made in the initial audit using this unjust and erroneous allocation.

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