U.S. Department of Labor

Office of Inspector General—Office of Audit

EMPLOYMENT AND TRAINING ADMINISTRATION

Audit Of Allegations Regarding ETA Funds Granted To Arkansas

Date Issued: March 31, 2005
Report Number: 06-05-002-03-390

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

BRIEFLY...

Highlights of Report Number: 06-05-002-03-390, to the Employment and Training Administration regarding Workforce Investment Act (WIA) funds granted to the State of Arkansas.

WHY READ THE REPORT

The Arkansas Employment Security Department (AESD) receives Workforce Investment Act (WIA) funds and Federal Unemployment Insurance (UI) and Wagner-Peyser grants from the Department of Labor's Employment and Training Administration (ETA) to support a range of statewide and local workforce development programs. Under section 134 of WIA, statewide activities may include providing funds to employers to upgrade the skills of current employees. Such incumbent worker training programs provide a critical tool for states and local communities in their efforts to retain business and industry by keeping the workforce competitive.

WHY OIG DID THE AUDIT

At the request of the Arkansas Division of Legislative Audit (ADLA), the Office of Inspector General (OIG) evaluated a complaint that Arkansas misused over $1.2 million in DOL funds. We audited two allegations contained in a complaint received by the ADLA. The first allegation concerned the questionable use of WIA incumbent worker funds as an incentive for the Nestle Corporation to locate a new plant in Jonesboro, Arkansas. The second allegation charged that AESD used Wagner Peyser and UI grants to pay for vacant office space in a building when ASED relocated its Rapid Response unit.

READ THE FULL REPORT

To view the report, including the scope, methodology, and full agency response, go to: http://oig.dol.gov/public/reports/oa/2005/06-05-002-03-390.pdf

March 2005

AUDIT OF ALLEGATIONS REGARDING ETA FUNDS GRANTED TO ARKANSAS

WHAT OIG FOUND

The OIG found that the Arkansas Workforce Investment Board (AWIB) used $859,904 in WIA funds to reimburse the Nestle Corporation for economic development rather than allowable incumbent worker training activities. We found that AWIB promised the funds to Nestle before it built the plant or hired workers. Because Nestle used the funds to cover its start-up training costs, we questioned whether the funds met the legislative intent of the incumbent worker program

We also concluded the Arkansas Employment Security Department (AESD) was leasing a building that was 67 percent vacant and was incurring significant monthly space costs. To be an allowable cost to Federal Unemployment Insurance (UI) grants, OMB Circular A-87, section C1a, requires a cost to be reasonable and necessary for the proper and efficient administration of Federal awards. We believe that $347,586 of space costs charged to UI grants from April 2003 through October 2004 is questionable since the costs were neither proper nor efficient.

WHAT OIG RECOMMENDED

We recommended that the Assistant Secretary for Employment and Training disallow and recover the $859,904 that the State paid to Nestle and disallow the $347,586 of UI costs incurred for vacant office space through October 31, 2004,and any other charges for vacant space since October 2004.

In its response to the draft report, the State said that AWIB intended for the Nestle project to "be an extension of the Incumbent Worker Training Program." With regard to the use of UI grant funds to pay for vacant space in a building leased by AESD, the State explained that the vacancies occurred because a lack of funding resulted in the termination or lack of renewal of subleases. Also, some of the space was vacated when the AESD moved its Rapid Response unit to another building due to the discovery of mold in the spaced occupied by the Rapid Response unit in the leased building.

Our findings and recommendations remain unchanged.

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Executive Summary

The Arkansas Division of Legislative Audit (ADLA) requested the Office of Inspector General's assistance in reviewing the allegations involving U. S. Department of Labor (DOL) funds. We conducted a performance audit regarding two of several issues in a complaint received by the ADLA alleging mismanagement of state and/or Federal funds by the State of Arkansas. The first issue concerned Workforce Investment Act (WIA) grants management by the Arkansas Workforce Investment Board (AWIB), the Arkansas Employment Security Department (AESD), and the Northeast Arkansas Workforce Investment Board (NEAWIB). The second issue concerned the payment of Wagner-Peyser (WP) and Unemployment Insurance (UI) grants for vacant office space. We concluded that the remaining allegations were addressed in a report issued by ADLA.

Findings

The first complaint issue alleged questionable use of WIA Incumbent Worker funds to pay an incentive for a company to locate in Jonesboro, Arkansas. We found Nestle Corporation (Nestle) was promised $1 million in Workforce Investment Act (WIA) training funds to locate a new plant in Jonesboro, Arkansas. While the NEAWIB had initially voted to allocate $1 million training funds to Nestle, it was the AWIB that eventually contracted with and paid Nestle $859,904 of its WIA 15 percent "statewide activities set aside funds," after making additional statewide funds available, on the basis that Nestle was training incumbent workers.

We concluded that the $859,904 the AWIB reimbursed Nestle, was, in fact, for economic development activities prohibited under WIA regulations (Section 667.262). The funds were promised to Nestle long before the plant was constructed or any employees were hired. All new hires to open the plant were considered incumbent workers. Most participants whose files we reviewed were currently employed at the time they applied at Nestle, some moving in from out of state. The preamble to the WIA Rules and Regulations provides that, generally, incumbent worker training is developed with an employer to upgrade skills of a particular workforce. We question whether the $859,904 that AWIB paid to Nestle meets the intent of the WIA incumbent worker training program (i.e., to assist employers in upgrading the skills of current workers). As a result, we question these costs as an unreasonable use of WIA funds available for incumbent worker training. (See finding 1, page 6.)

The complaint also alleged that the AESD was incurring costs for a substantial amount of vacant space in Little Rock, Arkansas. We determined that 67 percent of the leased building in question has been vacant since April 2003 resulting in $347,586 of questionable space costs charged to UI grants from April 2003 through October 2004. If the situation remains the same, additional costs of $18,294 per month since October 2004 will continue to be improperly charged to DOL grants. (See finding 2, page 13.)

Recommendations

We recommend the Assistant Secretary for Employment and Training disallow and recover from the State:1) the $859,904 of WIA funds paid to Nestle; and 2) the $347,586 of UI funds paid for costs of vacant space through October 4, 2004, plus any additional unallowable space costs incurred since November 2004.

Agency Response

The State responded that the State Workforce Board intended for the Nestle project to be an extension of its properly established State's Incumbent Worker Training Program and was not intended to circumvent WIA law that prohibits utilizing Federal WIA funds for economic development projects.

With regard to the use of UI grant funds to pay for vacant space in a building leased by AESD, the State responded that based on lack of funding, all subleases were terminated or not renewed. Also, since mold was discovered in parts of the building occupied by the Arkansas Employment Security Department Rapid Response unit, the unit was moved to rent-free space in the AESD central office.

The State believes the Arkansas Workforce Investment Board and the Arkansas Employment Security Department acted in good faith in making the decisions that are questioned in the draft audit report.

A copy of the State's complete response is included in this report as Appendix D.

OIG Conclusion

The State of Arkansas already had an established "incumbent worker" training program prior to WIA -- with participant eligibility and eligible companies defined -- operated by the Arkansas Department of Economic Development. That program defines incumbent worker as a "person working at an Arkansas company, who has been working at the company for at least twenty-six (26) weeks and who works at least thirty (30) hours a week." Therefore**,** the State should not have to define "incumbent worker' differently for the State's WIA federally-funded incumbent worker training program. The program provides funds for training the incumbent workers of "existing state businesses."

The Nestle contract was negotiated prior to Nestle locating in Jonesboro and before the company had any employees. Therefore, we still conclude that WIA funds were used, under the guise of an incumbent worker training program, as an incentive for Nestle to locate to Jonesboro and to supplant the company's start-up training costs.

The State did not provide any information regarding the vacant space that was not already considered prior to the draft report.

The report's findings and recommendations remain unchanged.

U.S. Department of Labor

Office of Inspector General
Washington, DC. 20210

Assistant Inspector General's Report

Emily Stover DeRocco
Assistant Secretary for
Employment and Training

The Arkansas Division of Legislative Audit (ADLA) received a complaint including multiple allegations of possible mismanagement of State and/or Federal grant funds by the Arkansas Workforce Investment Board (AWIB), the Arkansas Employment Security Department (AESD), and the Northeast Arkansas Workforce Investment Board (NEAWIB). The ADLA requested the Office of Inspector General's (OIG) assistance, and we conducted a performance audit of the allegations involving U.S. Department of Labor (DOL) grant funds.

Our objective was to answer the following two questions:

1. Did the AWIB improperly use WIA Incumbent Worker funds to pay an incentive to Nestle Corporation to locate a new plant in Jonesboro, Arkansas?

2. Did the AESD use Wagner-Peyser (W/P) and Unemployment Insurance (UI) grant funds contrary to applicable Federal cost principles to pay for vacant space at 4th and Main in Little Rock, Arkansas?

We found Nestle Corporation (Nestle) was promised $1 million in Workforce Investment Act (WIA) training funds to locate a new plant in Jonesboro, Arkansas. We also determined that 67 percent of the leased building in question has been vacant since April 2003 resulting in $347,586 of questionable space costs charged to UI grants from April 2003 through October 2004.

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

Objective 1 – Did the AWIB improperly use WIA Incumbent Worker funds to pay an incentive to Nestle Corporation to locate a new plant in Jonesboro, Arkansas?

Finding 1 – The costs charged to the WIA Incumbent Worker grant funds are questioned as a result of our conclusion that the AWIB payments to Nestle Corporation were an economic development incentive for the company to locate in Jonesboro, Arkansas.

The complaint alleged that it was improper to use WIA Incumbent Worker funds to pay an incentive for a company to locate in Jonesboro, Arkansas. We found that prior to Nestle locating to Jonesboro, the AWIB approached the NEAWIB about making training funds available for Nestle. NEAWIB promised Nestle Corporation $1 million in WIA training funds to locate a new plant in Jonesboro, Arkansas. The NEAWIB initially agreed to provide Nestle $1 million in training funds from its local formula grant funding over a 3 program-year period. This commitment was contingent upon Nestle meeting on-the-job training (OJT) rules for training. Since most of Nestle's new hires did not meet the OJT eligibility rules, the NEAWIB did not honor the commitment. Therefore, the State AWIB contracted with Nestle and paid $859,904 of its WIA 15 percent "statewide activities set aside funds," after making additional statewide funds available; on the basis that Nestle was training incumbent workers.

WIA Final Rules, 20 CFR Subpart 667.262, states:

> (a) WIA title I funds may not be spent on employment generating activities, economic development, and other similar activities, unless they are directly related to training for eligible individuals.

These WIA funds directly benefited Nestle by supplanting Nestle's supervisory costs that would normally be incurred as part of a plant startup.

According to the WIA rules (20 CFR Subpart 665.220), states may define who is eligible for incumbent worker training as long as they are limited to individuals who are employed. Arkansas did not have a policy defining "incumbent worker" eligibility other than its "Arkansas Incumbent Workforce Training Program Application and Instructions." This document provides on page 5:

> The goal of Arkansas' Incumbent Workforce funds is to train the current and newly hired workers as industry demands. . . .

We interpret this passage to make eligible for incumbent worker training any worker in the State of Arkansas whether they worked for an employer 5 minutes, I day, or 30 years. Consequently, we concluded that defining newly hired employees for a startup plant as incumbent workers circumvents applicable WIA rules.

Furthermore, in this instance the State did not follow the process it had already established for incumbent worker training; i.e., competitively awarded contracts not to exceed $175,000 each. Rather, the State noncompetitively awarded $863,504 of WIA incumbent worker training funds to Nestle, as part of the incentive promised prior to the company locating a new plant in Arkansas.

The WIA of 1998 (P.L. 105-220), Title I, Subtitle B, Section 128 (a) states:

> (1) IN GENERAL. -The Governor of a State shall reserve not more than 15 percent of each of the amounts allotted to the State under section 127(b)(1)(C) and paragraphs (1)(B) and 2(B) of section 132(b) for a fiscal year for statewide workforce investment activities.
>
> (2) USE OF FUNDS . . . the Governor may use the reserved amounts to carry out statewide youth activities described in section 129(b) or statewide employment and training activities, for adults or for dislocated workers, described in paragraph (2)(B) or (3) section 134(a).

WIA, Section 134(a)(3)(A)(iv)(I) provides:

> 3) IN GENERAL. - A State may use funds reserved . . . to carry out additional statewide employment and training activities, which may include-implementation of innovative incumbent worker training programs. . . .

We concluded that the $859,904 the AWIB reimbursed Nestle was for economic development specifically benefiting Nestle rather than participants. We question whether this “incumbent worker” training contract meets the intent of the WIA (i.e., training funds are to benefit participants) and question these costs as an unreasonable use of WIA funds available for incumbent worker training.

Our conclusion is based on the following evidence:

- Promises were made to Nestle Corporation before Nestle even completed construction of its plant in Jonesboro. The guise of an incumbent worker training program was used to fund this commitment.

The following chronology shows how Nestle’s funding developed.

- ➢ The **May 8, 2001**, AWIB executive committee minutes discussed arranging $500,000 in training funds for an industrial project in Northeast Arkansas.

- ➢ The **June 7, 2001**, NEAWIB executive committee minutes show the committee approved a motion to allocate up to $1 million for the potential industry that may locate in Jonesboro subject to the WIA guidelines and the availability of funding.

- The **July 26, 2001**, minutes of the NEAWIB quarterly meeting shows the board approved the $1 million contingent upon the funding being made available to the area within the limitations, constraints, and requirement for training over a 3 program-year-period.

- On **July 27, 2001**, the Governor announced that Nestle USA would construct a facility in Jonesboro, Arkansas.

- In the **August 14, 2001**, AWIB executive committee minutes, the AWIB Director, indicated that the State Department of Economic Development was searching for $1 million to support training for the Nestle plant and asked the AWIB Director for help. The AWIB Director indicated that she turned to the NEAWIB, and the State board approved a transfer of 20 percent of dislocated worker funds to adult funds to acquire $1 million needed to train the workers.

- In the **January 22, 2003**, AWIB executive committee minutes the chairman explained that NEAWIB had committed OJT training funds for Nestle but that WIA eligibility guidelines excluded most Nestle employees from OJT. The chairman stated that the incumbent worker training program has its own eligibility guidelines that allow Nestle employees to receive training. He explained that the request for $900,000 of incumbent worker training funds for the Nestle contract would be in addition to the $1.75 million set aside for the statewide incumbent worker training program.

As the above chronology shows, both the AWIB and the NEAWIB took steps to make training funds available for Nestle in 2001, prior to Nestle locating a plant in Jonesboro. At the State's request, in July 2001, the NEAWIB agreed to provide Nestle $1 million over a 3-program-year period contingent upon Nestle meeting WIA OJT rules. This was long before Nestle completed construction of the Jonesboro plant in late 2002.

When it was determined that Nestle could not meet the OJT program eligibility rules, the NEAWIB withdrew its commitment. To fulfill the State's commitment to Nestle, on February 4, 2003, the AWIB allocated additional funds from those available for WIA statewide activities in an $863,504[1] contract with Nestle for incumbent worker training.

By the time the State actually awarded the funds for incumbent worker training in February 2003, Nestle had hired employees for the Jonesboro plant. However, since the award fulfilled a commitment made substantially prior to the existence of the plant or hiring any employees, we concluded the objective of this award was to fulfill the prior State economic development commitment. The method used was under the guise of incumbent worker training.

Of the 20 employees whose files we reviewed, all were hired during 2003 after the AWIB's commitment of funds for Nestle.

[1] Only $859,904 was paid to Nestle.

- The AWIB did not adhere to its incumbent worker program guidelines that were in place at the time it awarded Nestle its incumbent worker funds.

The WIA allows states to set aside15 percent of their WIA adults, youth and dislocated workers grant funds for statewide activities, including incumbent worker training programs. In Arkansas, these WIA funds are received by the AESD and allocated by the AWIB.

We compared the differences in the AWIB's procedures used for the incumbent worker program already in place and those used for the separate award to Nestle. In Program Year (PY) 2002, the AWIB made $1.75 million in incumbent worker training funds available to businesses and industries throughout the State to help train existing employees. The funding was limited to $175,000 per application, with the funds available to employers in the 10 local workforce areas throughout the State. When one AWIB member suggested establishing a request for proposal (RFP) process with the funds kept in one lump sum for the whole State, the head of the incumbent worker committee stated that if one area applied for the entire amount, nine workforce areas would be left without an opportunity to bid.

The $1.75 million incumbent worker training funds were to be competitively awarded, with priority given to companies that requested assistance to avoid a significant layoff or to achieve a significant upgrade in employees' skills, and that planned to utilize Arkansas public and private providers to provide the training.

Yet, the AWIB made available, noncompetitively, an additional $863,504 to Nestle (almost half as much as the previous $1,75 million allocation of PY 2002 funds), leaving no opportunity for the nine other workforce areas to competitively bid for those dollars. Furthermore, the funds provided to Nestle were not provided to avoid a significant layoff or achieve a significant upgrade in employees' skills, and Nestle did not utilize Arkansas public and private providers to provide the training; most training was on-the-job training with the training costs being supervisors' salaries.

The AWIB awarded approximately 60 competitive grants statewide (total $1.75 million) through its PY 2002 incumbent worker training funds as opposed to the 1 noncompetitive $863,504 contract issued to Nestle. Nestle was pre-selected to receive a new allocation of WIA funds which were, therefore, not made available for statewide activities. Rather, the AWIB used WIA to fulfill a commitment that had been made to assist economic development efforts in Jonesboro.

- Incumbent worker was not defined by the AWIB in any official policy statement other than its incumbent worker program application instructions that states the goal of Arkansas' incumbent workforce funds is to train "current or newly hired" workers.

The AWIB did not establish a separate definition of incumbent worker for the Nestle contract even though the contract was not awarded within the existing PY 2002 program guidelines. The AWIB staff stated the PY 2002 incumbent worker program guidelines (i.e., program application and instructions) that referred to any current or newly hired worker would also apply to the grant with Nestle. Under that definition (current or newly hired), we concluded that the AWIB's position was that any worker in the State would qualify as an incumbent worker for Arkansas' WIA grant purposes.

The preamble to the WIA Rules and Regulations published in Federal Register, Volume 65, No. 156, August 11, 2000, states on page 49333:

> Generally, incumbent worker training is developed with an employer or employer association to upgrade skills of a particular workforce**. . . .**

We do not believe that new hires for a plant start up would qualify for "upgrading skills."

The AWIB did not have a reasonable basis to treat newly hired Nestle employees as incumbent workers under its WIA grant funds reserved for statewide activities when the award was to fulfill the State's commitment prior to either constructing the plant or employing staff at the plant. The AWIB's promise of funds to Nestle based on location of a new plant in Jonesboro, Arkansas, actually represented economic development activities rather than incumbent worker training for an established enterprise.

- Many individuals hired by Nestle left other jobs, even outside Jonesboro, to work for Nestle.

At the time we visited the Jonesboro plant, in September 2004, the manager stated that there were approximately 390 employees although the plan was to employ about 420 employees. As part of obtaining an understanding of the use of WIA funds awarded to Nestle, we reviewed 20 personnel files for staff and management trainees that were all hired in 2003. Thirteen of the 20 individuals we reviewed were already employed at the time they applied for the job with Nestle. One of the 20 employees we reviewed left employment in Florida to take the job with Nestle in Jonesboro. Some were also recent university graduates.

- The Nestle employee training was not training to upgrade skills of an employers existing workforce to keep up with technology changes to allow employees to keep their jobs or to learn upgraded skills to be promoted to a higher paying job. The training was for new hires to start up a new plant.

The award to Nestle clearly did not provide training for an existing workforce since the Jonesboro plant did not began processing product until about March 2003, and most employees were hired in 2003. The plant manager was transferred to Jonesboro in 2002, almost a year after the initial State commitment to the company. Thus, the AWIB used WIA funding for economic development as an incentive to Nestle to locate a new plant in Jonesboro rather than for incumbent worker training as intended by the WIA.

- Costs reimbursed for Nestle was supervisors' salaries, 8 hours a day, 5 days a week based on an average hourly wage.

The AWIB contract with Nestle was used to pay part of the cost of supervisor salaries at the plant in Jonesboro, billed under the grant at 8 hours per day, 5 days per week; rather than for outside training instructors or courses. The newly constructed plant had both new production equipment and all new employees. Thus, all employees received OJT including some with training provided by original equipment manufacturing representatives, prior to production start-up. Additionally, employees received some classroom training in plant operating policies and procedures. We concluded the State supplanted Nestle's supervisory costs that would normally be incurred as part of a plant startup. Consequently, we question these costs as allowable Federal grant costs.

While we agree that the Nestle employees received training, the NEAWIB had already decided that the company training for newly hired employees would not qualify for its WIA funded OJT program. Since the Nestle training was OJT for new hires, and neither the plant nor jobs existed at the time the State commitment was made, it is questionable whether any of the costs for Nestle supervisors or managers qualified under the Federal rules for the WIA incumbent worker training program.

The WIA Final Rule, 20 CFR Subpart 665.210 (d)(1), states that allowable Statewide workforce investment activities include:

> Innovative incumbent worker training programs, which may include an employer loan program to assist in skills upgrading**. . . .**

While Nestle did not receive a loan -- it received a contract -- no skills upgrading occurred for an existing workforce at the Nestle plant because the employees were all newly hired for starting up production at the plant, which was newly constructed.

Based on the foregoing discussion, we question the allowability, under the WIA, of the $859,904 paid to Nestle for this "incumbent worker" training contract.

Recommendation

1. We recommend that the Assistant Secretary for Employment and Training disallow and recover from the State the $859,904 paid to Nestle for economic development activities under the guise of incumbent worker training.

Arkansas Employment Security Department's Response

AESD's response, included in Appendix D, states:

> The State Workforce Investment Board had properly established an Incumbent Worker Training Program (IWTP) within the state of Arkansas. It was the intent of the Board for the Nestle project to be an extension of the Incumbent Worker Training Program and in no wise intended to circumvent WIA law that prohibits utilizing Federal WIA funds for economic development projects.

OIG Conclusion

The State of Arkansas already had an established "incumbent worker" training program prior to WIA -- with participant eligibility and eligible companies defined -- operated by the Arkansas Department of Economic Development.

The Arkansas Existing Workforce Training Act (Act 791 of 1995), as amended by Senate Bill 280 during the 82nd General Assembly, Regular Session, 1999, provides that "eligible recipients" for such training program means "a full-time permanent employee of an Arkansas company. . . ." The Rules and Regulations for this training program defines a "full-time permanent employee" as a person "working at an Arkansas company, who has been working at the company for at least twenty-six (26) weeks and who works at least thirty (30) hours a week." In addition, an eligible company was defined as one that had filed an Arkansas income tax return for the year before filing an application for incumbent worker training funds.

Since the State already had a definition of "incumbent worker" for its State incumbent worker training program operated by the Arkansas Department of Economic Development, the State should not have defined "incumbent worker'' differently for the State's WIA federally-funded incumbent worker training funds provided to Nestle. Furthermore, the State training program provides that incumbent worker training should be provided to existing State businesses. The Nestle contract was negotiated prior to Nestle locating in Jonesboro and before the company had any employees.

We, therefore, conclude that WIA funds were used, under the guise of an incumbent worker training program, as an incentive for Nestle to locate to Jonesboro and to supplant the company's start-up training costs.

Our finding and recommendation is unchanged.

Objective 2 – Did the AESD use Wagner-Peyser (W/P) and Unemployment Insurance (UI) grant funds contrary to applicable Federal cost principles to pay for vacant space at 4th and Main in Little Rock, Arkansas?

Finding 2 – AESD is leasing a building that is 67 percent vacant and is incurring significant unallowable monthly space costs.

The complaint stated that AESD was incurring UI administrative costs for a substantial amount of vacant space in Little Rock, Arkansas. To be an allowable cost to Federal UI grants, OMB Circular A-87, section C1a, requires a cost to be reasonable and necessary for the proper and efficient performance and administration of Federal awards. Furthermore, the Social Security Act, Title III, Section 302(a) provides:

> The Secretary of Labor shall . . . certify . . . for payment to each State which has an unemployment compensation law . . . such amounts as the Secretary of Labor determines to be necessary for the proper and efficient administration of such law. . . .

We determined that $347,586 of space costs charged to UI grants from April 2003 through October 2004 is questionable since the costs were neither proper nor efficient.

AESD leased a building at 125 West 4th Street in Little Rock, Arkansas, beginning in November 1999 to provide additional space for its staff and to establish a comprehensive WIA One-Stop system. This building housed various AESD programs, including the UI program, the Employment Assistance Unit and the Rapid Response Unit. AESD subleased to other agencies such as the City of Little Rock's Welfare-to-Work program, the Little Rock Career Development Center (City of Little Rock's One-Stop provider) and various One-Stop providers.

When first leased, the 4th Street building was fully occupied but is now 67 percent vacant. Starting in 2002, various agencies began vacating the premises. Some agencies lost funding and the One-Stop operation moved to another location at University Mall. By the end of March 2003 only some UI staff remained at the 4th Street location. The building covers 40,068 square feet. The vacated space is approximately 27,000 square feet. Therefore, 67 percent of the space has been vacant since March 2003.

In April 2003 the UI program began paying the entire $27,305 monthly lease cost. Of this amount, $18,294 ($27,305 x 67 percent) represents cost paid for vacant space. According to AESD officials, attempts have been made to terminate the lease or to find other occupants. However, as of October 21, 2004, the situation remains the same and UI is still paying for the vacant space.

For the period April 2003 through October 2004 (19 months), $347,586 (19 x $18,294) has been charged to Federal UI grant funds for vacant space. If the situation remains the same, UI will continue to pay $18,294 per month for vacant space through the end of the lease term, October 31, 2005.

The $347,586 represents an expenditure of grant funds where no benefit was received; therefore, these costs are questioned as improper charges to the UI grant.

Recommendation

2. We recommend the Assistant Secretary for Employment and Training disallow and recover the $347,586 of UI administrative costs incurred for vacant office space through October 31, 2004, and any other charges for vacant space since October 2004.

Arkansas Employment Security Department's Response

The State responded:

> Based on lack of funding, all subleases were terminated or not renewed. Also a mold problem was discovered in parts of the building occupied by the Arkansas Employment Security Department Rapid Response unit. Therefore, this unit was moved to the Arkansas Employment Security Department central office in rent-free space.
>
> We believe the Arkansas Workforce Investment Board and the Arkansas Employment Security Department acted in good faith in making the decisions that are questioned in the draft audit report.

OIG Conclusion

The finding and recommendation remain unchanged.

Elliot P. Lewis

Elliot P. Lewis
December 6, 2004

Appendices

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APPENDIX A

Background

The Arkansas Division of Legislative Audit (ADLA) received a complaint alleging mismanagement of state and/or Federal funds by the Arkansas Workforce Investment Board (AWIB), the Arkansas Employment Security Department (AESD), and the Northeast Arkansas Workforce Investment Board (NEAWIB). The ADLA requested the Office of Inspector General's assistance in reviewing the allegations involving U. S. Department of Labor (DOL) funds.

The AESD receives funds from the DOL's Employment and Training Administration (ETA) for state activities that are then allocated to:

- AWIB;
- Local Workforce Investment Boards (LWIB);
- Fiscal Agents for LWIBs who provide technical assistance, handle grant funds and monitor the providers;
- Chief Elected Officials (CEO) – i.e., county judges and mayors; and
- WIA Title I providers.

The AESD provides the funds to the AWIB for its operations. The AWIB provides state level policy and procedures, and oversees CEOs and LWIBs. The AWIB appointed AESD to be the Governor's Administrative Entity. The AESD is responsible for monitoring and fiscal oversight of those agencies that receive funds.

The OIG conducted a performance audit of the following allegations involving U.S. Department of Labor (DOL) grant funds:

1. The Northeast Arkansas Workforce Investment Board (NEAWIB) in Jonesboro, Arkansas, promised Nestle Corporation $1 million as incentive money to attract the industry to Jonesboro.

2. Under a 5-year multi-million dollar lease, AESD is paying for vacant space at property located at 4th and Main in Little Rock, Arkansas.

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APPENDIX B

Objectives, Scope, Methodology, and Criteria

Objectives

Our audit focused on the allegations against the AWIB, the AESD, and the NEAWIB, as it relates to USDOL funds

Scope

For the allegation regarding the incumbent worker training, we reviewed the AWIB's minutes dated May 8, 2001, through August 20, 2004; and, the NEAWIB's minutes dated June 7, 2001, and July 26, 2001. For the allegation regarding rent charges, we looked at rent charges for the period April 2003 through October 2004.

Methodology

We performed fieldwork from July 20, 2004, through September 8, 2004, including work at the AESD and AWIB offices in Little Rock, Arkansas, and Nestle's food processing plant in Jonesboro, Arkansas. Additional analytical procedures were performed in the regional audit office through December 6, 2004. The procedures used in conducting our audit included 1) interviewing AWIB, AESD, NEAWIB, and Nestle Corporation staff, 2) reviewing participant files, previously issued audit reports and state auditors' working papers, and other documents as related to the allegations, and 4) researching Federal and state laws, regulations, policies, and procedures.

Our procedures consisted of analysis of the two issues from the allegations and related documentation, along with interviews.

Generally, sampling was not used; however, we judgmentally selected 20 incumbent worker trainees (out of approximately 400) from attendance rosters submitted by Nestle to the AWIB for the months of February 2003 through October 2003, and reviewed their personnel files. The costs we questioned covered the period February 4, 2003, through October 2003.

We did not evaluate or test management controls over the AESD's systems for awarding contracts or allocating costs to grant programs. This report is not intended to provide any assurance over those controls.

We conducted our performance audit in accordance with Government Auditing Standards.

APPENDIX B Continued

Criteria

The following criteria were use in accomplishing our audit:

Workforce Investment Act of 1998

Final WIA Rules dated August 11, 2000, published in 20 CFR, Subpart(s) 665.210, 665.220 and 667.262.

OMB Circular A-87, Federal Cost Principles for State and Local Grantees

Social Security Act, as amended, Title III, Section 302(a)

Arkansas Incumbent Workforce Training Program PY 2002 Application and Instructions, page 5.

APPENDIX C

Acronyms and Abbreviations

ADLA	Arkansas Division Legislative Audit
AESD	Arkansas Employment Security Department
AWIB	Arkansas Workforce Investment Board
CEO	Chief Elected Official
DOL	U.S. Department of Labor
ETA	Employment and Training Administration
LWIB	Local Workforce Investment Boards
NEAWIB	Northeast Arkansas Workforce Investment Board
OIG	Office of Inspector General
OJT	On-the-job training
RFP	Request for Proposal
UI	Unemployment Insurance
W/P	Wagner-Peyser
WIA	Workforce Investment Act

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Appendix D

Auditee Response

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State of Arkansas
Employment Security Department
Workforce Investment Board

Mike Huckabee
Governor
Artee Williams
Director, Employment Security Department
Sandra Winston
Executive Director, Workforce Investment Board

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March 24, 2005

Mr. John Riggs
Regional Inspector General for Audit
USDOL, OIG
525 Griffin Street, Room 415
Dallas, TX 75202

SUBJECT: Review of Allegations Regarding ETA Funds Granted to Arkansas Draft Audit Report No. 06-05-002-03-390

Dear Mr. Riggs:

This is in response to your request for our comments regarding the above referenced subject.

Finding 1: The costs charged to the WIA Incumbent Worker grant funds are questioned as a result of our conclusion that the AWIB payments to Nestle Corporation were an economic development incentive for the company to locate in Jonesboro, Arkansas.

The State Workforce Investment Board had properly established an Incumbent Worker Training Program (IWTP) within the state of Arkansas. It was the intent of the Board for the Nestle project to be an extension of the Incumbent Worker Training Program and in no wise intended to circumvent WIA law that prohibits utilizing Federal WIA funds for economic development projects.

Finding 2: AESD is leasing a building that is 67 percent vacant and is incurring significant unallowable monthly space costs.

The Arkansas Employment Security Department (AESD) entered into a lease with Argora Properties effective November 1, 1999 for a 6-year term to provide the facility for a comprehensive One-Stop within the Little Rock Workforce Investment Area. Effective the same day, AESD entered into a sub-lease with the City of Little Rock also for a 6-year term. AESD entered into other sub-lease agreements with other partners within the One-Stop and the facility was completely utilized.

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Mr. John Riggs
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Based on lack of funding, all sub-leases were terminated or not renewed. Also a mold problem was discovered in parts of the building occupied by the Arkansas Employment Security Department Rapid Response unit. Therefore, this unit was moved to the Arkansas Employment Security Department central office in rent-free space.

We believe the Arkansas Workforce Investment Board and the Arkansas Employment Security Department acted in good faith in making the decisions that are questioned in the draft audit report.

If you have any questions concerning our comments, please contact us at (501) 682-2121.

Sincerely,

Artee Williams
Artee Williams, Director
AR Employment Security Dept.

Sandra Winston
Sandra Winston, Executive Director
AR Workforce Investment Board