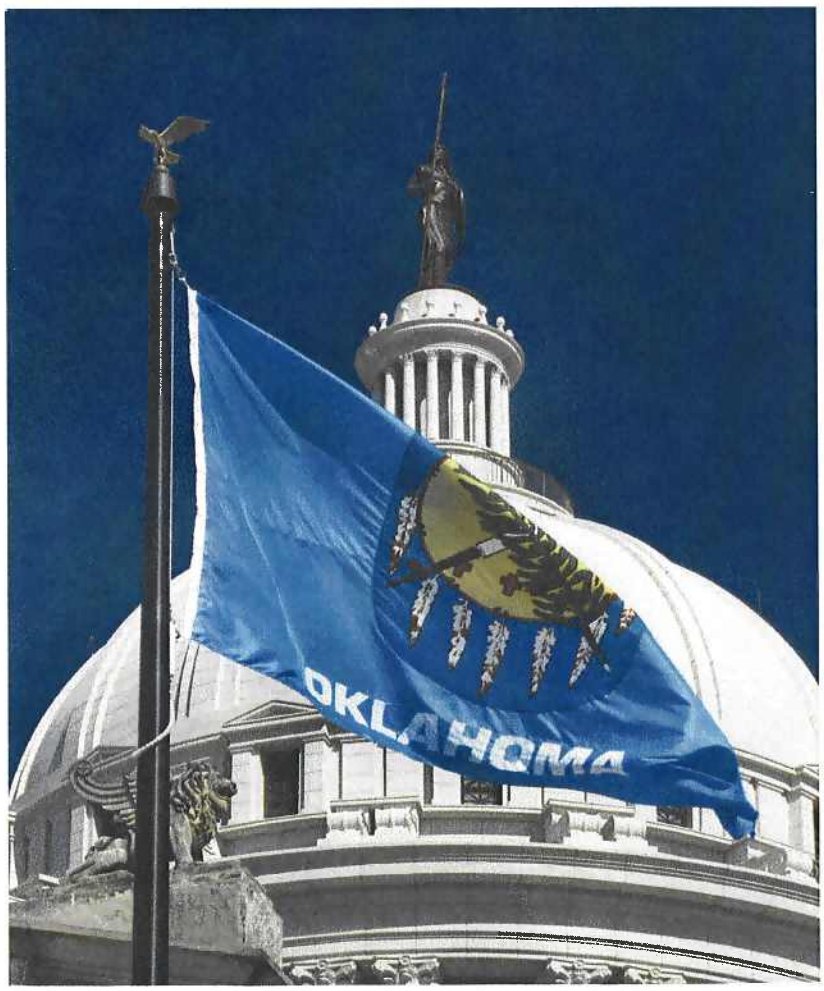
STATE OF OKLAHOMA
OFFICE OF THE STATE AUDITOR & INSPECTOR

AGREED UPON PROCEDURES ENGAGEMENT

OKLAHOMA EMPLOYMENT SECURITY COMMISSION

REPORT ON AGREED-UPON PROCEDURES REGARDING NORTHERN OKLAHOMA DEVELOPMENT AUTHORITY WORKFORCE INVESTMENT ACT PROGRAM

JULY 1, 2003 THROUGH JUNE 30, 2004



JEFF A. MCMAHAN, CFE
OKLAHOMA STATE AUDITOR & INSPECTOR

OKLAHOMA EMPLOYMENT SECURITY COMMISSION
REPORT ON AGREED-UPON PROCEDURES

REGARDING NORTHERN OKLAHOMA DEVELOPMENT AUTHORITY
WORKFORCE INVESTMENT ACT PROGRAM

FOR THE PERIOD JULY 1, 2003 THROUGH JUNE 30, 2004

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STATE OF OKLAHOMA
OFFICE OF THE AUDITOR AND INSPECTOR

JEFF A. McMAHAN
State Auditor and Inspector

October 24, 2005

TO THE OKLAHOMA EMPLOYMENT SECURITY COMMISSION

Transmitted herewith is the agreed-upon procedures report on Northern Oklahoma Development Authority (NODA) Workforce Investment Act program for the period July 1, 2003 through June 30, 2004, including close-out costs. The procedures were performed in accordance with the engagement letter dated March 31, 2005, and were conducted in accordance with attestation standards established by the American Institute of Certified Public Accountants and the standards applicable to attestation engagements contained in *Government Auditing Standards* issued by the Comptroller General of the United States.

We wish to take this opportunity to express our appreciation for the assistance and cooperation extended to our office during the course of the engagement.

The Office of the State Auditor and Inspector is committed to serving the public interest by providing independent oversight and issuing reports that serve as a management tool to the state to ensure a government which is accountable to the people of the State of Oklahoma.

JEFF A. McMAHAN
State Auditor and Inspector

2300 North Lincoln Boulevard • Room 100 State Capitol • Oklahoma City, OK 73105-4801 • (405) 521-3495 • Fax (405) 521-3426 • www.sai.state.ok.us

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ACRONYMS

AAA	Area Agency on Aging
CDSA	Community Development Support Association
ETFMI	Employment and Training Fiscal Monitoring Instrument
ITA	Individual Training Accounts
LWDC	Local Workforce Development Council
LWIB	Local Workforce Investment Board
NODA	Northern Oklahoma Development Authority
OESC	Oklahoma Employment Security Commission
OETI	Oklahoma Employment and Training Issuances
OMB	Office of Management and Budget
WIA	Workforce Investment Act

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OKLAHOMA EMPLOYMENT SECURITY COMMISSION

REPORT ON AGREED-UPON PROCEDURES REGARDING NORTHERN OKLAHOMA DEVELOPMENT AUTHORITY WORKFORCE INVESTMENT ACT PROGRAM

JEFF A. MCMAHAN, CFE

STATE AUDITOR & INSPECTOR

Why the engagement was performed

The State Auditor and Inspector performed this independent engagement at the request of the Executive Director of the OESC.

Objective of the Engagement

We applied the procedures outlined in the OESC Employment and Training Fiscal Monitoring Instrument to NODA's documentation for their WIA program for the period of July 1, 2003 to June 30, 2004, including close-out costs, to assist OESC in determining NODA's compliance with applicable WIA regulations and OMB Circular A-87.

Key Issues From the Engagement

- *Unsupported Cost Allocation Plan Methodology (Page11)*
  NODA could not provide support or methodology for the Cost Allocation Plan percentages used to allocate direct salary expenses.
  Questioned costs: The Cost Allocation Plan percentages used to allocate direct salary expenses could not be supported and, since timesheets do not reflect actual time spent on the program, the amount to be charged to the WIA program could not be determined. OESC should determine what portion will be allowed as direct payroll costs.

- *Funds Expended in Excess of Administrative Limit (Page 13)*
  NODA charged $35,000 to the WIA program to pay for staff to the board and classified these costs as program costs. If a portion of these costs were considered administrative, NODA would have exceeded its 10% administrative limit.
  Questioned costs: Since invoices do not show the amount of time charged to each duty performed, we could not determine what portion should be charged to administrative expenses. OESC should consider what portion, if any, to charge to administrative costs.

- *Undocumented Copier Charges (Page 13)*
  Documentation was not maintained to support copier charges made to the WIA program.
  Questioned costs: $1,682

- *Funds Drawn For Costs Incurred After Contract Period (Page 16)*
  Certain costs charged to the WIA program were incurred after the contract period.
  Questioned costs: $45,949

- *Funds Expended in Excess of Administrative Limit-Close-Out Costs (Page 16)*
  It appears NODA exceeded its 10% limit on administrative costs.
  Questioned costs: $8,632 (included in prior questioned costs)

- *Inconsistent Methodology of Charging Payroll and Indirect Costs (Page 17)*
  The methodology for charging payroll and indirect close-out costs appeared inconsistent.
  Questioned costs: $ 20,299 (included in prior questioned costs)

- *Unreasonable Legal and Accounting Fees (Page 17)*
  The amount of legal and accounting fees charged to the WIA program appear unreasonable.
  Questioned costs: $76,016 ($24,392 included in prior questioned costs) A portion of these questioned costs may be allowable. Final determination of allowability will be determined by OESC.

To view an electronic version of this report, please visit our website at **www.sai.state.ok.us**

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Background

Created by the Legislature in 1941, the Oklahoma Employment Security Commission governs the operation of local employment offices throughout the state. These offices provide testing, counseling and placement services for job seekers; solicit job orders from employers; refer applicants to jobs; provide Computerized Job Banks for job information; and provide special services for veterans and disabled veterans, including job development, counseling and placement. OESC also collects Unemployment Insurance taxes from Oklahoma employers to finance payment of unemployment benefits to jobless workers.

Additionally, the OESC, through the Employment and Training Division, as the Governor's designated administrative entity, has the responsibility for providing administrative funds for local fiscal agents and service providers throughout Oklahoma. These funds are used to respond to changes in the economy, prepare workers to meet the needs of the labor market, provide key labor market information and help businesses with the resources to remain globally competitive. OESC is part of a national network of employment service agencies receiving administrative funding from the federal government and is governed by a five-member Commission appointed by the Governor with consent of the Senate.

The Northern Oklahoma Development Authority, (NODA), is organized under the provisions of 60 O.S., §176, et seq.; the Interlocal Cooperation Act, 74 O.S., §1001-1008; and other applicable statutes and laws of the State of Oklahoma. NODA is authorized under its charter to provide planning, technical assistance, and direct services management to the eight counties of Alfalfa, Grant, Kay, Major, Garfield, Noble, Blaine, and Kingfisher, as well as to all public agencies having jurisdiction within those counties, including cities, towns, soil and water conservation districts, and other public agencies, districts, authorities and political subdivisions.

OESC is responsible for administering the federal Workforce Investment Act Program, Title V-Senior Community Service Employment Program and the Welfare to Work Grants to State and Localities Program. NODA is a subrecipient of those funds. NODA also receives federal funding from the following agencies: Oklahoma Department of Human Services, Oklahoma Department of Transportation, Oklahoma Department of Commerce, Oklahoma Department of Agriculture and the Oklahoma State Auditor's Office.

OESC monitors reviewed NODA records for the WIA program for the period July 1, 2002 through June 30, 2003. Based on that review, $145,798.78 of costs were disallowed, and NODA is required to refund this amount to OESC. The first payment of $93,154.32 was dated January 25, 2005, and the balance of $52,644.46 is due December 2005. NODA elected not to renew the WIA contract with OESC for fiscal year 2005.

Scope

SA&I applied the procedures outlined in the ETFMI to NODA's documentation for their WIA program for the period of July 1, 2003 to June 30, 2004, including all closeout costs, as requested by the Executive Director of OESC.

Methodology

We performed the procedures that are outlined in the OESC Employment and Training Fiscal Monitoring Instrument. The following areas were included in the procedures:

- Accounting System
  - Financial Reporting
  - Accounting Records
  - Internal Controls
  - Budget Control
  - Cost Principles and Allowable Costs
  - Source Documentation
  - Cash Management
- Period of Availability
- Program Income
- Property Management
- Oversight/Monitoring
- Records Retention
- Participant Support Services
- Individual Training Accounts
- Insurance
- Procurement
- Contracting

Questioned Costs

Questioned costs have been identified in this report. These questioned costs represent costs that are questioned by the auditor because of a finding (1) which resulted from a violation or possible violation of a provision of law, regulation, contact, grant, cooperative agreement, or other agreement or document governing the use of Federal funds, including funds used to match Federal funds; (2) where the costs, at the time of the engagement, were not supported by adequate documentation; or (3) where the costs incurred appeared unreasonable and did not reflect the actions a prudent person would take in the circumstances. However, final determination of disallowance, if any, will be determined by OESC management.

STATE OF OKLAHOMA
OFFICE OF THE AUDITOR AND INSPECTOR

JEFF A. McMAHAN
State Auditor and Inspector

INDEPENDENT ACCOUNTANT'S REPORT ON APPLYING AGREED-UPON PROCEDURES

JON L. BROCK, EXECUTIVE DIRECTOR
EMPLOYMENT SECURITY COMMISSION

We have performed the procedures enumerated within the *OESC Employment and Training Fiscal Monitoring Instrument*, which were agreed to by management of the Oklahoma Employment Security Commission (OESC), solely to assist you in evaluating Northern Oklahoma Development Authority's (NODA) Workforce Investment Act (WIA) program compliance for the period July 1, 2003 through June 30, 2004, including closeout costs. NODA's management is responsible for NODA's program compliance. This agreed-upon procedures engagement was conducted in accordance with attestation standards established by the American Institute of Certified Public Accountants and the standards applicable to attestation engagements contained in *Government Auditing Standards* issued by the Comptroller General of the United States. The sufficiency of these procedures is solely the responsibility of those parties specified in this report. Consequently, we make no representation regarding the sufficiency of the procedures described below either for the purpose for which this report has been requested or for any other purpose.

For the areas listed on page 8 of this report, we have applied the procedures in the *OESC Employment and Training Fiscal Monitoring Instrument* to NODA's WIA program documentation. Findings were noted as a result of applying these procedures.

We were not engaged to, and did not, conduct an examination or a review, the objective of which would be the expression of an opinion or limited assurance on NODA'S WIA program compliance. Accordingly, we do not express such an opinion or limited assurance. Had we performed additional procedures, other matters might have come to our attention that would have been reported to you.

This report is intended solely for the information and use of management of the Oklahoma Employment Security Commission and is not intended to be and should not be used by anyone other than these specified parties.

However, the Oklahoma Open Records Act states that all records of public bodies and public officials shall be open to any person, except as specifically exempted. The purpose of this Act is to ensure and facilitate the public's right of access to and review of government records so they may efficiently and intelligently exercise their inherent political power. Therefore, this report is a matter of public record and its distribution is in no way limited or restricted.

Jeff A. McMahan

JEFF A. McMAHAN
State Auditor and Inspector

August 10, 2005

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FISCAL YEAR COSTS

Costs for FY '04

From July 1, 2003 to June 30, 2004, NODA incurred costs of $856,941 which were charged to the WIA program. Costs are as follows:

Administrative Costs	Per General Ledger:	Per Expend. Report:	Per Draw Request:
Payroll and benefits	$61,824	*	*
Indirect costs	12,663	*	*
Professional fees	8,125	*	*
Rent and utilities	4,301	*	*
Travel and subsistence	439	*	*
Miscellaneous costs	6,370	*	*
Total Administrative Costs	$93,722	$90,530	*
Program Costs			
Pass-through funds	$639,993	*	*
Staff to the Board	35,000	*	*
Stillwater LWDC	13,500	*	*
Educ., Books/Tuition, & Misc.	74,726	*	*
Total Program Costs	$763,219	$766,411	*
Total Costs	$856,941	$856,941	$870,209

*** No breakdown available at this level**

Methodology

Procedures from the ETFMI were applied to a sample of documents to assist OESC in determining NODA's compliance with applicable WIA regulations, OMB Circular A-87, Oklahoma Employment & Training Issuances, and the grant agreement between OESC and NODA.

Findings

Unsupported Cost Allocation Plan Methodology

NODA could not provide support or methodology for the Cost Allocation Plan percentages used to allocate direct salary expenses. In addition, monthly time sheets prepared by each employee appear to be prepared to coincide with the percentages stated in the Cost Allocation Plan and do not appear to reflect an actual after-the-fact distribution of time worked. We noted the following:

- According to the Cost Allocation Plan, 30% of the financial accountant's time was charged to WIA, 51.5% to the Area Agency on Aging, (AAA), and 18.5% to indirect costs. These percentages agree within 1% of his monthly time sheets. However, the financial accountant stated that he performed the same job (with less volume) for Title V, which never appeared on his timesheet. The financial accountant was also responsible for preparing the general ledger and financial statements for the whole agency

- According to the Cost Allocation Plan, 63% of the WIA/Title V Assistant Supervisor's time was charged monthly to the WIA program. However, in November 2003 her duties were significantly reduced when CDSA took over as the provider of WIA-youth services. Time charged to the WIA program did not decrease in proportion to the change in duties.

- According to the Cost Allocation Plan, 35% of one accountant's time was charged directly to the WIA program. However, none of her time was charged to the AAA program, even though she stated that she worked on the AAA grant.

- Another accountant's hours charged to the WIA program increased after funding for Welfare to Work Program ended, even though his job duties did not change regarding WIA.

NODA also claimed indirect costs to the WIA program. The amount of indirect costs charged is based on direct salaries charged to the WIA program. If direct salaries charged to the WIA program were overstated, then indirect costs would also be overstated.

According to OMB Circular A-87, C. Basic Guidelines

> 3.a... A cost is allocable to a particular cost objective if the goods or services involved are chargeable or assignable to such cost objective in accordance with relative benefits received.

Also, according to OMB Circular A-87, Attachment B, Part 8. Compensation for Personal Services,

> h.(4),Where employees work on multiple activities or cost objectives, a distribution of their salaries or wages will be supported by personnel activity reports or equivalent documentation which meets the standards in subsection (5)... (5) Personnel activity reports or equivalent documentation must meet the following standards:
>
> (a) They must reflect an after-the-fact distribution of the actual activity of each employee,
> (b) They must account for the total activity for which each employee is compensated,
> (e) Budget estimates or other distribution percentages determined before the services are performed do not qualify as support for charges to Federal awards but may be used for interim accounting purposes, provided that:
> (i) The governmental unit's system for establishing the estimates produces reasonable approximations of the activity actually performed;
> (ii) At least quarterly, comparisons of actual costs to budgeted distributions based on the monthly activity reports are made...; and
> (iii) The budget estimates or other distribution percentages are revised at least quarterly, if necessary, to reflect changed circumstances.

NODA is not in compliance with OMB Circular A-87 for basic guidelines for costs charged to the Federal award.

Questioned costs: The Cost Allocation Plan percentages used to allocate direct salary expenses could not be supported and, since timesheets do not reflect actual time spent on the program, the amount to be charged to the WIA program could not be determined. OESC should determine what portion will be allowed as direct payroll costs.

Funds Expended in Excess of Administrative Limit

NODA charged $35,000 to the WIA program to pay for staff to the board and classified these costs as program costs. However, based on invoices it appears a portion of these costs should have been classified as administrative costs. For example, costs for copying, faxing, and filing should be classified as administrative. According to WIA Regulation 20 CFR 667.210(a) (2), "local area expenditures for administrative purposes under WIA formula grants are limited to no more than 10% of the amount allocated to the local area." Before inclusion of any of these costs, NODA had already reached the 10% limit. Therefore, if a portion of these costs are considered administrative, NODA would have exceeded its 10% administrative limit.

Questioned costs: Since invoices do not show the amount of time charged to each duty performed, we could not determine what portion should be charged to administrative expenses. OESC should consider what portion, if any, to charge to administrative costs.

Inadequate Cash Management System

NODA's accounting system was not adequate to justify the basis for requesting grant funds from OESC. Monthly expenditure reports could not be tied to the request for funds. We could not determine if NODA drew funds in excess of their immediate cash needs.

Also, according to the certified "Request for Funds" document, the amount requested "is not in excess of immediate disbursement needs."

Drawing funds in excess of immediate cash needs results in excess funds on hand.

Questioned Costs: Unknown

Undocumented Copier Charges

The Workforce Investment Act program paid $1,681.92 in June 2004 for 42,048 copies at $.04 a copy. NODA maintained support for copy costs; however, there was no support to document 42,048 copies made in June 2004. The average cost for copy charges for the previous 11 months was $48.01 per month.

According to OMB Circular A-87, C. Basic Guidelines, "1.j, Factors affecting allowability of costs. To be allowable under Federal awards, costs must meet the following general criteria: j. Be adequately documented…

2. Reasonable costs. A cost is reasonable if, in its nature and amount, it does not exceed that which would be incurred by a prudent person under the circumstances prevailing at the time the decision was made to incur the cost."

Questioned costs: $1,682

Serial Numbers not on Equipment Listing

One inventory item (NOVA System with Monitors, Speakers), of three purchased with WIA funds, did not have a serial number or other identifying number on the equipment list. According to NODA personnel, this item had been transferred to CDSA. However, we were unable to determine this item had been transferred. In addition, there were numerous other non-WIA inventory items on the list that did not have a serial number or other identifying number.

29 CFR § 97.32 Equipment (d) (l) states, "Property records must be maintained that include description of the property, a serial number or other identification number..."

Equipment could be lost or stolen when an identification number is not maintained to identify and locate the equipment.

Questioned costs: $0

Conflict of Interest

Expenditures to Merrifield Office Supply, which is owned by the Chairman of the North Central Oklahoma Workforce Investment Board, were included as an administrative payment for the WIA program. NODA purchased approximately $9,939 in office supplies from Merrifield Office Supply during FY 2004, of which approximately $160 was charged to the WIA program.

OETI 11-2003, B. Minimum Standards, Code of Conduct, 2 states: "Board and Council Conflicts of Interest – LWIB, LWDC and Youth Council members have a conflict of interest when considering the provision of services by such member or organization, or any other matter, which would provide any direct financial benefit to that member, his immediate family members, his partner, or his organization."

According to OMB Circular A-87, C. Basic Guidelines, 2. "Reasonable costs, .. In determining reasonableness of a given cost, consideration shall be given to: … (b) the restraints or requirements imposed by such factors as: sound business practices; arms length bargaining; Federal, State and other laws and regulations; and, terms and conditions of the Federal award."

Expenditures for businesses owned by agency board members are not in compliance with OETI 11-2003, Minimum Standards, Code of Conduct or OMB Circular A-87. Additionally, administrative expenditures to businesses owned by the chairmen of NODA board create the appearance of a conflict of interest.

Questioned cost: $ 160

<u>Unreasonable Storage Costs</u>

A 10 x 15 foot storage building was rented for a period of 12 months to store approximately 20 boxes of WIA files at a cost of $565 when it appears there was available space at the NODA office. Approximately 10% of the storage building was being used.

OMB Circular A-87, Attachment A, Part C. 1a. states: "Factors affecting allowability of costs - To be allowable under Federal awards, costs must meet the following general criteria: (a) Be necessary and reasonable for proper and efficient performance and administration of Federal awards."

NODA may not be in compliance with OMB Circular A-87 for basic guidelines for necessary and reasonable cost to the Federal award.

Questioned costs: $565

CLOSE-OUT COSTS

WIA close-out costs were as follows:

Administrative Costs:	**Per General Ledger:**	**Per Expend. Report:**	**Per Draw Request:**
Payroll and benefits	$17,050	*	*
Indirect Costs	3,249	*	*
Storage	1,100	*	*
Professional Fees	75,945	*	*
Equipment & Maintenance	158	*	*
Total Administrative Costs	$97,502	$88,870	$84,353
Program Costs:			
Pass Through Funds	$140,728	$152,164	$140,728
Total Closeout Costs	**$238,230**	**$241,034**	**$225,081**

*** No breakdown available at this level.**

Methodology

Procedures from the ETFMI were applied to 100% of the close-out cost documents to assist OESC in determining NODA's compliance with applicable WIA regulations, OMB Circular A-87, Oklahoma Employment & Training Issuances, and the grant agreement between OESC and NODA.

Findings

<u>Funds Drawn For Costs Incurred After Contract Period</u>

"Request for Funds" for administrative close-out costs were submitted by NODA on June 28 and 29, 2004 totaling $84,353, and were paid by OESC on July 1, 2004. However, $45,949 of these costs were incurred after the contract ended 6/30/04. Also, close-out expenditure reports were not prepared until October 13, 2004. It appears NODA drew all the administrative funds remaining on the WIA grants rather than drawing for actual costs.

According to correspondence between OESC and NODA dated May 27, 2004 regarding close-out procedures, "NODA must accrue any expenses that will be payable after June 30, 2004 but are for expenses prior July 1, 2004...NODA has 60 days after June 30, 2004 to submit closeout reports on any OESC grants of which they have **expended** funds."

Questioned costs: $45,949

<u>Funds Expended in Excess of Administrative Limit-Close-Out Costs</u>

Administrative expenditures on the final expenditure reports submitted to OESC were $88,870; however, administrative expenditures per the general ledger were $97,502. NODA was only budgeted $88,870 to spend on administrative cost since only 10% of the grant can be spent on administrative costs. According to WIA Regulation 20 CFR 667.210(a)(2), "local area expenditures for administrative purposes under WIA formula grants are limited to no more than 10% of the amount allocated to the local area." Therefore, it appears NODA exceeded its 10% administrative limit.

Also, since all administrative funds were drawn on all grants ending on June 30, 2005, there were no administrative funds remaining to support this grant for the next fiscal year.

Questioned costs: $8,632 (included in prior questioned costs)

Inconsistent Methodology of Charging Payroll and Indirect Costs

The methodology for charging payroll and indirect close-out costs of $17,050 and $3,249 appeared inconsistent. Salaries were not based on NODA's Cost Allocation Plan. Individuals who were normally charged as indirect were charged as direct. Also, these costs were incurred after the contract date, which is addressed in the above finding. In addition, the indirect cost rate calculation was based on those close-out salaries.

According to OMB Circular A-87, C. Basic Guidelines 1. "Factors affecting allowability of costs. To be allowable under Federal awards, costs must meet the following general criteria: ... f. Be accorded consistent treatment. A cost may not be assigned to a Federal award as a direct cost if any other cost incurred for the same purpose in like circumstances has been allocated to the Federal award as an indirect cost..."

Staff	Cost Allocation Plan 7/1/03 - 6/30/04	Per Time Sheets Close-out Payroll Cost: July, 2004	August, 2004
Financial Accountant	30 % direct	42.6 % direct	43.5 % direct
Executive Director	100% indirect	45% direct	47.3% direct
Accountant # 1	45% direct	40.3% direct	51.8% direct
Accountant # 2	35% direct	39.2% direct	40.9% direct
Secretary	38% indirect	10% direct	8.4% direct
Asst. Exec. Director	50% indirect	11.9% direct	9.9% direct

Questioned costs: $ 20,299 (included in prior questioned costs)

Unreasonable Legal and Accounting Fees

OESC monitors reviewed NODA's charges to the WIA program for the period July 1, 2002 to June 30, 2003, and disallowed $145,798 of costs. NODA dealt with three law firms and an accounting/law firm to help resolve these disallowed costs. The attorney and accountant fees of $76,016 were then charged to the WIA program. Based on the supporting invoices, $24,392 of these costs were incurred between July 2004 and May

2005, which is after the contract period. As of August 1, 2005, $16,750 of these costs had not been paid by NODA. It appears these costs were reimbursed based on an estimate and not on actual services provided.

Of the above $24,392 attorney fees, $10,000 was incurred in January and February 2005 as a result of discussions about whether the reimbursement of $76,016 would be disallowed by OESC. In addition, out of the total attorney and accountant fees of $76,016, $29,943 of accountant fees was charged to WIA even though a CPA was on staff at NODA. NODA staff indicated the accounting fee was to put the accounting records and WIA grant documentation in a format to satisfy OESC monitors.

OMB Circular A-87, Attachment A, Part C. 1a.states: "Factors affecting allowability of costs - To be allowable under Federal Awards, costs must meet the following general criteria: Be necessary and reasonable for proper and efficient performance and administration of Federal awards."

Based on OMB A-87 criteria, we question whether the attorney and accounting fees are necessary and reasonable for the proper and efficient performance and administration of the WIA program.

According to OMB Circular A-87, C. Basic Guidelines, 2. Reasonable costs, "A cost is reasonable if, in its nature and amount, it does not exceed that which would be incurred by a prudent person under the circumstances prevailing at the time the decision was made to incur the cost. The question of reasonableness is particularly important when governmental units or components are predominantly federally-funded. In determining reasonableness of a given cost, consideration shall be given to: ...

b. The restraints or requirements imposed by such factors as: sound business practices; arms length bargaining; Federal, State and other laws and regulations; and, terms and conditions of the Federal award."

Questioned costs: $76,016 ($24,392 included in prior questioned costs) A portion of these questioned costs may be allowable. Final determination of allowability will be determined by OESC.

Storage Costs Incurred After Contract Period

A 10 x 15 foot storage building was rented for the period June 14, 2005 to June 14, 2007 to store approximately 20 boxes of WIA files at a cost of $1,100 when it appears there was available space at the NODA office. Approximately 10% of the storage building was being used.

According to correspondence between OESC and NODA dated May 27, 2004 regarding close-out procedures, "NODA must accrue any expenses that will be payable after June 30, 2004 but are for expenses prior July 1, 2004...NODA has 60 days after June 30, 2004 to submit closeout reports on any OESC grants of which they have **expended** funds."

Questioned costs: $1,100 ($1,100 included in prior questioned costs)

Recommendations to OESC

Approve all Cost Allocation Plans submitted by subrecipients prior to implementation of the plan. This should include reviewing the methodology and supporting documentation for the plan.

Determine that all equipment purchased by NODA with WIA funds has been transferred to OESC or other subrecipients.

Review invoices and supporting documentation for all close-out costs prior to final payment to the subrecipient.

Continue to monitor all subrecipients annually.

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October 13, 2005

Mr. Jeff A. McMahan, CFE
Oklahoma State Auditor and Inspector
2300 N. Lincoln Boulevard,
State Capital - Room 100
Oklahoma City, OK 73105-4801

RE: Northern Oklahoma Development Authority
Workforce Investment Act Program
Monitoring Report

Dear Mr. McMahan,

This letter is in reference to the monitoring report issued by your office for the Northern Oklahoma Development Authority. Your report contained four (4) recommendations to OESC for which we have attached our response and corrective action plan. In addition, we will work with the Northern Oklahoma Development Authority to ensure complete resolution of all other report findings.

We would like to take this opportunity to express our appreciation for the assistance provided by you and your staff. Their objectivity and professionalism was an asset to the monitoring process.

Sincerely,

Jon Brock
Executive Director

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OKLAHOMA EMPLOYMENT SECURITY COMMISSION RESPONSE AND CORRECTIVE ACTION PLAN

COST ALLOCATION PLAN

OESC currently has several policies and procedures in place to help ensure our grant recipients have adequate cost allocation plans (CAP). As part of our grant agreements, each recipient is required to submit a cost allocation plan to OESC within thirty (30) days of signing the agreement. Oklahoma Employment and Training Issuance (OETI) #10-2002 and OMB Circular A-87 provides each grant recipient with specific guidelines for developing the Cost Allocation Plan. Cost Allocation Plans are reviewed by external auditors during the grant recipient's annual single audit and by OESC's monitors annually. In addition, OESC has and will continue to provide technical assistance to grant recipients in developing and maintaining an adequate cost allocation plan.

TRANSFER OF EQUIPMENT

NODA has reported that they transferred equipment purchased with WIA funds to the new grant recipient CDSA. However, to ensure that **all** WIA equipment has been accounted for, OESC will compare our inventory records to the actual equipment transferred to CDSA to ensure accuracy and completeness.

CLOSE-OUT DOCUMENTATION

Our practice for closing out grant agreements include reviewing invoices and supporting documentation prior to final payment for grant recipients with a history of disallowed costs or with unresolved audit or monitoring findings. We believe the risk of overpayment is higher for these recipients. We will continue to closely monitor close-out costs.

ANNUAL MONITORING VISITS

OESC will continue to monitor all grant recipients on an annual basis.

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NODA

Northern Oklahoma Development Authority - *a council of local governments*

2901 North Van Buren - Enid, Oklahoma 73703
Phone (580) 237-4810 - 1-800-749-1149 - FAX 237-8230

October 7, 2005

Mr. Jeff A. McMahan
State Auditor and Inspector
2401 N.W. 23rd Street, Suite 39
Oklahoma City, Oklahoma 73107

Re: NODA's Response to the State Auditor's Draft Letter

Dear Jeff:

This letter constitutes NODA's response to your staffs monitoring review.

General Counsel to the Oklahoma Employment Security Commission (hereinafter "OESC") informed us by letter dated March 16, 2005, that the State Auditor's Office would conduct the monitoring review of NODA's Workforce Investment Act Program for the period July 1, 2003, through June 30, 2004. A monitoring review culminates in a report which makes definitive determinations and sets out the amount of disallowed costs, if any. A monitoring review also provides for an opportunity to meet and discuss and attempt to resolve questions. Your review and process involved none of these normal and proper steps and merely identifies possible issues for OESC to review. Therefore, NODA is unsure whether your office conducted the monitoring review or whether your review was a preclude to a monitoring review to be performed by OESC.

> Auditor's Response #1. SA&I was engaged by OESC to perform monitoring procedures to determine NODA's compliance with applicable rules and regulations. SA&I was not engaged to determine the amount of disallowed costs, as this is a function of the OESC's monitoring resolution process. It is common practice for an auditor to "question" costs with the final determination of disallowance being made by the primary grant recipient, in this case the OESC. Further, for SA&I to make a final determination of disallowed costs would appear to be in violation of *Government Auditing Standards* (GAS) since this is a role of OESC management. Under GAS, auditors are strictly prohibited from making management decisions.
>
> SA&I met with NODA representatives on September 1, 2005, to discuss the results of the audit and also has had several conversations with NODA personnel since that time. As a result of these meetings and conversations, NODA has provided additional explanation and documentation regarding the findings. However, SA&I did not find these explanations or documentation to be sufficient evidence for us to modify our report.

NODA expects the federal regulations to be followed, including the provision of a meaningful opportunity to meet and discuss these differences of opinion with you or with representatives from the OESC, prior to the issuance of the final determination.

Auditor's Response #2. As the primary grant recipient and pass-through entity, OESC has developed a monitoring resolution process. During this process, NODA will be provided the opportunity to discuss the findings and questioned costs. These discussions will occur prior to a final determination of disallowed costs, if any, by OESC.

In any event, NODA appreciates your work in this matter and although we disagree with many of the statements made in your report, we respect your office and the work that you perform for the State of Oklahoma.

I have also been told by your staff that there has been little communication with the OESC regarding this monitoring review. Your amended report raised a potential disallowed cost regarding the monies paid to the Staff to the local WIA Board. When I reported this concern to the Interim Director of the OESC/WIA Program, he stated not to worry about that issue because it had already been resolved. I do not understand how the issue could have already been resolved since at least procedurally, OESC has not been presented with your final report sufficient to allow them to already make such a resolution and since your review was to be independent. [1]

Auditor's Response #3. SA&I has had no discussion with OESC personnel regarding the resolution of this issue.

This letter has been prepared to respond to every statement contained in your report for which a response was deemed necessary. Therefore, the text of your report has been copied in this letter and the response made thereafter.

Issue 1: NODA could not provide support or methodology for the Cost Allocation Plan percentages used to allocate direct salary expenses. In addition, monthly time sheets prepared by each employee appear to be prepared to coincide with the percentages stated in the Cost Allocation Plan and do not appear to reflect an actual after-the fact distribution of time worked.

Response 1: NODA employees prepared daily log sheets to support the monthly time sheets. The auditor asked two (2) employees for daily time sheets to support time and attendance records. They supplied actual daily log sheets to the auditor. The auditor made the comment to our finance director that the daily time sheets were off by less than one percent (1 %). These were the only time sheets requested by the auditors to verify time and attendance reports. The auditors are welcome to make copies of these log sheets, and

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[1] Could you furnish me with a copy of the your engagement letter dated March 31, 2005, and a list of all contacts and/or records between your staff and OESC since the date of the engagement letter?

Auditor's Response #4. SA&I provided NODA with this information on October 13, 2005.

NODA staff will sign sworn statements as to the accuracy of these time and log sheets.

> Auditor's Response #5. The issue in question is not the existence of time sheets or daily log sheets. According to a conversation with the NODA comptroller on August 3, 2005, time sheets were prepared to coincide with the budgeted percentages in NODA's cost allocation plan. This statement appears to be supported by our observation of four employees' monthly timesheets. We noted that for each employee, the percentage of total work hours charged to the WIA program for the fiscal year was within 1% of the budgeted percentages in NODA's cost allocation plan. As stated in our report, OMB Circular A-87, Attachment B, Part 8.h. requires the compensation for personal services charged to a federal award to be based on time records reflecting an "after-the-fact distribution of the actual activity of each employee..." Circular A-87 goes on to state, "Budget estimates or other distribution percentages determined before the services are performed do not qualify as support for charges to Federal awards..."

With respect to your question about our cost allocation plan, we obtained a letter dated October 6, 2005, from a Certified Public Accountant for the Department of Human Services ("DHS"). His letter states in pertinent part: "It does appear that the method of allocating indirect cost is fair and reasonable and based on current information. In addition, we also tested the months of January, February and March of 2004 indirect allocation and traced the amount allocated to the source documentation and examined the categories for unusual amounts and any unallowable expenditures. No exceptions were found." Our cost allocation for our program with DHS is the same cost allocation program with the OESC.

> Auditor's Response #6. We respectfully disagree with the Department of Human Services' statement that the "method of allocating indirect costs is fair and reasonable."

Issue 2: According to the Cost Allocation Plan, 30% of the financial accountant's time was charged to WIA, 51.5% to the Area Agency on Aging (AAA), and 18.5% to indirect costs. These percentages agree within 1 % of his monthly time sheets. However, the financial accountant stated that he preformed the same job (with less volume) for Title V, which never appeared on his time sheet.

Response 2. The accountant's comment that he performed the same function for Title V was in relationship to all NODA programs not WIA. His time for Title V is billed through indirect the same as all other programs. We believe the auditor has taken the statement out of context.

> Auditor's Response #7. See auditor's response #5.

Issue 3: According to the Cost Allocation Plan, 63% of the WIA/Title V Assistant Supervisor's time was charged monthly to the WIA Program. However in November 2003 her duties were significantly reduced when CDSA took over as the provider of the WIA youth services. Time charged to the WIA Program did not decrease in proportion to the change in duties.

Response 3: The reference made by the auditor that the WIA/Title V Assistant Supervisor's time did not reduce in accordance with the alleged reduced amount of work is unfounded. The auditor did not audit the prior year's program nor examine any of the time sheets for this employee.

Auditor's Response #8. All monthly timesheets for this employee for the period July 2003 through June 2004 were reviewed. Also see auditor's response #5.

There was a transition period where this employee performed functions for the program with which the auditor is not aware.[2] NODA continued to provide support to the WIA Program throughout the FY2003-2004. The auditors, to our knowledge, spent less than five (5) minutes talking to the former WIA/Title V Assistant Supervisor, did not ask any questions about her duties as the Title V Assistant Supervisor, and did not look at any daily log sheets or time sheets for this position.

Auditor's Response #9. All monthly timesheets for the period July 2003 through June 2004 were obtained and reviewed. SA&I inquired of NODA about this employee's daily log sheets and was told they could not be located. Also see auditor's response #5.

While the WIA/Title V Assistant Supervisor is no longer with NODA, she is willing to testify in a sworn statement as to the accuracy of her time sheets and as to the duties she performed. She will also testify that she did not dawdle her time away. A Plan is a diagram, method, outline, guide or pattern; it's not the Bible.

Issue 4: According to the Cost Allocation Plan, 35% of one accountant's time was charged directly to the WIA Program. However, none of her time was charged to the AAA program, even though she stated that she worked on the AAA grant.

Response 4: The statement made by the auditor that one accountant was not charged to the AAA program is incorrect. Her time was attributed to the AAA program (DHS Program) through indirect costs.[3] The type of work this employee performs for AAA is not able to be broken out because it benefits all departments such as; accounts payable checks, payroll, balancing receivables and payables. Each of these functions benefits all departments, and therefore it is classified as an indirect expense. DHS and ODOT have audited these same time sheets and have found no fault.

Auditor's Response #10. Based on our discussion with this employee regarding her job duties, we agree the work of this employee benefited all departments. Because of this, it would appear all of this employee's personnel costs should be treated as an indirect charge rather than the WIA program being charged directly for 35% of this employee's personnel costs. As stated in OMB Circular A-87, "A cost may not be assigned to a Federal award as a direct cost if any other cost incurred for the same purpose in like circumstances has been allocated to the Federal award as an indirect cost."

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[2] The other provider took over the Adult Program and not the Youth Program as incorrectly stated in the State Auditor's letter.

[3] The auditor spent numerous hours with our finance director trying to understand indirect costs and how indirect costs were used to charge duties that could not be specifically separated. Indirect methods are allowed under Circular A87. NODA's cost allocation plan has been approved by Oklahoma Department of Transportation ("ODOT") and the DHS. We believe that NODA's cost allocation plan, which charges some employees' time to programs that the employees may only be working indirectly, is an acceptable cost allocation method.

Issue 5: Another accountant's hours charged to the WIA Program increased after funding for Welfare to Work Program ended, even though his job duties did not change regarding WIA.

Response 5: The auditor implies that an increase in hours charged by an accountant to the WIA Program was improper because the Welfare to Work Program ("WTW") had ended. WTW was considered by NODA to be part of the WIA Program, albeit a small part. When WTW ended and the funding was rescinded, NODA could not justify terminating an essential employee because a small part of his work was reduced; therefore his time was charged to the WIA Program because that is what he was working on and the time it took to complete his work had increased due to the extra requirements of supplying additional documents to OESC.

Auditor's Response #11. See auditor's response #5.

Issue 6: NODA also claimed indirect costs to the WIA Program. The amount of indirect costs charged is based on direct salaries charged to the WIA Program. If direct salaries charged to the WIA Program were overstated, then indirect costs would also be overstated.

Response 6: NODA does not believe that it overstated direct costs and therefore indirect costs are not overstated. See previous responses.

Auditor's Response #12. See auditor's responses #5 and #10.

Issue 7: NODA charged $35,000.00 to the WIA Program to pay for staff to the board and classified these cost as program costs. However, based on invoices it appears a portion of these costs should have been classified as administrative costs. For example, costs for copying, faxing, and filing should be classified as administrative according to the WIA Regulation 20 CFR 667.210(a) (2), "local area expenditures for administrative purposes under WIA formula grants are limited to no more than 10% of the amount allocated to the local area." Before inclusion of these costs, NODA had already reached the 10% limit. Therefore, if a portion of these costs are considered administrative, NODA would have exceeded its 10% administrative limit. Since invoices do not show the amount of time charged to each duty performed, we could not determine what portion should be charged to administrative expenses. OESC should determine what portion to charge to administrative costs.

Issue 7: OESC informed NODA that they had researched the regulations and determined that any funds expended via a properly executed contract for a staff to the board were considered "program costs" and not administrative costs. OESC instructed NODA to sign the contract with the staff to the board. OESC reviewed and approved each invoice for the staff to the board. NODA had no part in the procurement of staff to the board nor his selection. NODA only paid the invoices submitted by staff to the board. These invoices had been previously approved by the WIA Board and OESC. OESC instructed NODA to pay the invoices. You will find numerous references wherein OESC states that NODA, as the fiscal agent, is only the banker, and must pay all bills as instructed by the WIA Board. This issue is the one that an OESC official stated were already resolved.

Auditor's Response: #13. SA&I has had no discussion with OESC personnel regarding the resolution of this issue.

Issue 8: NODA's accounting system was not adequate to justify the basis for requesting grant funds from OESC. Monthly expenditure reports could not be tied to the request for funds. We could not determine if NODA drew funds in excess of immediate cash needs. Also, according to the certified "Request for Funds" document, the amount requested is not in excess of immediate disbursement needs." Drawing funds in excess of immediate cash needs results in excess funds on hand.

Response 8: The expenditure reports and the general ledger, given to the state auditor, tie to the very penny. A list of requested funds was sent weekly to the OESC. The list contained the amounts of funds requested for each particular program. The list did not contain the specific names of the vendors to whom the funds would be paid. However, the actual invoices from the vendors are located in our accounting files and tie to the penny to the amount of requested funds. OESC would occasionally ask for further vendor documentation and it would be provided. Even if NODA had kept a list of invoices, the funds received may not tie to the list. The reason that the funds would not tie to the list is that OESC rarely sent NODA all the funds that were requested at the time it should have been received. OESC would often request additional information for certain items on the list and later send the funds for these items. Each week when the funds were received, NODA would contact OESC. While holding all the invoices, the NODA representative would ask OESC which invoices were approved. The approved invoices would then be keyed into the computer and paid. The invoices which were not approved would remain in the file until authorization to pay those invoices was received from OESC. Therefore, funds received could be for several different requests for funds. This was explained to the state auditor. To properly manage the cash you have to look at not only the NODA records but you have to examine OESC records. There were no grant funds paid to NODA which are unaccounted.

Auditor's Response #14. As evidenced by our schedule on page 11 of our report, we do not dispute the agreement of the general ledger and the expenditure reports. The issue regards the timing of requesting funds to pay expenses. As certified on the Request for Funds document, funds should not be requested for more than immediate disbursement needs. However, as discussed on page 17 of our report, we are aware of certain expenses for which funds were received in July 2004 but which had not yet been paid as of October 2005. We believe this is evidence that funds were drawn in excess of immediate cash needs.

Issue 9: The Workforce Investment Act program paid $1,681.92 in June 2004 for 42,084 copies at $.04 a copy. NODA maintained support for copy costs; however, there was no support for the copies made in June 2004. The average cost for copy charges for previous 11 months was $48.01 per month.

Response 9: NODA was required to, and did, make copies of all client files to retain for three (3) years. There were several hundred files with each file requiring 25 to 100 copies. NODA has not been able to locate the documentation for this charge. It appears the documentation was misfiled during some other audit engagement. The WIA Program was charged its fair share for these copies. The assumption that a rate of four (4) cents per copy was used is not correct. The Oklahoma Open Record's Act allows public bodies to charge up to twenty-five (25) cents per copy. The four (4) cents covers only the costs of the machine and paper. It does not cover the costs of the labor. If you assume each file had 50 pages in it and that there were 250 files at 25 cents per page, the correct bill would be $3,125.00 to the program. NODA has not gone back and counted the copies made but awaits your response and can provide further justification.

> Auditor's Response #15. SA&I does not dispute the cost per copy. The finding is a result of a lack of documentation to support this charge.

Issue 10: One inventory item (NOVA System with Monitors, Speakers), of three purchased with WIA funds, did not have a serial number or other identifying number on the equipment list. According to NODA personnel, this item had been transferred to CDSA, However, we were unable to determine this item had been transferred. In addition, there were numerous other non- WIA inventory items on the list that did not have a serial number or other identifying number. Equipment could be lost or stolen when an identification number is not maintained to identify and locate the equipment.

Response 10: NODA kept accurate records of all equipment turned over to CDSA. These records were signed by CDSA and furnished to the auditor. NODA can provide these records if requested.

Issue 11: Expenditures to Merrifield Office Supply, which is owned by the chairman of the North Central Oklahoma Workforce Investment Board, were included as an administrative payment for the WIA Program. NODA purchased approximately $9,939 in office supplies from Merrifield Office Supply during FY 2004, of which approximately $160 was charged to the WIA Program.

Response 11: Stan Merrifield is a part owner of Merrifield's Office Supply, a corporation. NODA has been informed, at the time of purchase, Mr. Merrifield owned less than a 25% interest in the corporation. Since 1999, NODA had a best price agreement with Merrifield's Office Supply. The business practices of NODA did not change because Mr. Merrifield became WIA board Chairman. Mr. Merrifield had no knowledge of purchases made nor did he have any say in how NODA manages its business. WIA Board members include Vo-Tech superintendents, college presidents, and businesses, all of which receive WIA funds or benefit from the expenditure of these WIA funds. The WIA Board members were asked to abstain from voting on issues where they had a possible financial interest. If you exclude all businesses with employees, officers or owners, who also serve as WIA Board members, from receiving any benefits from the WIA Program, you would dramatically reduce participation in the program. OESC knew from previous audits that NODA had this best price agreement with Merrifield's Office Supply. If it is alleged that NODA paid Merrifield the $160.00 to court favor from the Board, it certainly did not work. NODA had the lowest and best Adult Program bid for FY2003-2004, but the WIA Board awarded the contract to a higher priced bidder. As a comparison, 11 O.S. 8-113 permits municipal corporations to contract with companies owned by their elected officials making the procurement decisions so long as the elected officials interest in the company does not exceed 25%. If a Mayor was in a similar situation, it would be legal. NODA denies there is a problem with this expenditure.

Issue 12. A 10 x 15 foot storage building was rented for a period of 12 months to store approximately 20 boxes of WIA files at a cost of $565 when it appears there was available space at the NODA office. Approximately 10% of the storage building was being used.

Response 12. NODA received prior approval for rental of storage building from OESC for WIA record storage. The rental agreement is for three years. The building originally contained WIA purchased furniture and computers. At OESC's request, the computers and furniture were transferred to the new service provider. The invoice was approved by OESC prior to payment. Since OESC pre-approved this expenditure, the expenditure's reasonableness should not be in question. In addition, the provision of a separate storage facility ensured the integrity of the files. Finally, there is no regulation requiring NODA to store the files at its corporate office.

> #16. Based on a May 27, 2004 letter from OESC, they stated "a reasonable cost of storing records is an allowable accrued cost..." Since only 10% of the storage building was being used, we questioned whether the entire cost of the storage building being charged to the WIA grant was reasonable.

Issue 13. "Request for Funds" for administrative close out costs were submitted by NODA on June 28 and 29, 2004 totaling $84,353, and were paid by OESC on July 1, 2004. However, $45,949 of these costs were incurred after the contract ended 6/30/04. Also close out expenditure reports were not prepared until October13, 2004. It appears NODA drew all the administrative funds remaining on the WIA grants rather than drawing for actual costs.

Response 13. NODA had a contract in effect at the time these expenditures were made. Prior to June 30, 2004, NODA sent the OESC a request for the necessary expenses that NODA would incur in closing-out the program. NODA accrued the payables for the July and August expenses. In July 2004, OESC transferred the monies for this close out to NODA's bank account. OESC transferred these funds to NODA after reviewing the detailed request. This transfer of funds was made at a time when OESC and NODA were deeply involved in reconciling grant funds to expenditures for the previous year's contract. It is therefore reasonable to conclude that OESC's approval of the request for funds, made pursuant to NODA's detailed request, and which approval occurred during the time OESC was the middle of the previous year's proceeding, and with such monies paid and subsequently expended pursuant to such detailed request, was altogether fitting and proper. The work performed for such monies was significant and performed for the benefit of the OESC. OESC recognized that NODA was still in the employ of OESC when the OESC interim director requested in writing during the subsequent fiscal year, that NODA make final payment to service providers. Original instructions were that OESC would make the final payments. At about the same time that he requested in writing that NODA make the final payments, the interim director commented to me in a phone call that he was not allowed to make the payments. The interim director stated that NODA was the only entity that had a valid contract to perform this function. In other words, our contract was still valid. If it was valid for that purpose, it should be valid for the purpose of receiving the other close out costs. In addition, even though the letter from OESC stated we were to accrue the close out cost into June, they knew and approved the request for funding wages and expenses to be paid during the next sixty (60) days. To our knowledge, prepaying invoices approved by the funding entity has never been an unacceptable accounting practice. A letter provided to our office verifies the conversation with the interim director. NODA submitted documentation to OESC to draw down the close out funds. NODA performed the pre-approved work. These monies should not be disallowed. If required, we can have our auditor revise the prior year audit to include these expenses.

Auditor's Response #17. According to correspondence from OESC dated May 27, 2004, in order to be an allowable charge, expenses must be incurred prior to July 1, 2004. Of the costs questioned, none were incurred prior to July 1, 2004; some were incurred as late as May 2005.

Issue 14: Administrative expenditures on the final expenditure reports submitted to OESC were $88,870 however, administrative expenditures per the general ledger were $97,502 NODA was only budgeted $88,870 to spend on administrative cost since only 10% of the grant can be spent on administrative costs. Therefore, it appears NODA exceeded its 10% administrative limit. Since all administrative funds were drawn on all grants ending on June 30, 2005, there were no administrative funds remaining to support this grant for the next fiscal year.

Response 14: On July 1,2003, the WIA board gave NODA a budget of $109,000.00. NODA spent $11,498.00 less than its authorized budget. The program was left with administrative funds for the next year. All grants have two years to expend funds. OESC operated off the new year's grant funds as has been the practice for many years. Please note the contracts referred to in a previous letter clearly show NODA was working with two fiscal year contracts and not just one.

Auditor's Response #18. SA&I is aware these grants had two years to expend funds. Based on our comparison (page 16) of administrative costs between the general ledger and the expenditure reports, it appears NODA exceeded its 10% administrative limit.

Issue 15: The methodology for charging payroll and indirect close out costs of $17,050, and $3,249 appeared inconsistent Salaries were not based on NODA's cost allocation plan. Individuals who were normally charged as indirect were charged as direct. Also, these costs were incurred after the contract date, which is addressed in the above finding. In addition, the indirect cost rate calculation was based on those close out salaries.

Response 15: NODA began its new fiscal year on July 1, 2004. NODA kept track of actual time spent on the WIA Program for each employee and charged such costs to the program accordingly. The cost allocation was different for the new fiscal year because the expected work activity changed; therefore, there is no inconsistency in charging the payroll and indirect costs.

Auditor's Response #19. The inconsistency is that personnel costs of three employees previously charged as indirect were charged directly during the close-out period. SA&I is not aware of any significant change in these employees' job duties that would necessitate this change.

Issue 16: OESC monitors reviewed NODA's charges to the WIA Program for the period July 1,2002 to June 20, 2003, and disallowed $305,907 of costs. NODA dealt with three law firm and accounting/law firms to help resolve these disallowed costs. The attorney and accountant fees of $76,016 were then charged to the WIA Program. Based on the supporting invoices, $24,392 of these costs were incurred between July 2004 and May 2005, which is after the contract period. As of August 1,2005, $16,750 of these costs had not been paid by NODA. It appears these costs were reimbursed based on an estimate and not on actual services provided. Of the above $24,392 attorney fees, $10,000 was incurred in January and February 2005 as a result of discussions about whether the reimbursement of $76,016 would be disallowed by OESC. In addition, out of the total attorney and accountant fees of $76,016, $29,943 of accountant fees was indicated the accounting fee was to put the accounting records and WIA grant documentation in a format to satisfy OESC monitors. **A portion of these questioned costs may be allowable.** Final determination of allowability will be determined by OESC.

Response 16: In her letter dated February 22, 2005, general counsel for OESC, states in pertinent part: "whether or not the costs at issue are allowable is a question of fact that must be resolved by the monitors during the monitoring process. After our meeting in your office to discuss primarily the attorney/accounting disallowed cost issue, NODA appreciates the state auditor's office adding the above "bold-faced" language. During that discussion, our attorney set out in detail his opinion concerning these expenses. First, as a practical matter, the state auditor's office should convince itself that the number of hours spent by NODA's attorneys and auditors was reasonable. The easiest way to confirm this fact is to contact OESC general counsel and make inquiry. If OESC general counsel or the OESC accountants and monitors kept any journals or records of the time spent on this matter, or would orally comment on the amount of time that they spent, it would be clear to the state auditor's office that number of hours spent by NODA's attorneys and auditors on this matter was reasonable. Second, the hourly rates should be reviewed. NODA has refused in writing to pay one law firm its requested fee because NODA believes that it was unreasonable. Third, the amounts charged by the accountants should be considered separately from the amounts charged by the attorneys. The regulations treat these costs separately. I believe that the OESC's representatives would agree that the accounting firm used by NODA assisted the OESC in resolving the disallowed cost issues. Many of the charges made by our accounting firm were incurred to respond to inquires made to them by the OESC accountants. If asked, it is our opinion that OESC employees would concur that the employment of our auditing firm substantially improved communication between the parties and assisted in the resolution of the prior fiscal year's issues. The same can be said for our attorney's participation[4]. Fourth, due to the resolution of the prior fiscal year's issues, the OESC received valuable consideration; namely, a curtailment of further time and money that would have been expended taking the case to administrative hearing and the certain district court appeal made thereafter, and

[4] By its own terms and pursuant to the applicable rules, our general counsel's additional charges made pursuant to his letter dated May 25, 2005, are dropped from NODA's request for reimbursement, since their collection was contingent upon the recovery of costs from the federal government.

the resolution of the potential claim that would have been made by the federal government against the state, alleged caused by NODA's conduct. Fifth, the purpose of these charges was not to prosecute a claim against the government. In fact, little of these fees and costs were expending in preparing for the defense, or defending NODA during the administrative hearing, as the settlement eliminated the administrative hearing. Much of these fees and costs were expended in order to provide the facts and documents necessary for the OESC to finalize its monitoring function and properly account for the costs expended by NODA in administering the federal grant funds. In essence, the fees charged by the attorneys and accountants were not incurred in the prosecution of a claim against the federal government but in assisted in the administration of these federal grants.

Auditor's Response #20. SA&I did not question the hours involved or the hourly rates charged. The issue is the reasonableness of the WIA program paying 100% of the legal and accounting fees incurred as a result of issues raised during OESC's monitoring review. These legal and accounting costs do not appear to be for administration of the WIA program, but were incurred as a direct result of questions regarding NODA's compliance with certain WIA laws and regulations.

Issue 17: A 10 x 15 foot storage building was rented for the period June 14, 2005 to June 12, 2007 to store approximately 20 boxes of WIA files at a cost of $1,100 when it appears there was available space at the NODA office. Approximately 10% of the storage building was being used.

According to correspondence between OESC and NODA dated May 27,2004 regarding close out procedures, "NODA must accrue any expenses that will be payable after June 30, 2004 but are for expenses prior to July 1, 2004 ....NODA has 60 days after June 1, 2004 to submit closeout reports on any OESC grants of which they have **expended** funds."

Response 17: See Response 12.

Auditor's Response #21. See auditor responses #16 and #17.

Thank you for your review of this letter.

Very Truly Yours,

Larry Tipps

Larry Tipps
Executive Director

Office of the State Auditor and Inspector

2300 North Lincoln Boulevard, Room 100
Oklahoma City, Oklahoma 73105-4896
(405) 521-3495

www.sai.state.ok.us