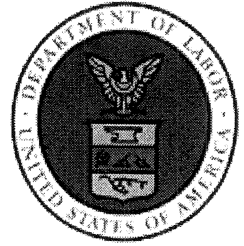


U.S. Department of Labor

Office of Inspector General—Office of Audit

EMPLOYMENT AND TRAINING ADMINISTRATION



INTERNAL CONTROLS IN THE PROGRAM ELECTRONIC REVIEW MANAGEMENT AUDIT PROCESS NEED IMPROVEMENTS TO ENSURE INTEGRITY OF THE PERMANENT LABOR CERTIFICATION PROGRAM

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A handwritten signature in cursive script that reads "Elliott P. Lewis".

**Assistant Inspector General for Audit
U.S. Department of Labor**

Date Issued: September XX, 2008
Report Number: 06-08-003-03-321

BRIEFLY...

Highlights of Report Number: 06-08-003-03-321, to the Deputy Assistant Secretary for Employment and Training.

WHY READ THE REPORT

The Permanent Labor Certification Program permits U.S. employers to hire foreign workers on a permanent basis to fill jobs essential to the U.S. economy. As part of the application process, employers must determine whether there are any U.S. workers able, willing, qualified, and available in the community where the job will be performed. Employers must also document that employment of the foreign worker will not adversely affect the wages and working conditions of U.S. workers. To improve the operations of the Permanent Labor Certification Program, ETA published a final regulation on December 27, 2004, which required the implementation of a new permanent labor certification system by March 28, 2005, referred to as the Program Electronic Review Management (PERM) system.

WHY OIG DID THE AUDIT

The Office of Foreign Labor Certification implemented the PERM system audit process to provide reasonable assurance that applicants met eligibility requirements, and to protect the integrity of the Permanent Labor Certification Program. Key internal controls in the PERM system consist of auditing an applicant's eligibility by: (1) randomly selecting applications and (2) targeting applications based on known program risk. The OIG conducted a performance audit of the PERM system audit process to determine if the key controls in the PERM system audit process were effective.

READ THE FULL REPORT

To view the report, including the scope, methodology, and full agency response, go to:

<http://www.oig.dol.gov/public/reports/oa/2008/06-08-003-03-321.pdf>

SEPTEMBER 2008

PERM Audit Internal Controls Need Improvements

WHAT OIG FOUND

The random selection and targeting internal controls were not sufficient to provide reasonable assurance that applicants met eligibility requirements, and may not protect the integrity of the Permanent Labor Certification Program.

OFLC did not audit all applications randomly selected or targeted for audit. Our review of 219 OFLC applications selected for audit disclosed that 63 of the randomly selected and targeted applications were not audited.

The Permanent Case Management System was not effectively used to monitor the PERM audit process. As a result, the OFLC could not readily provide information on the progress of all applications selected for audit and actually audited.

WHAT OIG RECOMMENDED

We recommended that the Deputy Assistant Secretary for Employment and Training:

-
- Ensure all applications selected for audit are audited.
- Ensure the Office of Foreign Labor Certification updates the Permanent Case Management System to provide readily available management reports for monitoring the progress of audited applications.

In response to our draft report, the Deputy Assistant Secretary for Employment and Training disagreed

He also stated that the review of 63 tagged, but not audited, applications was not sufficient to conclude that system integrity was jeopardized. Despite these disagreements with the report's conclusions, the Deputy Assistant Secretary stated that ETA agreed with, and plans to implement, the report's three recommendations.

Table of Contents

	PAGE
ASSISTANT INSPECTOR GENERAL'S REPORT.....	3
Finding 1.	4
Finding 2. OFLC Did Not Always Audit the Applications the PCMS Selected .	5
Finding 3. The PCMS Did Not Provide Readily Available Management Reports Regarding the Progress of All Audited Applications	6
APPENDICES	9
A. Background.....	11
B. Objectives, Scope, Methodology, and Criteria.....	13
C. Acronyms and Abbreviations.....	19
D. Agency Response.....	21

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U.S. Department of Labor

Office of Inspector General
Washington, DC 20210



Assistant Inspector General's Report

Mr. Brent R. Orrell
Deputy Assistant Secretary
for Employment and Training
U.S. Department of Labor
200 Constitution Avenue, NW
Washington, DC 20210

The Office of Inspector General (OIG) conducted a performance audit of the Program Electronic Review Management (PERM) system audit process. The PERM system is designed to streamline processing and ensure the most expeditious processing of Department of Labor (DOL) Labor Certification applications. Through the PERM system, employers may obtain permanent labor certification, which can lead to lawful residence, not citizenship, for foreign workers to fill permanent job vacancies in any occupation in which qualified U.S. workers have been recruited but are unavailable. As part of the application process, employers must perform a "labor market test" to determine whether there are any U.S. workers able, willing, qualified, and available in the community where the job will be performed. Employers must also document that employment of the foreign worker will not adversely affect the wages and working conditions of U.S. workers, while maintaining that the foreign worker will be paid the prevailing wage for the occupation. In order for foreign workers to obtain visas for this purpose, the Secretary of Labor, through the Office of Foreign Labor Certification (OFLC) within the Employment and Training Administration (ETA), certifies that the sponsoring employer's application meets the above requirements.

OFLC implemented the PERM system audit process to provide reasonable assurance that applicants met eligibility requirements, and to protect the integrity of the Permanent Labor Certification Program. Key internal controls in the PERM system consist of auditing an applicant's eligibility by: (1) randomly selecting applications and (2) targeting applications based on known program risk. The audit of an applicant's eligibility involves verification and validation of supporting documentation.

We designed the audit to answer the following question:

Were internal controls in the PERM system audit process sufficient to provide reasonable assurance that applicants met eligibility requirements and in protecting the integrity of the Permanent Labor Certification Program?

We conducted the audit in accordance with generally accepted government auditing standards for performance audits. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. We conclude that the evidence obtained provides a sufficient basis for our findings and conclusions based on our audit objective. Our audit objective, scope, methodology, and criteria are detailed in Appendix B.

Objective - Were the internal controls in the PERM system audit process sufficient to provide reasonable assurance that applicants met eligibility requirements and protect the integrity of the Permanent Labor Certification Program?

No. Improvements are needed in internal controls to ensure that applicants meet eligibility requirements and to protect the integrity of the Permanent Labor Certification Program.

We also found the Permanent Case Management System (PCMS) was not used effectively to monitor the PERM audit process.

Prior to the implementation of the PERM system, State Workforce Agencies (SWAs) were responsible for reviewing and approving applications and then transmitting those applications to staff in ETA's Regional Offices for further processing. Procedures for processing applications varied from SWA to SWA, the regional office processes were not uniform, and differences had grown in the application of policy.

Beginning March 2005, OFLC implement the PERM system to process applications, and randomly select and/or target applications for audit at two National Processing Centers (NPCs): one each in Atlanta and Chicago.

Results and Findings

Finding 1 -

Finding 2 - OFLC Did Not Always Audit the Applications the Permanent Case Management System Selected

OFLC did not audit all applications the PCMS selected for audit, regardless of the selection method used. We statistically selected and reviewed 219 applications that were selected for audit by the PCMS. We determined that 111 of the 219 applications selected for audit were not audited. The following table shows the applications audited and not audited by selection method.

Selection Method	Audited	Not Audited	Total
Random	39	37	76
Targeted	26	51	77
Both Random and Targeted	43	23	66
Total	108 ¹	111	219

OFLC agreed that 111 applications selected for audit were not audited and provided a variety of reasons for not auditing all applications. We agree with OFLC's assessment that 48 applications did not warrant an audit: 46 were targeted only for verifying specific information,² and two were not audited because the employers did not respond to the Audit Notification Letters. However, we contend OFLC was incorrect in its decision to not audit 63 of the 111 applications. OFLC told us they did not audit the 63 applications for the following reasons:

¹ We found that 108 of the 219 applications were audited, and we agreed with OFLC's decisions to certify or deny the applications.

² If these same applications had also been randomly selected, then OFLC should have performed an audit of each application because they were randomly selected.

- 30 were sent for manual review without verification of supporting documentation;
- 12 were reviewed only for a sponsorship/automated business existence check;
- 11 were selected as random after
- 5 were refiles (the employers filed two applications (the application in place prior to PERM, and the PERM application)); and
- 4 were selected as random :

(The Atlanta NPC provided a combination of reasons.)

- 1 was a reconsideration (the employer appeals OFLC's decision to deny its application and ask that the decision be reconsidered).

The effect of OFLC not auditing applications selected for audit is that fraudulent or non-meritorious applications may have been certified. Certifying non-eligible foreign workers could negatively affect the U.S. workforce by reducing the amount of jobs available for U.S. workers.

Finding 3 - The Permanent Case Management System Did Not Provide Readily Available Management Reports Regarding the Progress of All Audited Applications

Our audit disclosed that the PCMS could not readily provide management reports showing the number of applications selected for audit or actual number of audits completed. Not having readily available information on audited applications could result in the OFLC not knowing what it is accomplishing, or the effectiveness of its certification program and the PERM audit process. Additionally, OFLC could use this information to make decisions affecting program efficiency and integrity. Without this information, the justification for program needs, such as a request for additional resources to conduct audits, may not be appropriate or supported.

OFLC revised the Labor Certification application,³ and stated the revisions will lead to further development of the PCMS. However, OFLC was unable to provide design and implementation documentation to demonstrate the plans for the further development of the PCMS. On July 2, 2008, OFLC said it is working with its Office of Information Technology on the conceptual design, architecture, and database structure.

³ The official said, on June 2, 2008, OFLC received a formal Notice of Action from the U.S. Office of Management and Budget (OMB) approving the revised form. OMB approved the "paper form," but not the electronic version of the form until OFLC has a re-engineered system in place.

20 Code of Federal Regulations (CFR), Part 656, provides:

As implemented, the basic labor certification process under the new PERM system [PCMS] incorporates fraud detection measures targeting areas that have historically shown vulnerability. These measures include system and manual checks in key areas, as well as the use of auditing triggers and techniques, both targeted and random, which can be adjusted as appropriate to maintain security and integrity in the process.

In addition, OMB Circular A-123, *Management's Responsibility for Internal Control*, dated December 21, 2004, requires managers to develop and maintain effective internal controls. Effective internal controls provide assurance that significant weaknesses (in the design or operation of internal controls) that could adversely affect the agency's ability to meet its objectives would be prevented or detected in a timely manner.

Recommendations

We recommend that the Deputy Assistant Secretary for Employment and Training:

- 1.
2. Ensure all applications selected for audit are audited.
3. Ensure that the Office of Foreign Labor Certification updates the Permanent Case Management System to provide readily available management reports for monitoring the progress of audited applications.

Agency Response and OIG Conclusion

In his response to our draft report, the Deputy Assistant Secretary for Employment and Training agreed with our recommendations and stated,

He also agreed to ensure that all legitimately tagged (targeted) applications are being audited. Finally, the Deputy Assistant Secretary stated that the PCMS version 2, which will be available in 2009, will provide the recommended management reports.

Although the Deputy Assistant Secretary agreed with our recommendations,

He stated that there has not been a standard established by Congress or agency regulation to use as a benchmark when evaluating program integrity, i.e., what percentage of certifications versus percentage of denials establishes an acceptable program standard. The Deputy Assistant Secretary stated that if such a standard or benchmark does exist, it has not been provided to ETA in the past and should not be used as a benchmark for this report.

Rather, he stated that many applications were denied as a result of invalid system logic and inexperience on the part of filers. Over time, errors on the part of both the Department and filers have declined and, therefore, the number of denials naturally declined.

Our report does not assert that a decline in denials is an established standard by which to measure the effectiveness of random audits, and, therefore, we did not project our results to the universe. We simply reported what PCMS data showed:

The Deputy Assistant Secretary also stated that the report provides no investigative evidence that would conclude, if applications which were not audited had been audited, that such applications would have been denied, even when presented with an opportunity to do so. He noted that 15 of the 63 applications were denied and that auditing a deniable application was not an effective use of public resources. The Deputy Assistant Secretary further stated that merely evidencing 63 applications found tagged, but not audited, cannot by itself support the conclusion that the failure to audit those applications jeopardized system integrity.

We agree that there may be legitimate reasons not to perform an audit; however, those reasons need to be clearly identified in the Permanent Case Management System. As noted in our report, 59 of the 63 applications selected for audit but not audited resulted from PERM's random selection process. While applicants may be able to prepare their applications in such a way as to avoid the targeting edit checks in the PERM system, random selection is designed as a compensating control. By not auditing randomly selected applications, a key control over system integrity is compromised.

Our findings and conclusions remain unchanged. Recommendations 1, 2, and 3 are unresolved pending receipt of a corrective action plan that (1) (2) ensures that all legitimately targeted applications are being audited, and (3) provides an estimated date in 2009 for the release of PCMS version 2.

ETA's response in its entirety is attached as Appendix D.

Elliot P. Lewis

Appendices

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BACKGROUND

DOL issues labor certifications for permanent and temporary employment. The Permanent Labor Certification Program permits U.S. employers to hire foreign workers on a permanent basis to fill jobs essential to the U.S. economy. Before the employer can submit an immigration petition to Department of Homeland Security, the employer must obtain an approved labor certification request from ETA OFLC. OFLC must certify to the Department of Homeland Security that there are no qualified U.S. workers able, willing, qualified, and available to accept the job at the prevailing wage for that occupation in the area of intended employment and that employment of the alien will not adversely affect the wages and working conditions of similarly employed U.S. workers.

To improve the operations of the Permanent Labor Certification Program, ETA published a final regulation on December 27, 2004, which required the implementation of a new re-engineered permanent labor certification system by March 28, 2005. The new system is the PERM and allows an employer to electronically submit an application directly to OFLC. Under the PERM system, SWAs are no longer involved in processing applications, other than providing prevailing wage information.

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APPENDIX B

OBJECTIVES, SCOPE, METHODOLOGY, AND CRITERIA

Objective

We designed the audit to answer the following question:

Were internal controls in the PERM system audit process sufficient to provide reasonable assurance that applicants met eligibility requirements and protect the integrity of the Permanent Labor Certification Program?

Scope

Our audit included applications submitted to OFLC for processing between March 28, 2005 through and April 30, 2007. Our audit fieldwork was conducted at the Atlanta and Chicago NPCs, and the OFLC National Office.

Applications' data was extracted from the OFLC's PCMS by ETA's Program and Technology Office. According to the data extracted, there were 177,055 applications processed during this period, of which 139,005 (79 percent) were certified and 38,050 (21 percent) were denied.

Internal Controls in the Permanent Labor Certification Application and Audit Processes

During our audit, we reviewed the Permanent Labor Certification application and PERM system audit processes, and obtained an understanding of the PCMS. We identified instances where preventive and/or detective internal controls were in place and met their intended outcome.

Internal Controls in the Permanent Labor Certification Application and PERM Audit Processes		
Internal Control Activities	Preventive	Detective
PCMS checks for incompleteness, inaccuracies, and general mistakes	X	
Business Existence Check	X	
Sponsorship Check	X	
Audit		X
Final / Manual Review		X

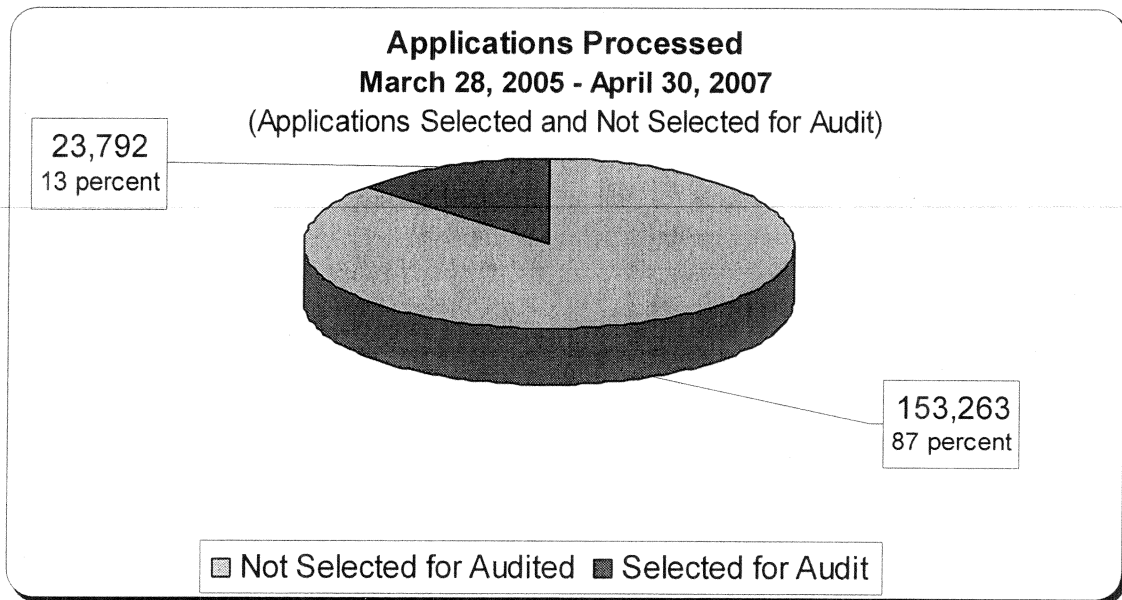
Source: OIG auditors' analyses of PCMS data and observation of documentation in physical application files.

Our audit was conducted from April 2007 to August 2008, in accordance with generally accepted government auditing standards for performance audits. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit

objectives. We determined that the evidence obtained provides a sufficient basis for our findings and conclusions based on our audit objectives.

Methodology

To determine the number of applications selected for audit, we obtained, from the 177,055 applications, a universe of applications selected for audit (either randomly and/or targeted)⁴ and were certified or denied. This resulted in a universe of 23,792 applications (13 percent) selected for audit from the 177,055 processed from March 28, 2005 through April 30, 2007.



Of the 23,792 applications selected for audit:

- 917 were randomly selected and targeted,
- 4,155 were randomly selected, and
- 18,720 were targeted.

We randomly selected a sample of 432 applications using stratified random sampling methodology from a universe of 23,792 applications. Of the 432 applications, 229 were submitted to the Atlanta NPC for processing and 203 were sent to the Chicago NPC. We reviewed 219 of the 432 applications selected for audit (116 were processed at the

⁴ According to OFLC, analysts selected some applications for audit during the Final Review Phase, and those applications would not be identified in the PCMS as being randomly selected or targeted. OFLC also stated, as of November 9, 2007, 9,782 applications were audited that were not randomly selected or targeted. For this audit, we reviewed applications that were randomly selected or targeted in the PCMS.

Atlanta NPC, and 103 at the Chicago NPC). Of the 219 applications, 108 were actually audited by OFLC staff. Each application's physical file contained an Audit Notification Letter and/or evidence an audit occurred.

To accomplish our objective, we documented (through reviews of applications and/or interviews) the extent to which the random selection and/or targeting were sufficient to provide reasonable assurance that employers met program requirements. We also reviewed the OFLC's final decision for the 108 applications they audited to determine if we agreed with the outcome (to certify or deny). For the applications they did not audit, we documented the reasons OFLC stated they were not audited. We interviewed managers and staff at the National OFLC, the Atlanta NPC, and the Chicago NPC to discuss audit policies and procedures, and obtain an overview of the PERM system audit process. Further, we reviewed the PERM regulations; and audit checklists and worksheets used by analysts during their audits of applications.

Reliability of Data

We assessed the reliability of data in the PCMS for the 108 audited applications we reviewed. We selected 14 PCMS data fields to test, and they were:

- Assigned auditor
- Audit reason (Reason application was selected for audit (either randomly selected or targeted))
- Case number
- College/University teacher
- Current status (Certified or denied)
- Date file was submitted
- Employer city
- Employer name
- Job state
- Occupational title
- Processing office (Atlanta or Chicago NPC)
- Professional
- Reason for denial
- Standard Occupational Classification (SOC) code

During our visit to the Atlanta and Chicago NPCs, we compared the information from the PCMS for the 14 data fields with the information maintained in physical application files for the 108 audited applications. Of the 108 audited applications we reviewed, the PCMS data fields did not match the information in 48 (44 percent) of the applications' physical files. Thirty-three of the 48 (69 percent) had only one field that did not match the information in the applications' physical files.

One Data Field Did Not Match Information in Applications' Physical File (Number of Applications per NPC)			
Field	NPC		Total
	Chicago	Atlanta	
Assigned auditor	2	4	6
Audit reason	3	1	4
Current status	0	2	2
Date submitted	2	3	5
Denied reason	4	10	14
Employer city	0	1	1
Job state	0	1	1
Total	11	22	33

Source: OIG auditors' analyses of PCMS data and observation of documentation in physical application files.

For 14 applications, the PCMS "denied reason" field was blank but the reasons for denial were in the physical applications' files. According to the NPCs, for most applications, the reasons for denial were determined during the audit, and because the PCMS did not allow for manual input, the auditors could not add the denied reason to the PCMS. Therefore, most applications selected by the PCMS for audit will not have an entry in the "Denied Reason" field since this reason would be from the audit instead of the PCMS Automated Review.

For six applications, the PCMS' "assigned auditor" field did not match the information in the physical applications' files. After reviewing several files, we determined that several "auditors" reviewed these applications. When conducting the data reliability assessment, we relied on various documents to determine the auditor assigned. For example, we relied on documents that listed an auditor's signature, checklists with the auditor's name, or the name of the auditor listed on the Audit Notification Letter. Since all "clean" applications go through the Final Review Phase, we also found that a final review analyst could also review applications, in addition to the auditors. This, for example, resulted in us determining that the information in the physical applications' files did not match the name shown in the "assigned auditor" field of the PCMS. Reality is – several people may have looked at an application.

For the remaining 15 applications, we found that two or more fields in the PCMS data did not match the information in the applications' physical files.

Two or More Data Fields Did Not Match Information in Applications' Physical File (Number of Applications per NPC)			
Fields	NPC		Total
	Chicago	Atlanta	
Assigned auditor and Audit reason	1	0	1
Assigned auditor and Current status	1	1	2
Assigned auditor and Date submitted	1	0	1
Assigned auditor and Denied reason	0	2	2
Assigned auditor, Audit reason, and Current status	1	1	2
Assigned auditor, Date submitted, Denied reason, and SOC code	0	1	1
Audit reason and Denied reason	1	0	1
College/University teacher and Professional	2	0	2
College/University teacher, Denied reason, Employer city, and Professional	1	0	1
Date submitted and Denied reason	1	1	2
Total	9	6	15

Source: OIG auditors' analyses of PCMS data and observation of documentation in physical application files.

Based on our review, there were valid reasons as to why the PCMS data fields did not match the information in the physical applications' files. We found that the correct and most recent information was in the physical files we reviewed. Therefore, we concluded that the PCMS was sufficiently reliable to accomplish our audit objective.

Criteria

We used the following to perform our audit.

Federal Register, 20 CFR Part 656. Specifically, we used Sections:

- 656.17 - Basic labor certification process.
- 656.18 - Optional special recruitment and documentation procedures for college and university teachers.
- 656.20 - Audit procedures.
- 656.21 - Supervised recruitment.
- 656.40 - Determination of prevailing wage for labor certification process.

ETA Checklists and Worksheets:

- Foreign Language Requirement Worksheet ((§656.17(h)(2))
- Professional Recruitment Worksheet (§656.17 and §656.21)
 - Step 1: Verify newspaper/journal advertisements (§656.17(e)(1)(i)(B))
 - Step 2: Verify additional recruitment steps ((§656.17(e)(1)(ii))
 - Step 3: Verify acceptability of job order ((§656.17(e)(2)(i))
 - Step 4: Verify recruitment report ((§656.17(g))
- Random Audit Checklist
 - Step 1: Verify receipt of audit documentation (§656.20(a)(2))
 - Step 2: Verify job information ((§656.17(h))
 - Step 3: Verify recruitment information (§656.17(e)(1); §656.17(e)(2); (§656.17(f) and (g); and §656.18)
 - Step 4: Verify Special Requirements ((§656.17(h))
 - Step 5: Domestic/Live-in Documentation (§656.19)
 - Step 6: Verify Closely Held Corporation ((§656.17(l))
 - Step 7: Verify Layoff Information ((§656.17(k))
 - Step 8: Render final decision and get Supervisory/Team Lead Signoff

ACRONYMS AND ABBREVIATIONS

CFR	Code of Federal Regulations
DOL	Department of Labor
ETA	Employment and Training Administration
FY	Fiscal Year
NPC	National Processing Center
OFLC	Office of Foreign Labor Certification
OIG	Office of Inspector General
PCMS	Permanent Case Management System
PERM	Program Electronic Review Management
SOC	Standard Occupational Classification
SWA	State Workforce Agency

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APPENDIX D

AGENCY RESPONSE TO DRAFT REPORT

U.S. Department of Labor

Employment and Training Administration
200 Constitution Avenue, N.W.
Washington, D.C. 20210



SEP 16 2008

MEMORANDUM FOR: BILLYOTT P. LEWIS
Assistant Inspector General
for Audit

FROM: BRENT R. ORRELL *Brent R. Orrell*
Deputy Assistant Secretary
Employment and Training Administration

SUBJECT: Rebuttal to DRAFT AUDIT REPORT NO. 06-08-003-03-321 -
Continued Internal Control Improvements are Needed to
Ensure that Applicants Meet Eligibility Requirements and to
Protect the Integrity of the Permanent Labor Certification
Program.

Prior to addressing the recommendations outlined in the Office of Inspector General (OIG) Report Number: 06-08-003-03-321, the Employment and Training Administration (ETA) believes it necessary to note several concerns regarding postulations made, the methodology used, and the conclusions reached by the OIG staff.

Of overarching concern is the OIG's finding that the percentage of PERM denials represents a valid benchmark by which to evaluate program integrity.

ETA suggests there has not been a standard established by Congress or agency regulation to use as a benchmark when evaluating program integrity, i.e., what percentage of certifications versus percentage of denials establishes an acceptable program standard? If such a standard or benchmark does exist, it has not been provided to ETA in the past and should not now be used as a benchmark for this report.²

1.
2.

Office of Inspector General—Office of Audit, PERM Audit Internal Controls Need Improvements Report No. 06-08-003-03-321, 1 (to be published).

² It is noted that in 2000, for instance, under what was admittedly a decidedly different program (Permanent Labor Certification Program in effect prior to March 28, 2005), a 99 percent certification rate was acceptable.

- 2 -

ETA records indicate that in 2005, while 30.4 percent of applications were denied, only 3.4 percent of those applications were denied after undergoing audit review. The majority of the remaining 27 percent were the result of automated system denials; many the result of incorrect or invalid system logic, while the others resulted from inexperience on the part of filers. Over time, the errors on the part of both the Department of Labor and filers were corrected and the number of denials, many of which were erroneous, naturally declined. This reflects program "maturation" and is a normal aspect of program administration.

This lack of methodology and failure to evaluate the data presented is evidenced in another conclusion reached — that all applications marked for audit, if legitimately tagged, should be audited—cannot be disputed. However, merely evidencing 63 applications found tagged, but not audited, cannot by itself support the conclusion that the failure to audit those applications jeopardized system integrity. Again, had the applications in question been reviewed⁴ and a determination made, that if the decisions not to audit been illegitimate resulting in deniable applications being certified, would the methodology leading to the conclusion have been acceptable. Notably, 15 of the 63 applications referenced were denied, however, we believe that simply auditing an application which is deniable is both counterintuitive and not an effective use of public resources. Additionally, the 6 refile applications (not 9 as noted by OIG) should not have been included in this listing. The refile applications include supporting documentation from the original filing, and a request (Audit Notification letter) for additional supporting documentation would therefore not be warranted. Moreover, that the list of 63 applications for which the OIG insists an audit review was necessary can be so readily reduced to 42, is evidence of the lack of a valid methodology.

The above aside, ETA does not dispute the recommendations put forth in the report.

⁴ In Finding 2, the OIG reports that it found 63 applications tagged for audit by the system which it contends should have been audited. Office of Inspector General—Office of Audit, PERM Audit Internal Controls Need Improvements Report No. 06-08-003-03-321, 5 (to be published).

⁵ OIG reviewed the 108 audited cases and determined it "agreed with OPTIC's decisions to certify or deny the applications." Office of Inspector General—Office of Audit, PERM Audit Internal Controls Need Improvements Report No. 06-08-003-03-321, footnote p. 5 (to be published).

- 3 -

We also agree that we must ensure that all legitimately tagged audits are being audited. It must be noted, however, that we are not convinced that the Foreign Labor Certification Program is not already doing so.

Regarding the recommendation that RTA update the Permanent Case Management System (CMS) to provide management reports, we believe that this issue will be addressed in the CMS version 2, which will be available in 2009.

In the interim, this office uses ad hoc data extracts to provide the information necessary to manage the labor certification program and to monitor program integrity.

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Fax: 202-693-7020

Address: Office of Inspector General
U.S. Department of Labor
200 Constitution Avenue, N.W.
Room S-5506
Washington, D.C. 20210