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June 18, 2004

Richard Roybal, Executive Director
LULAC National Educational Service Centers, Inc.
2000 L Street NW, Suite 610
Washington, DC 20036

Dear Mr. Roybal:

This is our final audit report, Control Number ED-OIG/A07-D0024, entitled Audit of the Talent Search (TS) program at LULAC National Educational Service Centers, Inc. (LNESEC).¹ The objective of our audit was to determine if LNESEC administered the TS program in accordance with the Higher Education Act (HEA) of 1965 and specific TS regulations governing the documentation of participant eligibility. In its May 10, 2004, response to our draft report, LNESEC concurred with our finding and recommendations, but did not agree with our summary statement of audit results. We slightly modified this statement in this final report. The full response is provided as an attachment to this letter.

AUDIT RESULTS

We found that LNESEC did not always administer its TS grant in accordance with the law and TS regulations governing the documentation of participant eligibility. As a result, LNESEC overstated TS participants served in its Annual Performance Report (APR) submitted to the Department of Education (Department) for the September 1, 2001, through August 31, 2002, budget period.

Finding - LNESEC Overstated TS Participants in Its APR

We estimate that LNESEC served approximately 13,610 eligible TS participants for the September 1, 2001, through August 31, 2002, budget period. While 13,610 participants exceed the 12,200 participants LNESEC was funded to serve, it is significantly less than the 15,228 LNESEC reported to have served in its APR for the budget period.

We found 23 confirmed duplications among the reported participants and estimated, based on a statistical sample, that approximately 1,595 of the 15,205 unduplicated participants reported did not meet both conditions required for TS participants.²

¹ LNESEC is a national not-for-profit organization established by the League of United Latin American Citizens (LULAC) in 1973.

² We estimate that LNESEC overstated the number of participants served for the 2001-2002 budget period by 1,618 (10.6 percent).

The Department uses the information provided in APRs to assess a grantee's progress in meeting its approved goals and objectives, and to determine a grantee's prior experience points. The data collected are also aggregated to provide national information on project participants and program outcomes. As a result of the error in LNEsc's APR, the Department may be making decisions based on an inflated count of participants and services delivered.

Duplicate Participants

The LNEsc Executive Director provided a listing of 15,228 participants for the 2001-2002 budget period as reported in the APR. We determined that 23 names on the listing were duplicates, as confirmed by the LNEsc TS Manager. The TS Manager had attempted to remove duplicates using a manual process, which is particularly difficult for LNEsc due to the large number of reported participants. Although the number of duplicates found was minimal, encouraging the use of unique ID numbers³ and automated controls to prevent duplicates is particularly important considering the dispersion of the LNEsc centers across the country, the variation that can occur in names, and the large volume of participants tracked.

Statistical Sample to Determine Whether Reported Students Met the Definition of a TS Participant

We selected a random sample of 200 participant names from the universe of 15,205 unduplicated participants (15,228 – 23 duplicates) to determine whether they met both of the conditions defined in 34 C.F.R. § 643.7.

- (b) *Other definitions . . . Participant* means an individual who—
- (1) Is determined to be eligible to participate in the project under § 643.3; and
 - (2) Receives project services designed for his or her age or grade level.

We found that 21 of the 200 sampled students did not meet one of the requirements to be considered a TS participant. We reviewed student files and all supplemental information supplied, but there was no documentation of five students' eligibility or another 16 students' services as required by 34 C.F.R. § 643.32.

- (c) *Recordkeeping.* For each participant, a grantee shall maintain a record of—
- (1) The basis for the grantee's determination that the participant is eligible to participate in the project under § 643.3 . . .
 - (3) The services that are provided to the participant;

Based on the sample results, we estimate that LNEsc served about 13,610⁴ eligible participants and that 1,595 should not have been reported as TS participants.

³ We observed some database entries with SSN numbers, others with school ID numbers, and many that were blank or marked n/a.

⁴ We are 90 percent confident that the participants receiving eligible services total 13,608 +/- 3.98 percent (rounded to 13,310 for reporting purposes).

Eligibility Was Not Documented

LNESC served five students, neither citizens nor permanent residents, without documenting evidence from the Immigration and Naturalization Service (INS) of intent to become a permanent resident contrary to the eligibility requirements found at 34 C.F.R. § 643.3.

(a) An individual is eligible to participate in a Talent Search project if the individual . . . :

(1)(i) Is a citizen or national of the United States; (ii) Is a permanent resident of the United States; (iii) Is in the United States for other than a temporary purpose and provides evidence from the Immigration and Naturalization Service of his or her intent to become a permanent resident;

The LNESC TS Manager reported that they started serving students who were neither citizens nor permanent residents after attending a presentation by a TRIO Educational Specialist at a TRIO Conference who said “intent” was not defined in the regulation and was “open to interpretation by the individual.” The LNESC TS Manager concluded that, “our Centers could (under our interpretation) prove ‘intent’ by simply getting a family home address or showing that the student was enrolled in a public school.” The LNESC TS Manager continued, “Currently for . . . 2003-2004, I have notified all Centers that students who do not check US Citizen or Permanent Resident are not eligible for TS services.”

Although the specific definition of “intent” has not been specified, 34 C.F.R. § 643.3(a)(1)(iii) clearly requires evidence from the INS of an individual’s intent to become a permanent resident. Accordingly, the five students without such documentation were not eligible to participate in a TS project.

An Eligible Service Was Not Documented

The TS Manager confirmed that all contacts recorded for one student reflected only mailings (not services), but asserted that 15 other students actually received a service even though there was no record of a valid service with adequate documentation (*e.g.*, sign-in sheets) to support the delivery of a TS service.

LNESC’s “Talent Search Handbook” is in compliance with the record-keeping regulations cited above in that it requires the recording of three eligible services before counting a participant and prescribes retention of support documentation as a practice to be followed in all of the center offices. The inappropriate recording of services and failure to retain support documentation was the result of inconsistent staff compliance with LNESC’s “Talent Search Handbook.”

Recommendations:

We recommend that the Chief Financial Officer (in collaboration with the Assistant Secretary for Postsecondary Education) require LULAC National Educational Service Centers to:

1. Improve recording of TS participants using unique identifiers and automate identification of potential duplicates to reduce the reporting of duplicate participants.
2. Train and monitor LNEsc TS staff to ensure that established procedures are followed, only eligible students are counted as participants, only valid project services are recorded, and support documentation is retained.

BACKGROUND

Title IV of the Higher Education Act of 1965, as amended (20 U.S.C. § 1070a-11 and 12), authorizes the TS program, one of the Department's TRIO programs. The TS program is governed by the regulations in 34 C.F.R. Part 643. All regulatory citations in the report are to the regulations in effect as of July 1, 2001.

The TS program provides grants to projects designed to (1) identify qualified youths with potential for education at the postsecondary level and encourage them to complete secondary school and undertake a program of postsecondary education; (2) publicize the availability of student financial assistance for persons who seek to pursue postsecondary education; and (3) encourage persons who have not completed education programs at the secondary or postsecondary level, but who have the ability to do so, to reenter these programs (34 C.F.R. § 643.1).

The League of United Latin American Citizens (LULAC) was established in 1929 and is the oldest and largest Hispanic membership organization in the United States. LULAC National Educational Service Centers (LNEsc) is a national not-for-profit community-based organization whose mission is to better the educational condition of Hispanic and other low-income, first-generation youth. LULAC established LNEsc in 1973 to operate an outreach counseling program to assist educationally disadvantaged and economically poor high school youth to gain admission to college. LNEsc was established as a separately incorporated entity with its own governing board and control of its program.

LNEsc has operated a Talent Search program since 1978. During the period of our review, the LNEsc Talent Search program consisted of a network of 13 counseling centers around the nation and in Puerto Rico, managed by a national office located in Washington, DC. LNEsc was awarded a four-year TS grant covering the performance period September 1, 1998, through August 31, 2002 (P044A980663). For the 2001-2002 budget period, LNEsc was awarded \$2,961,438 to provide services to 12,200 participants and a \$10,000 supplemental technology grant awarded to all TS projects.

AUDIT OBJECTIVE, SCOPE, AND METHODOLOGY

The objective of our audit was to determine if LNEsc administered the TS program in accordance with the law and TS regulations governing the documentation of participant eligibility. Specifically, we sought to determine whether participants met the twofold requirements of (1) eligibility and (2) receipt of eligible services during the budget period.

To accomplish our objective, we

- reviewed applicable Federal law and regulations,
- reviewed files relating to the TS project at LNESc and at the Department's TRIO program office located in Washington, DC,
- interviewed LNESc and Department of Education personnel,
- determined whether the TRIO cluster had been audited by LNESc's Certified Public Accountants,
- obtained and analyzed documents related to the TS project at LNESc (e.g., organization chart, LNESc policies and procedures), and
- randomly selected 200 TS participants from a universe of 15,205 to test documentation of participant eligibility, an eligible service, and low-income and first-generation status. Files for all participants selected in the sample were reviewed.

We relied upon the universe provided to us by the LNESc Executive Director for drawing our sample. We tested the universe for accuracy and completeness by comparing source records to the universe and the universe to source records. Based on this test, we concluded the population data was sufficiently reliable to be used for a sample population in meeting the audit's objective.

The audit covered the 2001-2002 grant budget period (September 1, 2001, through August 31, 2002). We visited the Department's TRIO program offices located in Washington, DC (July 31, 2002, to August 2, 2002) and conducted fieldwork at LNESc Headquarters in Washington, DC, (August 4, 2003, to August 8, 2003), at the Colorado Center (August 13, 2003), and the Kansas City Center (August 19, 2003). We held an exit conference with LNESc officials on November 19, 2003, at LNESc Headquarters in Washington, DC. Our audit was conducted in accordance with generally accepted government auditing standards appropriate to the scope of review described above.

STATEMENT ON MANAGEMENT CONTROLS

As part of our review we assessed the system of management controls, policies, procedures, and practices applicable to LNESc's administration of the TS program. Our assessment was performed to determine the level of control risk for determining the nature, extent, and timing of our substantive tests to accomplish the audit objective.

For the purpose of this report, we assessed and classified the significant controls into the following categories:

- Participant service,
- Participant eligibility, and
- Program record maintenance.

Because of inherent limitations, a study and evaluation made for the limited purpose described above would not necessarily disclose all material weaknesses in the management controls. However, our assessment disclosed management control weaknesses, which adversely affected LNESc's ability to administer the TS program. These weaknesses included noncompliance with

Federal regulations related to documentation of student eligibility, documentation of participant services, and deficient record maintenance procedures. These weakness and their effects are fully discussed in the *Audit Results* section of this report.

ADMINISTRATIVE MATTERS

Statements that managerial practices need improvements, as well as other conclusions and recommendations in this report represent the opinions of the Office of Inspector General. Determinations of corrective action to be taken will be made by the appropriate Department of Education officials.

If you have any additional comments or information that you believe may have a bearing on the resolution of this audit, you should send them directly to the following Education Department official, who will consider them before taking final Departmental action on this audit:

Jack Martin
Chief Financial Officer
Office of the Chief Financial Officer
U.S. Department of Education
400 Maryland Avenue, SW
Washington, DC 20202

It is the policy of the U.S. Department of Education to expedite the resolution of audits by initiating timely action on the findings and recommendations contained therein. Therefore, receipt of your comments within 30 days would be appreciated.

In accordance with the Freedom of Information Act (5 U.S.C. § 552), reports issued by the Office of Inspector General are available to members of the press and general public to the extent information contained therein is not subject to exemptions in the Act.

Sincerely,



for Richard J. Dowd
Regional Inspector General for Audit

Attachment

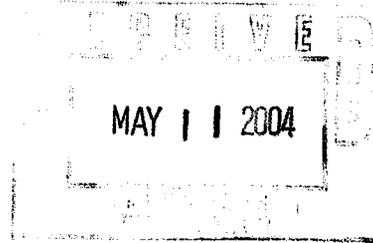
cc: Jack Martin, Chief Financial Officer
Sally Stroup, Assistant Secretary, Office of Postsecondary Education

LNE SC

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May 10, 2004



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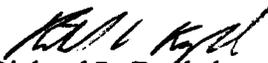
Dear Ms. Keeney:

I recently received your Draft Audit Report (Control Number ED-OIG/A07D0024) of the Educational Talent Search program administered by the LULAC National Educational Service Centers, Inc. As requested, please find attached our written response to the finding and recommendations offered by the OIG.

On behalf of the staff, administration and clients of the organization, I would like to extend our appreciation for this opportunity to review our program and improve it through close examination of all its components.

Please feel free to contact me with any further questions or comments.

Sincerely,


Richard L. Roybal
Executive Director

An independent separately
incorporated tax exempt
organization sponsored by
the League of United Latin
American Citizens

Response to Draft Audit Report

Control Number ED-OIG/A07D0024

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After reviewing the Draft Audit report (Control Number ED-OIG/A07D0024) dated April 12, 2004, we offer the following response.

Summary of Response

We do not agree with the statement, "LNEESC did not administer its TS grant in accordance with the law and TS regulations governing the documentation of participant eligibility."

We acknowledge that the auditors have estimated that LNEESC serviced 13,610 eligible TS participants, which is less than the APR report of 15,228, but higher than the contracted 12,200.

We have taken corrective action to improve the quality of our recordkeeping and to strengthen managerial controls.

Elaboration of Response

Finding- LNEESC Over Reported TS Participants in Its APR

Though LNEESC's accordance with the law and TS regulations governing the documentation of participant eligibility was not an area that OIG cited in the audit report as a finding, we felt it necessary to clarify that in fact LNEESC successfully served the number it contracted to serve with the Department of Education through the partnership agreement and therefore was in accordance with the law and TS regulations governing the documentation of participant eligibility.

Of the 15,205 unduplicated participants recorded in the LNEESC 2001- 2002 APR, we acknowledge the auditors have estimated that 1,595 were ineligible for participation in Talent Search leaving an estimated 13,610 eligible TS participants. Though this number is lower than the 15,228 reported in the APR, it far exceeds the 12,200 participants we were contracted to serve. We believe that many if not the vast majority of the 1,595 participants deemed ineligible did actually receive services but were not documented completely.

Furthermore, LNEESC believes that any decisions made by the Department "based on an inflated count of participants and services delivered" should be mindful of the fact that LNEESC met and surpassed its partnership agreement contract.

Corrective Actions Taken to Improve Record Keeping

Duplicate Participants

In an effort further reduce the already minimal number of duplicate participants reported in the APR, LNESc has taken steps to implement within the database a unique automated serial number for each client entered into our management information system.

The use of the automated serial numbers for each client record will create uniformity in recordkeeping across the network.

Documentation of Eligibility

Although the eligibility requirements found 34 CFR §643.3 define who is qualified for participation in the Talent Search program, the 34 CFR §643.3(a)(1)(iii) is indeterminate as to what comprises "evidence from the Immigration and Naturalization Service of... intent to become a permanent resident."

Based on the 1982 Supreme Court Decision, *Plyer vs. Doe*, which ruled the Fourteenth Amendment prohibits states from denying a free public education to undocumented immigrant children regardless of their immigrant status and emphatically declared that school systems are not agents for enforcing immigration law, and determined that the burden that undocumented aliens may place on school districts is not an acceptable argument for excluding or denying educational service to any student, LNESc believes documenting citizenship status places an undue burden on the agency and forces LNESc staff to become de facto agents of the INS. Both of which are far beyond the scope or intent of the Talent Search program.

Additionally, LNESc has created new forms to be added to the Talent Search Handbook to strengthen proof of Talent Search eligibility (e.g. Verification of Income Form and Verification of First Generation Status).

Documentation of Services

LNESC has taken several steps to improve the recording and retaining of services and support documentation throughout the network including:

- 1) All TS activity sign-in sheets will be photocopied and placed in the TS participant's file. The sign-in sheets will correspond to the dated written session report.
- 2) Written session reports documenting services to a TS participant must clearly detail the service(s) provided.
- 3) LNESc has created new forms to be added to the Talent Search handbook.

Response to Draft Audit Report

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- 4) LNESc has begun discussions to update our Talent Search Handbook and Personnel Policies and Procedures Manual.

Response to Recommendations

Recommendation 1

LNESC agrees that it should improve the recording of TS participants using unique identifiers and automated identification of potential duplicates in order to reduce the reporting of duplicate records and has already begun these processes.

Recommendation 2

LNESC agrees that TS staff must be further trained and monitored to ensure that established procedures are followed, only eligible students are counted as participants, only valid project services are recorded, and support documentation is retained.

Response to Statement on Managerial Controls

We recognize that there are some minor weakness in our managerial controls and have taken efforts to tighten the administration of the Talent Search program. LNESc has begun a series of on-site trainings for each Center providing Talent Search services. These trainings will ensure that established procedures are followed, only eligible students are counted as participants, only valid project services are recorded, and support documentation is retained. Additionally, an updated version of the database management system has been created and disseminated to all LNESc Talent Search program sites. However, LNESc maintains that the managerial controls already in place are sufficient to appropriately meet and exceed the partnership agreement.