
Parental Information and Resource Center Grant At The Learning Exchange

FINAL AUDIT REPORT



ED-OIG/A07G0013
November 2006

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U.S. Department of Education
Office of Inspector General
Kansas City, Missouri

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November 16, 2006

Tracye Laun
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The Learning Exchange
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Dear Ms. Laun:

Enclosed is our final audit report, Control Number ED-OIG/A07G0013, entitled *Parental Information and Resource Center Grant at The Learning Exchange*. This report incorporates the comments you provided in response to the draft report. 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 officials, who will consider them before taking final Departmental action on this audit:

Lawrence A. Warder, Chief Financial Officer
Office of the Chief Financial Officer
U.S. Department of Education
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U.S. Department of Education
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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 of the Act.

Sincerely,

Richard J. Dowd
Regional Inspector General
for Audit

Enclosure

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EXECUTIVE SUMMARY

Our audit objective was to determine if The Learning Exchange's (LX) expenditures for its Parental Information and Resource Center (PIRC) project were allocable, allowable, reasonable, and in accordance with approved budgets and grant terms and conditions from the October 1, 2003, inception of the project, through the February 2, 2006, termination of the grant's authorization.

We determined that LX (1) did not properly contract for services, (2) incorrectly allocated employee compensation payments, (3) spent PIRC grant funds for unallowable activities, and (4) did not retain sufficient documentation to support PIRC expenditures and show it had met federal requirements. The total amount of questioned costs is \$436,665.

We recommend that the U.S. Department of Education's (Department) Chief Financial Officer, in conjunction with the Department's Assistant Deputy Secretary for Innovation and Improvement,

- Require LX to return \$79,796 in federal funds to the Department for improperly contracting services,
- Require LX to return to the Department \$77,496 for unallowable compensation charges,
- Require LX to calculate and return to the Department all amounts for employee compensation payments that were distributed to the grant on the basis of standard monthly hours worked or for more hours than employees actually worked on PIRC activities that were not included in our sampled months,
- Require LX to return to the Department \$7,650 for unallowable activities,
- Require LX to provide adequate documentation or return to the Department \$271,722 in questioned costs for the charges identified in Finding 4, for which LX failed to provide supporting documentation in spite of being given numerous opportunities over a period of several months,
- Require LX to provide adequate documentation or return to the Department all amounts charged for non-personnel transactions lacking supporting documentation and for personnel expenses that were not supported by signed timesheet approvals that we did not include in our samples, and
- Consider whether LX's mismanagement of its PIRC grant, as described herein, constitutes a cause for debarment and, if so, initiate proceedings to debar LX from future participation in federal programs.

In its response to our draft audit report, LX disagreed with some of our findings but generally justified its administrative failures by identifying extenuating circumstances. It stated that it "would agree to be de-barred for a reasonable amount of time from federally funded contracts...." It proposed returning to the Department a portion of what we recommended,

suggesting a figure of \$10,000. It also committed itself to continue strengthening its internal control procedures. We have summarized LX's comments at the end of each finding and provided LX's comments in their entirety as Enclosure C.

BACKGROUND

The PIRC grant program provides resources that grantees can use to assist the parents of children who attend schools identified for improvement, corrective action, or restructuring under Title I, Part A of the Elementary and Secondary Education Act. The Department's Office of Innovation and Improvement (OII) administers the grant program.

LX is a non-profit educational consulting agency that provides teaching and learning innovations and experiences to educators, students, families, businesses, and cultural institutions. Beginning on October 1, 2003, LX operated a three-year PIRC grant and drew down a total of \$492,068 of PIRC funds. In November 2005, OII placed LX on a monthly reporting basis for not meeting goals in the 2005 grant-year reporting period. LX requested to cancel the grant in January 2006. OII terminated the grant authorization in February 2006.

AUDIT RESULTS

LX (1) did not properly contract for services, (2) incorrectly allocated employee compensation payments, (3) spent PIRC grant funds for unallowable activities, and (4) did not retain sufficient documentation to support PIRC expenditures and demonstrate it met federal requirements.

The total amount of questioned costs is \$436,665. (See Enclosure A for an explanation of how we arrived at this total.) In addition, because of the pervasiveness of LX's mismanagement of its PIRC grant, we recommend that the Chief Financial Officer, in conjunction with the Assistant Deputy Secretary for Innovation and Improvement, consider initiating proceedings to debar LX from future participation in federal programs.

At the end of its response to our draft report, LX proposed returning to the Department a portion of the total amount of our recommended recoveries, suggesting a figure of \$10,000.

Finding No. 1 – LX Did Not Properly Contract for Services

LX did not properly contract for services. It did not maintain a competitive bidding policy for contracted services. These contracted services included \$30,000 of federal PIRC funds that LX drew down for a contract with itself.¹

¹ LX's general ledger shows that it incurred \$2,348 in direct costs for these self-contracted services. LX drew down \$30,000 in grant funds for the project, resulting in a gain of \$27,652 over the direct costs of the project in the contract.

The regulations at 34 C.F.R. § 74.43 state, “All procurement transactions shall be conducted in a manner to provide, to the maximum extent practical, open and free competition.”

The regulations at 34 C.F.R. § 74.47 state, “A system for contract administration must be maintained to ensure contractor conformance with the terms, conditions and specifications of the contract, and to ensure adequate and timely follow up of all purchases.”

A grantee cannot contract with itself to use its own employees as consultants. According to 34 C.F.R. § 75.515, a grantee cannot use grant funds for consultants if it can meet a specified need by using its own employees rather than a consultant.

LX indicated that it did not properly contract for services because it was not aware of the requirement for competitive bidding of contracted services or that it must contract for services with outside vendors.

Without a competitive bidding process, LX may not have received contracted services of a quality or a price that it could have obtained under free and open competition. We identified \$79,796 in grant funds that LX charged for contracts that were not competitively obtained.

Recommendation:

1.1 We recommend that the Chief Financial Officer, in conjunction with the Assistant Deputy Secretary for Innovation and Improvement, require LX to either provide sufficient documentation to support its claims or return \$79,796 in federal funds to the Department.

LX Comments

LX did not concur with this finding. It stated that the Department had approved these contracts but added that it had been unable to locate documentation of the approvals. It also stated that competitive bidding was used for printing and supplies for publications created for and distributed by the LX PIRC program. Also, LX stated that contracts let without competitive bids were appropriate due to the unique needs of the contracts.

OIG Response

LX provided no documentation with its response to support its claims that competitive bidding was used for printing and supplies for publications created for and distributed by the LX PIRC program. Nor did LX provide documentation of internal or external discussions and or approvals to confirm that open and free competition was not applicable for some PIRC contracts. LX’s failure to maintain a written competitive bidding process likely contributed to the lack of supporting documentation to sustain LX claims.

We did not modify the finding or recommendation based on LX’s comments.

Finding No. 2 – LX Incorrectly Allocated Employee Compensation Payments

LX incorrectly allocated employee compensation to the grant by distributing compensation to the grant on the basis of (1) a different fringe benefit rate than the actual benefit rate for the organization, (2) standard monthly hours worked, (3) more hours than employees actually worked on PIRC activities, and (4) budgeted percentages of hours worked.

LX used a fringe benefit rate, to distribute benefits to the grant, that was higher than the actual benefit rate of the organization. The fringe benefit rate charged to the PIRC grant for the July 1, 2004, through June 30, 2005, period was 22 percent, whereas the actual fringe benefit rate for the organization was 15 percent. The fringe benefit rate charged to the PIRC grant for the July 1, 2005, through December 31, 2005, period was 17 percent, whereas the actual rate for the organization was 9 percent.

LX distributed compensation to the grant on the basis of standard monthly hours worked with eight-hour days instead of the actual number of hours worked each day in all months in our sample (March 2004, June 2004, October 2004, November 2004, and January 2005.) This caused LX to charge a higher percentage of employees' salaries to PIRC than justified. For example, if an employee worked 4 hours a day on PIRC activities and 6 hours a day on non-PIRC activities for a total of 10 hours a day, LX calculated the percentage of the day working on PIRC activities as $4 \text{ hours} / 8 \text{ hours} = 50 \text{ percent}$. The correct calculation is $4 \text{ hours} / 10 \text{ hours} = 40 \text{ percent}$.

Based on the months in our sample, LX distributed compensation to the grant on the basis of more hours than employees actually worked on PIRC activities. This compensation, exclusive of associated fringe benefits, is detailed in the table below.

Table 1 – Compensation Payments from PIRC Funds Made on the Basis of More Hours than the Employees Actually Worked on PIRC Activities

<i>Month</i>	<i>Employee</i>	<i>Number of Hours Charged to PIRC</i>	<i>Total Number of Hours Worked</i>	<i>Percentage of Hours Worked that should have been Charged to PIRC</i>	<i>Monthly Pay</i>	<i>Allowable Salary that should have been Charged to PIRC</i>	<i>Actual Salary that was Charged to PIRC</i>	<i>Difference Between Actual Salary Charged and Allowable Salary</i>
March 2004	Admin. Assistant	10.5	184	5.71%	\$3,000.00	\$171.20	\$1,826.00	\$1,654.80
June 2004	Admin. Assistant	7	176	3.98%	\$3,000.00	\$119.32	\$2,173.00	\$2,053.68
Oct. 2004	Event Coordinator	60	168	35.71%	\$2,100.00	\$750.00	\$1,012.50	\$262.50
Nov. 2004	Event Coordinator	60	176	34.09%	\$2,200.00	\$750.00	\$966.48	\$216.48
Jan. 2005	Event Coordinator	60	168	35.71%	\$2,100.00	\$750.00	\$1,063.13	\$313.13
Total						\$2,540.52	\$7,041.11	\$4,500.59

Also, from July 1, 2005, forward, LX distributed compensation to the grant on the basis of predetermined budgeted percentages of hours worked on PIRC activities, instead of from an after-the-fact determination of hours worked.

According to Office of Management and Budget Circular A-122 (A-122), Attachment A, Paragraph A.4.a, “A cost is allocable to a Federal award if it is treated consistently with other costs incurred for the same purpose in like circumstances and if it...is incurred specifically for the award.”

According to A-122, Attachment B, Paragraph 8.m,

- (1) "The distribution of salaries and wages to awards must be supported by personnel activity reports."
- (2)(a) Timesheet reports “must reflect an *after-the-fact* determination of the actual activity of each employee. Budget estimates (i.e., estimates determined before the services are performed) do not qualify as support for charges to awards.”
- (2)(b) "Each report must account for the total activity for which each employee is compensated....”

LX incorrectly allocated employee compensation, because it misunderstood federal grant accounting requirements and incorrectly calculated compensation allocations. LX believed it was allowed to use the fringe benefit rate stated in the grant application, instead of the actual

fringe benefit rate for the organization. Also, LX was not aware of the requirements to use total activity and after-the-fact determinations of hours worked for allocating compensation to grants. In some cases, LX erred in the calculation of compensation allocations to the PIRC grant.

We identified \$77,496 in grant funds that LX spent on unallowable compensation, which includes amounts LX paid for fringe benefits under the PIRC grant that were in excess of its usual LX fringe benefit rate.

Recommendation:

We recommend that the Chief Financial Officer, in conjunction with the Assistant Deputy Secretary for Innovation and Improvement, require LX to return to the Department:

2.1 \$77,496 for unallowable compensation, and

2.2 All amounts for employee compensation payments that were distributed to the grant on the basis of standard monthly hours worked or for more hours than employees actually worked on PIRC activities that were not included in our sampled months.

LX Comments

LX did not specifically disagree with the finding but questioned how we arrived at the amount we recommended for return to the Department

- (1) LX's outside auditors reviewed the benefits issues, and were not able to replicate the 22 percent rate cited in the draft audit report for the period from July 1, 2004, through June 30, 2005. From the beginning of the grant through June 30, 2005, LX records, as verified by its outside accounting firm, indicate that a 15 percent rate was used. LX does not have good records of the rate used after June 30, 2005.
- (2) LX indicated in its response that its employees who were paid with PIRC grant funds only worked an eight-hour day and then volunteered any additional time to LX for non-PIRC activities. LX thought it was appropriate to use standard hours as the basis for determining what percentage of their salary was allocable to PIRC and therefore what percentage of benefits should be allocable to PIRC.
- (3) LX is not clear how much of the \$77,496 cited in the audit report was allocable to hours posted after June 30, 2005, when there was a dramatic decrease in the resources available to LX and when the quality of timekeeping and of the financial recordkeeping appears to have deteriorated.

OIG Response

- (1) For the October 1, 2003, through June 30, 2004, period, LX's *Monthly Summary of PIRC Expenditures for The Learning Exchange FY2004* and the reconciliation data figures in the

Monthly Summary of PIRC Expenditures for The Learning Exchange FY2005 identify benefits expenditures of \$13,100.00. This includes a total fiscal year 2004 figure of \$12,910.00 plus a \$190.00 reconciliation data figure. Both documents identify salary expenditures of \$81,861.00. This includes a total fiscal year 2004 figure of \$80,367.00 plus a \$1,494.00 reconciliation data figure, which is identified in the *Monthly Summary of PIRC Expenditures for The Learning Exchange FY2005* report.. The fringe benefit rate for the period is 16.00 percent (\$13,100.00 divided by \$81,861.00).

For the July 1, 2004, through June 30, 2005, period, LX's *Monthly Summary of PIRC Expenditures for The Learning Exchange FY2005* identifies benefits expenditures of \$24,510.84. This includes a total \$24,700.84 figure cited minus the \$190.00 reconciliation data figure. It identifies salary expenditures of \$108,916.92. This includes a total \$150,410.92 figure minus a \$1,494.00 reconciliation data figure minus a \$40,000.00 salary figure cited in January 2005 that LX demonstrated was not paid. The fringe benefit rate for the period is 22.50 percent (\$24,510.84 divided by \$108,916.92).

- (2) LX did not provide any evidence that salaried employees were also volunteers to LX. LX logged their total time worked in the regular employee payroll timekeeping system. Therefore, salary and benefits were required to be allocated equitably among all activities.
- (3) The amount of the \$77,496 in questioned costs that is attributed to the period after June 30, 2005, is \$56,736.

We did not modify the finding or recommendations based on LX's comments.

Finding No. 3 – LX Spent PIRC Grant Funds for Unallowable Activities

LX spent PIRC funds for activities that were not necessary for the performance of the grant award. Specifically, LX spent grant funds to sponsor a table at Powell Gardens and for a health fair, a retreat for teens, and massages at a rally.

According to A-122, Attachment A, Paragraph A.2.a, to be allowable under an award, costs must “(b)e reasonable for the performance of the award and be allocable thereto under these principles....”

According to A-122, Attachment A, Paragraph A.3, “In determining the reasonableness of a given cost, consideration shall be given to...whether the cost is of a type generally recognized as ordinary and necessary for the operation of the organization or the performance of the award.”

LX spent grant funds for unallowable activities, because it believed it was allowed to charge the full amount of costs to the PIRC grant for expenses marginally related to the PIRC grant program.

We identified \$7,650 of grant funds that LX spent on unallowable activities. These activities and their associated PIRC charges are itemized in the table below.

Activity	Expenditure
Powell Gardens Table Sponsor	\$1,000.00
Health Fair	1,500.00
Teen Retreat	4,500.00
Chair Massages	650.00
TOTAL	\$7,650.00

Recommendation:

3.1 We recommend that the Chief Financial Officer, in conjunction with the Assistant Deputy Secretary for Innovation and Improvement, require LX to return to the Department \$7,650.

LX Comments

LX did not concur with this finding and explained why its expenditures of PIRC funds for the specified activities were justified.

The Powell Gardens event referenced in the draft audit report was an annual event that attracted a significant number of parents who were there to learn about the extensive programs of this botanical garden. These programs were generally educational in nature and attracted a big following from Kansas City urban and suburban school districts. The presentations at the Health Fair and the Retreat for Teens were an attempt to reach inner-city parents, who turned out in significant numbers at both the Health Fair and the Retreat for Teens. Finally, the shoulder massages that were offered were at a booth for PIRC at the Parent Kickoff Rally sponsored by the Kansas City School District. This event drew more than 1,000 parents. The point of the seated, shoulder massages was to attract attention to the PIRC booth and the important messages that it was delivering to parents regarding No Child Left Behind, opportunities for parents to be involved in their children’s education, and to have choices in their children’s schooling.

OIG Response

LX did not provide documentary evidence to explain the purpose of these events or of the activities that it performed at these events. For example, at the teen retreat, LX stated that the event was not related to the PIRC program, but that LX provided PIRC information to parents as they picked up their children on the last day of the retreat. LX paid for this retreat entirely with PIRC grant funds, even though it was, at best, only marginally related to PIRC.

We did not modify the finding or recommendation based on LX’s comments.

Finding No. 4 – LX did not Retain Sufficient Documentation to Support PIRC Expenditures and Show It Met Federal Requirements

LX did not retain sufficient documentation to support PIRC expenditures and show it met federal requirements. LX did not (1) provide evidence showing it met mandatory percentage spending requirements, (2) provide evidence showing it met its commitment for supporting PIRC activities with funds from non-federal sources, (3) retain records sufficient to support PIRC expenditures, (4) have indirect cost rate agreements, and (5) always retain timekeeping records.

LX did not provide evidence showing it met mandatory percentage spending requirements. LX did not maintain records to assure that required amounts of grant funds were used for service to low-income communities and programs for early childhood parent education. We did not find any evidence that LX ever attempted to record this information.

According to PL 107-110, The No Child Left Behind Act of 2001, Subpart 16, Sec. 5563(b), “Each application submitted under subsection (a), at a minimum, shall include assurances that the organization or consortium will... (3) use at least 50 percent of the funds received under this subpart in each fiscal year to serve areas with high concentrations of low-income families, in order to serve parents who are severely educationally or economically disadvantaged...[and] “(10) use at least 30 percent of the funds received under this subpart in each fiscal year to establish, expand, or operate Parents as Teachers programs, Home Instruction for Preschool Youngsters programs, or other early childhood parent education programs.”

The regulations at 34 C.F.R. § 75.730 state, “A grantee shall keep records that fully show: (a) The amount of funds under the grant; (b) How the grantee uses the funds; (c) The total cost of the project; (d) The share of that cost provided from other sources; and (e) Other records to facilitate an effective audit.”

The regulations at 34 C.F.R. § 75.731 state, “A grantee shall keep records to show its compliance with program requirements.”

LX did not provide documentary evidence that it met mandatory percentage spending requirements, because it did not identify in its records the respective spending requirements to which its expenditures were related. Instead, to demonstrate its compliance with the requirement that it used 50 percent of grant funds to service low-income communities, it relied upon its assertion that PIRC grant funds are primarily spent on the Kansas City, Missouri school district, which is a district with a substantial portion of students from low-income families. LX did not assert that it spent 30 percent of grant funds for early childhood parent education programs.

We identified \$246,034 (50 percent of the total amount of grant funds that LX drew down) of grant funds that LX charged without providing documentary evidence that the funds were spent for the mandatory percentage spending requirements.

LX did not provide evidence showing that it met its commitment for supporting PIRC activities with funds from non-federal sources. LX proposed in its application for the PIRC grant that it

would pay for \$234,943 of PIRC expenses with funds from non-federal sources for grant year 2004, \$165,262 for grant year 2005, and \$157,319 for grant year 2006. This amounted to 46.17 percent of the total amount of budgeted PIRC expenditures. LX provided no documentation to support that it paid for PIRC expenses with funds from non-federal sources in any of the grant years. We did not find any evidence that LX ever attempted to record this information or to pay for any PIRC grant expenditures with non-federal funds.

According to PL 107-110, the No Child Left Behind Act of 2001, Subpart 16, Sec. 5565(a), “For each fiscal year after the first fiscal year in which an organization or consortium receives assistance under this subpart, the organization or consortium shall demonstrate in the application submitted for such fiscal year, that a portion of the services provided by the organization or consortium is supported through non-Federal contributions, which contributions may be in cash or in kind.”

LX could not provide records that it paid for PIRC activities with funds from non-federal sources, because it did not record PIRC expenses that it paid with funds from non-federal sources.

LX expended PIRC funds that it was not entitled to receive because its PIRC award was based on the premise that it would contribute funds from non-federal sources in the amounts it identified in its grant application. We identified \$227,187 (46.17 percent of the total amount of grant funds that LX drew down) of grant funds that LX charged for expenses that it should have paid for with non-federal funds.

LX did not retain records sufficient to support PIRC expenditures. LX did not provide records to support non-personnel grant expenditures for the 2003-04, 2004-05, and 2005-06 award periods that were complete and organized so as to facilitate an effective audit. Overall, the general ledgers, expenditure summaries, and payment records did not completely account for the entire amount of PIRC grant funds that LX drew down.

The regulations at 34 C.F.R. § 75.702 state, “A grantee shall use fiscal control and fund accounting procedures that insure proper disbursement of and accounting for Federal funds.”

The regulations at 34 C.F.R. § 75.730 state “A grantee shall keep records that fully show: (a) The amount of funds under the grant; (b) How the grantee uses the funds; (c) The total cost of the project; (d) The share of that cost provided from other sources; and (e) Other records to facilitate an effective audit.”

LX stated that it did not retain records sufficient to support PIRC expenditures because it had high staff turnover and it had relocated its office in February 2006. In 2005, LX substantially downsized its staff because of a decrease in funding from some of its key partners in the community. Two Chief Financial Officers left the organization. The last Chief Financial Officer left in January 2006 and did not create a complete general ledger from July 2005 forward. In February 2006, LX hired an outside certified public accountant to take charge of financial control.

We identified \$29,473 in grant funds that LX drew down but did not account for in its general ledgers, expenditure summaries, or payment documentation. Based on our sample of general ledger transactions, we identified \$81,203 in grant funds that LX charged without retaining payment documentation, invoices, or contract agreements to support the expenditures. (See Enclosure B for a listing of the charges comprising this figure of \$81,203.)

LX did not have indirect cost rate agreements. LX charged indirect costs during its 2004 and 2005 fiscal years but could not provide the indirect cost rate agreements with the Department. We did not find any evidence, either from LX or the Department, that LX ever attempted to negotiate an indirect cost rate with the Department's Indirect Cost Group.

The regulations at 34 C.F.R. § 75.560(b) state, "A grantee must have a current indirect cost rate agreement to charge indirect costs to a grant. To obtain an indirect cost rate, a grantee must submit an indirect cost proposal to its cognizant agency and negotiate an indirect cost rate agreement."

According to A-122, Attachment A, Paragraph E.2.c, "Organizations that have previously established indirect cost rates must submit a new indirect cost proposal to the cognizant agency within six months after the close of each fiscal year."

LX officials stated that they could not find the agreements. They said that they would try to get copies of the agreements from the federal government, but they never provided these copies.

We identified \$49,012 of indirect costs that LX charged without having any record of approval from the Department.

LX did not always retain timekeeping records. LX did not have employee timesheets to support salaries, wages, and benefits allocated to the PIRC grant for June 2005. For the months in our sample (March 2004, June 2004, October 2004, November 2004, and January 2005) that LX did have timesheets, the timesheets were not always signed by the employee and/or approved.

According to A-122, Attachment B, Paragraph 8.m(2), "Reports reflecting the distribution of activity of each employee must be maintained for all staff members (professionals and nonprofessionals) whose compensation is charged, in whole or in part, directly to awards."

According to A-122, Attachment B, Paragraph 8.m(2)(c), timesheet reports "must be signed by the individual employee, or a responsible supervisory official having first hand knowledge of the activities performed by the employee...."

LX could not find the timesheets and timesheet approvals in question.

We identified \$35,377 in grant funds that LX charged for employee compensation that were not supported with timekeeping records. This figure includes amounts LX paid for fringe benefits under the PIRC grant that were in excess of its usual LX fringe benefit rate.

Recommendations:

We recommend that the Chief Financial Officer, in conjunction with the Assistant Deputy Secretary for Innovation and Improvement,

- 4.1 Require LX to provide documentation or return to the Department \$271,722² for undocumented charges,
- 4.2 Require LX to provide adequate documentation or return to the Department all amounts charged for non-personnel transactions lacking supporting documentation and for personnel expenses that were not supported by signed timesheet approvals that we did not include in our samples, and
- 4.3 Consider whether LX's mismanagement of its PIRC grant, as described herein, constitutes a cause for debarment and, if so, initiate proceedings to debar LX from future participation in federal programs.

LX Comments

Generally, LX did not concur with this finding, but it stated that it "would agree to be de-barred for a reasonable amount of time from federally funded contracts...."

- (1) **Mandatory Percentage Spending Requirements.** LX maintained a database that established that more than 50 percent of the programming under the PIRC grant went to low-income families and more than 50 percent of the services were delivered to charter schools. However, that computer database was apparently lost in its moving its offices to a different location.
- (2) **Non-Federal Matching Funds.** LX received funding for charter schools from various foundations. Although charter schools and PIRC work were kept separate in the budget so that the board of LX could see them separately, the former President of LX believed that funding for charter schools could be used as non-federal matching funds for the PIRC grant.
- (3) **Insufficient Backup for Draw Downs.** Preparation of draw down sheets stopped in June 2005, when LX resources were dramatically cut and it was determined that the Chief Financial Officer was failing to meet acceptable performance standards.
- (4) **Indirect Cost Rate Agreement.** LX had an Indirect Cost Rate Agreement that was dated in 2003 and was signed by the Department of Education in 2004. When the term of that agreement was coming to an end, LX asked for a new form of agreement or a renewal of the old one. LX could not locate any renewal or subsequent Indirect Cost Rate Agreement and presumed that none was signed.

² This is the total unduplicated amount of questioned costs associated with this finding.

- (5) Timesheets. LX acknowledged that some timesheets were unsigned, but stated that, based upon its information and review by its outside accountants, timesheet preparation from 2003 to June 2006 was taken very seriously and regularly completed.

OIG Responses

- (1) We agree with LX that it did not provide any documentary evidence of meeting mandatory percentage spending requirements.
- (2) LX did not provide any ledgers, expenditure summary reports, or supporting documentation to indicate that any non-federal funds were spent on PIRC activities.
- (3) LX did not always provide invoices, checks, or contract agreements for transactions occurring throughout the entire period of the grant. For the October 1, 2003, through June 30, 2004, period, LX did not provide all of these records for 7 of 15 sampled transactions. For the July 1, 2004, through June 30, 2005, period, it did not provide all of these records for 10 of 17 sampled transactions. For the July 1, 2005, forward period, it did not provide all of these records for 18 of 25 selected transactions.
- (4) LX did not provide an indirect cost rate agreement signed by the U.S. Department of Education. LX did provide an indirect cost rate agreement signed by the U.S. Department of Labor, dated June 8, 2004, approving an indirect cost rate of 9.61 percent for the July 1, 2002, through June 30, 2003, period. This approved period expired before the October 1, 2003, start date of LX's PIRC grant. The Indirect Cost Group at the U.S. Department of Education reported that it does not have any previous experience negotiating an indirect cost rate with LX.
- (5) LX officials were able to provide timesheets for employees who worked on PIRC activities for the October 1, 2003, through May 31, 2005, period. These timesheets were not always signed. LX did not provide any timesheets for employees who worked on PIRC activities from June 1, 2005, forward.

We did not modify the finding or recommendations based on LX's comments.

OBJECTIVE, SCOPE, AND METHODOLOGY

The objective of our audit was to determine if LX's expenditures of its PIRC grant funds were allocable, allowable, reasonable, and in accordance with approved budgets and grant terms and conditions.

We reviewed the provisions of Public Law 107-110, The No Child Left Behind Act of 2001, Subpart 16, Sections 5561-5565; 34 C.F.R. Parts 74 and 75; the Catalog of Federal Domestic Assistance, Section 84.310 and Office of Management and Budget Circular A-122, Cost Principles for Non-Profit Organizations. We reviewed the Department's Grant Administration and Payment System Award History Reports for LX. We interviewed current and former LX officials and LX's current independent accountant. We held discussions with the Department's program office and corresponded with the Department's Indirect Cost Group. We reviewed the LX organization chart and PIRC grant application provided by LX and LX's annual PIRC grant performance reports and evaluations provided by the Department's program office.

We reviewed LX's general ledgers and budget and expenditure summary financial documents for the period October 1, 2003, through February 2, 2006. We judgmentally selected six separate months from this period to examine payroll records for salary, wage, and fringe benefit expenditures. We also judgmentally selected 15 out of 90 transactions for direct non-personnel expenditures in the October 1, 2003, through June 30, 2004, period, and 17 out of 165 transactions for direct non-personnel expenditures for the July 1, 2004, through June 30, 2005, period.³ For the July 1, 2005, through February 2, 2006, period, we reviewed all 25 transactions for direct non-personnel expenditures. We also reviewed the budget and expenditure summaries for indirect costs charged to the PIRC grant.

We relied on computer-processed data originally obtained from LX's general ledger software to select LX PIRC grant expenditures made during the 2003-2004 and 2004-2005 grant years. We verified the completeness and accuracy of the data by reviewing supporting documentation to validate expenditure amounts recorded in LX's general ledger. LX's general ledger records from July 1, 2005, forward were not complete when we did our initial assessment. Subsequent to our initial assessment, LX provided a general ledger that identified PIRC expenditures from July 1, 2005, forward and we traced all PIRC expenditures for that period from general ledger entries to supporting documentation. Based on our testing, we concluded that the computer-processed data were sufficiently reliable for the purpose of our audit.

We did not assess the adequacy of LX's system of internal control over PIRC grant funds, because LX voluntarily terminated its participation in the PIRC grant program prior to the start of the audit.

³ We judgmentally selected the months and specific transactions for our analyses so as to include a large percentage of the total amount of the expenditures.

We performed our audit work at LX's office in Kansas City, Missouri and at our Chicago and Kansas City offices. We provided exception reports to LX on April 28, 2006, and May 9, 2006. We held an exit conference with LX officials on June 26, 2006. We performed our audit in accordance with generally accepted government auditing standards appropriate to the scope of the review described above.

Enclosure A: CALCULATION OF QUESTIONED COSTS

Total Grant Funds Drawn Down

				\$492,068.33
			<u>Questioned Costs in Findings 1, 2, and 3</u>	
Finding 1			\$ 79,796.28	
Finding 2				
<u>FY2005 excess benefit rate</u>				
Salaries	\$ 0.00			
Benefits	<u>\$ 8,122.55</u>	\$ 8,122.55		
<u>Standard hour payroll</u>				
Salaries	\$ 6,429.88			
Benefits	<u>\$ 995.48</u>	\$ 7,425.36		
<u>Over-allocated pay</u>				
Salaries	\$ 4,500.59			
Benefits	<u>\$ 712.18</u>	\$ 5,212.77		
<u>Budgeted hour payroll</u> (<i>Includes the FY2006 excess benefit rate questioned costs of \$3,879.40 in the benefits total, because the benefits costs overlap</i>)				
Salaries	\$48,492.44			
Benefits	<u>\$ 8,243.72</u>	<u>\$56,736.16</u>	\$ 77,496.84	
Finding 3			<u>\$ 7,650.00</u>	
<i>Total Questioned Costs in Findings 1, 2, and 3</i>			<u>\$164,943.12</u>	<u>-\$164,943.12</u>
<i>Total Costs Not Questioned in Findings 1, 2, and 3</i>				<u>\$327,125.21</u>
	Questioned	Duplicated	Unduplicated	
Finding 4 - Sub-finding 3	<u>Costs in Fnd 4</u>	<u>in Fnd's 1,2&3</u>	<u>in Fnd's 1,2&3</u>	
- No accounting records	\$ 29,473.52	\$ 0.00	\$ 29,473.52	
- Transactions missing contracts, checks, and/or invoices	\$ 81,203.02	\$ 70,364.05	\$ 10,838.97	
Finding 4 - Sub-finding 4				
- No indirect cost rate agreement	\$ 49,012.50	\$ 0.00	\$ 49,012.50	
Finding 4 - Sub-finding 5 (<i>Costs include salaries and benefits</i>)				
- Missing timesheets	\$ 10,567.89	\$ 0.00	\$ 10,567.89	
- Missing timesheet approvals	<u>\$ 24,809.28</u>	<u>\$ 3,423.88</u>	<u>\$ 21,385.40</u>	
Totals	<u>\$195,066.21</u>	<u>\$ 73,787.93</u>	<u>\$121,278.28</u>	<u>-\$121,278.28</u>
<i>Interim Total Costs Not Questioned</i>				<u>\$205,846.93</u>
Finding 4 – Sub-finding 2 Matching Requirement				
- LX share (\$205,846.93 * 46.17% specified in proposal)			\$ 95,039.53	<u>-\$ 95,039.53</u>
<i>Interim Total Costs Not Questioned</i>				<u>\$110,807.40</u>
Finding 4 – Sub-finding 1 Mandatory Spending Requirement				
50 percent requirement (\$110,807.40*50%)		\$ 55,403.70		
30 Percent requirement (\$110,807.40*30%)		<u>\$ 33,242.22</u>	<u>\$ 55,403.70¹</u>	<u>-\$ 55,403.70</u>
Total Finding 4 Questioned Costs		<u>\$271,722.51</u>		
<i>Draw Downs Not Questioned</i>				<u>\$ 55,403.70</u>

¹ Because both requirements can be satisfied with the same money, only the 50 percent requirement amount is included in the total.

ENCLOSURE B: QUESTIONED NON-PERSONNEL EXPENDITURES

Transaction Date	Transaction Type	Description	Amount	Contract		
				Check Request	Documen- tation	Invoice
Missing Check Request, Invoice, and/or Contract						
10/21/2003	Contract Services	Software Consulting	\$ 8,700.00	Y	N	Y
6/30/2004	Contract Services	Unknown	\$ 2,135.00	N	N	N
6/30/2004	Printing	Printing	\$ 975.00	N	N/A	Y
6/30/2004	Contract Services	Unknown	\$ 910.00	N	N	N
6/30/2004	Contract Services	Unknown	\$ 472.50	N	N	N
5/31/2004	Program Materials	White Bags	\$ 376.98	N	N/A	N
6/30/2004	Travel - Airfare	Airfare and Agent Fee	\$ 330.40	Y	N/A	N
10/28/2004	Contract Services	EDG Project	\$ 20,000.00	N	Y	N
6/30/2005	Contract Services	PIRC Book	\$ 10,000.00	N	Y	N
5/31/2005	Printing	Catalog Printing	\$ 3,093.60	N	N/A	N
1/30/2005	Contract Services	PIRC Webchannel	\$ 3,000.00	Y	N	Y
4/1/2005	Contract Services	Lobby Sponsor	\$ 3,000.00	N	N	Y
3/24/2005	Contract Services	2005 Literacy Fair	\$ 2,500.00	Y	N	Y
3/24/2005	Contract Services	Parent Education Training	\$ 2,500.00	Y	N	Y
5/9/2005	Contract Services	Summer Institute Early Childhood	\$ 1,800.00	N	N	N
12/15/2004	Contract Services	Conference	\$ 1,210.55	Y	N	Y
6/6/2005	Contract Services	Website	\$ 1,070.00	Y	N	Y
7/1/2005	Contract Services	PIRC Health Fair	\$ 1,500.00	Y	N	N
7/12/2005	Travel - Food	Restaurant	\$ 217.11	N	N/A	N
7/14/2005	Contract Services	College planning program	\$ 975.00	Y	N	Y
7/25/2005	Contract Services	Teen Retreat Sponsorship	\$ 2,000.00	Y	N	N
8/8/2005	Contract Services	Website	\$ 2,675.00	Y	N	Y
8/9/2005	Contract Services	PIRC Teen Retreat	\$ 1,500.00	Y	N	N
8/26/2005	Program Materials	Cash Advance - Back to school rally supplies	\$ 1,000.00	Y	N/A	N
8/26/2005	Contract Services	Teen retreat	\$ 1,000.00	Y	N	N
8/26/2005	Contract Services	Back to school rally - Jazz band	\$ 225.00	Y	N	N
8/26/2005	Contract Services	Food service	\$ 446.00	Y	Y	N
8/26/2005	Contract Services	Stereo equipment rental	\$ 475.00	N	N	N
9/6/2005	Program Materials	Food service	\$ 455.88	Y	N/A	N
9/8/2005	Travel - Incidentals	Travel	\$ 100.00	Y	N/A	N
10/31/2005	Advertisement	Advertisement	\$ 2,920.00	N	N/A	N
11/1/2005	Conference Fees	Conference	\$ 220.00	Y	N/A	N
11/1/2005	Contract Services	PIRC Website	\$ 1,000.00	N	N	N
12/7/2005	Contract Services	Website support	\$ 1,000.00	N	N	N
Total			\$ 79,783.02			
Partially Supported by Invoice						
1/9/2006	Advertisement	Radio Advertising				
		Claim: \$5,270 Amount on Invoice:\$3,850	\$ 1,420.00	Y	N/A	N
			\$ 81,203.02			
Grand Total						(\$79,783.02 + \$1,420.00)

**ENCLOSURE C:
THE LEARNING EXCHANGE'S COMMENTS ON THE OIG DRAFT REPORT**

The comments follow in their entirety.

8300 NE Underground Drive, Pillar 108H, Kansas City, MO 64161 / 816.751.4100 Phone / 816.454.0557 Fax / www.lx.org

unlock the **power of curiosity**...

U.S. Department of Education
Office of the Inspector General
8930 Ward Parkway
Suite 2401
Kansas City, Missouri
64114-3302

September 22, 2006

Dear Mr. Dowd,

Per our agreed upon extension, The Learning Exchange is submitting the attached response to the Draft Audit Report.

Under separate cover, we will send Mr. Dowd a copy of "Building the Bridge, Parent Involvement in Education," which is the handbook for teachers our staff prepared.

Please feel free to contact me if you have any questions.

Cordially,



Tracye Laun
President and CEO

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RESPONSE OF THE LEARNING EXCHANGE TO DRAFT AUDIT REPORT OF
U.S. DEPARTMENT OF EDUCATION REGARDING PARENTAL INFORMATION
AND RESOURCE CENTER GRANT

Overview and Background

We are writing in response to the Department of Education's draft audit report on the PIRC program which was operated by The Learning Exchange ("LX") from October 2003 until its voluntary termination initiated by an LX request dated January 19, 2006. Before responding to specific findings in the draft audit, it is important to give a sense of who LX is and how it has positively impacted hundreds of thousands of young lives in a 50-mile radius of Kansas City for the past 33 years. The LX is comprised of devoted educators who are justifiably proud of the quality educational experiences they have long delivered and continue to deliver to children, teachers and parents. Our staff has operated the PIRC program in good faith and using their best efforts, though admittedly we did not have a great deal of experience in operating such grants. LX staffers asked many questions of the Department of Education and tried to maintain a regular dialogue as additional questions arose. They participated in all of the programming that was offered to instruct them on running a PIRC program. At this point, we recognize that mistakes were made in operation of the PIRC program and for that we are truly sorry. We have learned a great deal from this experience and have initiated important efforts at broadening and improving our resources and assuring through outside accountants that we have effective financial and record-keeping controls. Our goal, as you will see below, is to fashion a remedy here that recognizes mistakes that we have made, but also allows us to stay in business so that we can continue to operate our core experiential education programs and continue serving children in the Greater Kansas City area.

LX operates Exchange City and Earthworks, two uniquely effective and creative experiential programs, together serving over 22,000 third, fourth and fifth graders each year. Exchange City is a mini-city designed to teach basics of economics and personal financial management to fifth graders. It involves six weeks of study in the classroom with teachers provided by LX, focusing on concepts from supply and demand to how to write a check, how to balance a checkbook, how loans from banks work, compounding of interest, job searches and the like. After this preparation children spend a full day in the mini-city which is filled with shops, manufacturers, a radio station, a bank, a Mayor, a disc jockey and all manner of job opportunities. Student business-owners in this City take out loans from the bank, and their goal, through efficiently operating their businesses and working with their employees, is to pay back the loan to the bank by the end of the day. Each child spends half the day as a producer and half the day as a consumer in this City. Interviews of high school seniors conducted by a prominent school district in the Kansas City area each year have revealed that an extraordinary number of interviewees designated Exchange City as the most significant educational experience that they had in their schooling to date.

Earthworks is an environmental science program located in a large underground space in Kansas City, offering a close-up view of environments such as the pond, the forest, the dessert and others. Third and fourth graders are prepared in the classroom for approximately six weeks before coming into Earthworks for a day, studying ecosystems, the delicate balance found there, the dependency of one life form on another, food chains and the like. They also learn about environmental disasters and potential methods for avoiding and remediating such problems. When they come to

Earthworks, they do projects in the various environments, but there is always an environmental disaster that occurs while they are there, and it is up to these young students to try to solve that problem through re-balancing the ecosystem. In nearly all instances, the children are successful in their efforts because of all that they have learned.

LX has also been active over the years in all manner of cutting edge teaching techniques and in recent years has adapted Exchange City and Earthworks to be compatible with the requirements of No Child Left Behind, so that the programs are relevant to the teachers in meeting their curriculum requirements. The LX has had substantial experience in curriculum and teacher training, both in public and charter schools. In fact, it was selected as the agency to help various universities in Missouri establish their process for certifying charter schools, when Missouri's Charter School legislation was first passed. The LX helped the Universities establish their criteria for certification and to develop assessment tools to measure how charter schools were doing. Today, LX is focused almost entirely on its experiential programs, Exchange City and Earthworks, and is envisioning and planning a next experiential program at the high school level that we hope to make a reality in the next couple of years.

LX was chosen to operate the PIRC grant because of the regular contact it has with so many parent groups through its work with schools and particularly through the many parent volunteers who work with Exchange City and Earthworks. LX has also partnered with other community organizations throughout the years, and this too was a factor in its selection as the PIRC grant recipient. LX has been recognized through the press, through rave reviews from parents and, perhaps, most importantly, through the reviews of children who have gone through Exchange City or Earthworks and have ended up years later volunteering there when their own children attended. We have been proud to have on staff at Exchange City people who went through the Exchange City program when they were in fifth grade.

We tell you all of this background to give some sense of the vital role that LX plays in the educational offerings and systems throughout the greater Kansas City area. LX serves over 50 school districts and can have a bright future that matches or exceeds its past. However, LX is a not-for-profit agency, which does its best to fundraise through the generosity of foundations, individuals, and modest fees for services. If it were forced to pay any substantial funds, let alone the large numbers described in the draft audit, it would quite simply be put out of business, and the loss would be borne by children who have yet to experience the broadening and life-enhancing lessons they internalize in these exceptional and nearly unique experiential learning programs.

2005 was a very difficult year for LX. Substantial funds that had been anticipated from the foundation community did not materialize, and it had to reorganize in order to deal with the reduced resources. In addition, the CFO who was put in place during 2005 did not achieve performance standards required of the position, and rendered unreliable a good portion of the financial records during her tenure. Finally, during that same year and as a result of the reorganization, LX moved its headquarters from the Exchange City location to Earthworks. In that move, which is a number of miles, the computers had to be moved, and somehow a great deal of data was lost in that transition. That has hampered the ability of LX to provide all the backup materials necessary in response to the auditors. You will see in our responses below that we have done the best we can to reconstruct those items but that in some instances we must rely simply on the fact that the work that was undertaken by virtue of the PIRC grant was done and done well, and

that top flight service was provided to parents through the LX and partner organizations across the community.

When considering this draft audit, we would urge the Department to look closely at the volume and quality of work that was performed and take that into account when considering the appropriate finalization of the audit and appropriateness of the remedy. As stated earlier, disgorgement of funds already received by LX would quite simply spell the end of LX and its core services (Exchange City and Earthworks). That would result in a loss of these highly-recognized and respected programs to more than 22,000 third through fifth graders in the greater Kansas City area each year. We suggest and hope that you will see that such would not be a successful outcome for the audit or for the children in this metropolitan area.

We respectfully request that you take note of the LX's delivery of service under the PIRC grant and its response when its resources were cut. First, with respect to the performance under the grant, good examples may be found in the report submitted to the Department for the 2005 fiscal year. The number of parents who were provided with information more than doubled from the first year to the second year of this program on such topics as understanding state accountability systems, opportunities for supplemental education services and opportunity for public school choice. Under your Type A category, the number of parents served went from 580 to 1,216 from year 1 to year 2; under your Type B, the number of parents served went from 2,750 to 9,504, and under Type C, the number went from 3,750 to 5,879 from year one to year two.

Just as examples of the kinds of programs that were delivered by LX, please consider the following:

- *ABC Book of Education Terms for Parents*, was created to help educate parents about NCLB, and other education vocabulary terms.
- 6,000 of these books were printed and distributed at events throughout the year.
- The Parent's Guide to Effective Involvement in Education Trifold Brochure was created to provide parents with additional resources to help them better understand NCLB and what it means for them. 8,000 of these brochures were printed and distributed at events throughout the year.
- Kansas City Public Library Youth Services Division's Early Childhood Outreach Program distributed printed materials to 385 daycare centers in the nine county area reaching an estimated 7,000 parents.
- Informational resources about state accountability systems were made available on the PIRC section of the LX website.
- Print materials were distributed at the MO-KAN PIRC Coalition Parent Teacher Conference, Kansas City, Missouri School District Parent Rally, Heart of American Indian Center Event Parent Event, Parents are the Power, Tom Joiner Sky Show, Sprint Earth Day, Kansas City, Missouri School District Parents as Teachers Home Visits, Black Agenda Group Parent Training, Black Family Technology Awareness Week, Parent to Parent Training Program and the Parent Education Participation Program.

These examples of work done by the PIRC staff at the LX are listed here to give some idea of the steady and high quality service delivery that the staff provided up until the resources of the LX were

dramatically cut in 2005 as a result of loss of certain private funding. We should also point out in terms of the quality of these programs that evaluations from the Parent Involvement Conference, November 30-December, 2004, showed that of the 105 persons responding, 95 of them indicated that “overall the information presented was worthwhile, useful and relevant.” Ninety-seven of them indicated that “overall, the presenters were effective in conveying the information,” and 99 of them indicated that organization, registration and flow of events went smoothly.

At this point, LX is re-energizing its board of directors with new members from significant corporate citizens in Kansas City and is in negotiation with a university for an ongoing major strategic partnership. The LX is poised to continue offering extraordinary service and memorable educational experience to children throughout the Greater Kansas City area, and we have added safeguards to prevent accounting shortfalls in the future. Those are reflected, along with our specific responses to the draft audit findings, below.

Specific Response to Findings

Finding Number 1 – Appropriateness of Contracting for Services. The auditors state that LX did not use competitive bidding for contracted services, including \$30,000 of PIRC funds that LX drew down for a contract with itself.

Response to Finding Number 1: Based on our investigation, the director of the PIRC program at LX, Pat McDonald, had multiple conversations with the Department of Education program coordinator concerning these contracting issues and understood that the \$30,000 contract with its own consulting division had been approved. The reason for that \$30,000 contract was that the consulting division of LX had unique skills for creating experiential education program design and had been retained by museums, educational institutions and others around the country to design such programs because of those skills. Through conversations with the immediate past President of LX, Tammy Blossom, who submitted the PIRC grant on behalf of the LX, we learned that Pat McDonald had regular and ongoing conversations with the various PIRC program directors at the DOE.

Unfortunately, we have been unable to locate writings that document these conversations. Similarly, we understand that LX, through Pat McDonald, asked about contracting directly with several other partners such as the Urban League, Partnership for Children and LULAC (League of United Latin American Citizens). Again, the LX thought it had obtained permission to enter these contracts. If LX was mistaken in this understanding, then it certainly regrets and apologizes for this good faith misunderstanding.

Finally, we are advised that there was competitive bidding on such items as printing and supplies for the parent education book that was published and various other publications created and distributed by the LX PIRC program. Where contracts were let without competitive bids, the reason was that the contracting parties were uniquely suited to distribute information to parents in their specific communities. For example, the Urban League is extremely active and recognized in the community, particularly the predominately African American community, as is Partnership for Children which is one of the best known child advocacy programs in

Kansas City. LULAC has particular access in the Hispanic community, and the effectiveness of the PIRC program is dependent upon credibility with parents in various communities. We understand that copies of the contracts with these various entities were provided to the Department of Education at the time they were entered.

Finding Number 2 – Employee Compensation Payments. The auditors state that LX used a fringe benefit rate, to distribute benefits to the grant, that was higher than the actual benefit rate of the organization. Specifically, the auditors found that the rate charged for the July 1, 2004 through June 30, 2005 timeframe was 22%, whereas the actual fringe benefit rate for the organization was 15%. The auditors found that the fringe benefit rate charged through the PIRC grant for the July 1, 2005 through December 31, 2005 period was 17%, whereas the actual rate for the organization was 9%.

Response to Finding Number 2. We have had LX's outside auditors review the benefits issues, and they have not been able to replicate the 22% rate. From the beginning of the grant through June 30, 2005, the LX records, as verified by our outside accounting firm, indicate that a 15% rate was used. We do not have good records of the rate used after June 30, 2005, and as of September 2005.

Specifically with respect to benefits that were charged to the program, the best way to understand this issue is through specific examples. If we assume 21 working days in a month, LX counted those as eight hour days in its calculation of salary and benefits for employees working on the PIRC program. Based on conversations with the past LX President and the outside accountants for the LX, these were supervisory employees who were committed to their jobs and often worked in excess of 168 hours (sometimes even 200 hours) in a month. However, those extra hours of work did not change their salaries or their benefits. Accordingly, LX in good faith thought it was appropriate to use 168 hours as the basis for determining what percentage of their salary was allocable to PIRC and therefore what percentage of benefits should be allocable to PIRC. Another way of viewing this is that the hours spent in excess of 168 hours per month by these managers was on non-PIRC business. Their salary was based on eight hour work days. Our thought was that to handle this situation differently was like punishing these devoted salaried personnel who worked these additional hours to advance LX's educational work.

It is not clear to us from the draft audit how much of the \$77,496 was allocable to hours posted after June 30, 2005, when there was a dramatic decrease in the resources available to LX and when the quality of timekeeping and of the financial recordkeeping appears to have deteriorated. We would be interested in knowing what percentage is allocable to that post-June 30, 2005 period.

We should also focus for a moment on how the LX reacted to a downturn in its available resources and the discovery that it had an underperforming Chief Financial Officer when these facts came to light in 2005. Our reaction, approved by the staff, was termination of the Financial Officer and immediate inquiry into the organization's ability to continue delivering quality services under the PIRC program. After terminating the Financial Officer we located and hired a new and adept

Financial Officer, who is now in place. With regard to PIRC, we determined that LX lacked sufficient resources, including personnel, to adequately continue with the PIRC program, so the decision was made to attempt to transfer that program to Partnership for Children. When that request for transfer was not accepted, the LX continued speaking with DOE and ultimately determined that the responsible thing to do was voluntarily to terminate this program, which the organization did in early 2006.

We care very deeply about the teaching and experiential learning that is delivered to children and parents throughout Kansas City by the LX, and we want so very much, for the sake of those children, parents and the school systems, to be able to continue delivering those services. We have attempted throughout the process of operating the PIRC program and the audit process to act responsibly. As spelled out more specifically above, we do not believe there is any question that top quality services were delivered under the PIRC program, and we hope that consideration of this good work by LX personnel will mitigate the types of remedies recommended by the Department of Education, enabling us to continue delivering services.

Finding Number 3 – Activities Identified as Unallowable. The auditors believe that such expenditures as sponsoring a table at Powell Gardens and for a health fair and certain other items were inappropriate for this grant.

Response to Finding Number 3: The Powell Gardens event referenced in the draft audit was an annual event that attracted a significant number of parents who were there to learn about the extensive programs of this botanical garden that is focused on educational programming and attracts a big following from the urban and suburban school districts and parents. In fact, Powell Garden had a representative on the PIRC Advisory Board operated by the LX because of its significant involvement throughout the community, including with parents. The presentations at the Health Fair and the Retreat for Teens were an attempt by Pat McDonald, director of LX's PIRC program and an active participant in urban events throughout the community, to reach inner-city parents (those parents did turn out in significant numbers at both the Health Fair and the Retreat for Teens). Finally, the shoulder massages that were offered were at a booth for PIRC at the Parent Kickoff Rally sponsored by the Kansas City School District. This event drew more than 1,000 parents, and the point of the seated, shoulder massages was to attract attention to the PIRC booth and the important messages that it was delivering to parents regarding No Child Left Behind, opportunities for parents to be involved in their children's education, and to have choices in their children's schooling. The LX presented at these programs in these ways because we truly believe these were effective approaches for meeting the goals of the PIRC program and reaching the target audiences.

Finding Number 4 – Inadequate Retention of Documentation. The draft audit states that LX did not (1) provide evidence showing it met mandatory percentage spending requirements for low income families; (2) meet its commitment for supporting PIRC activities with funds from non-federal sources, (3) retain sufficient records to support PIRC expenditures, (4) have indirect cost rate agreements, and (5) retain timekeeping records.

Response to Finding Number 4

(1) Mandatory Percentage Spending Requirements. LX maintained a database which established that more than 50% of the programming under the PIRC grant went to low income families and more than 50% of the services were delivered to charter schools. However, that computer database was apparently lost in our move. We can only tell you that we made every effort to keep these records in good faith, and based on our investigation for responding to this draft audit, we understand that the percentages of low income families was good. However, the documents are no longer there, and we deeply regret that.

(2) Non-Federal Matching Funds. The LX received funding for charter schools from various foundations. Although charter schools and PIRC work were kept separate in the budget so that the board of the LX could see them separately, we are advised by the former President of LX that funding for charter schools was intended to and was in fact used as the non-federal matching funds for the PIRC grant.

(3) Insufficient Backup for Draw Downs. Preparation of draw down sheets stopped in June 2005, when resources of the LX were dramatically cut and it was determined that the Chief Financial Officer was failing to meet acceptable performance standards. There were, however, thirty-two requests for draw-downs from the grant from October of 2003 through January 2006. The last four of these requests (totaling approximately \$70,000) were submitted after the termination of the Chief Financial Officer, and they did have salary information attached. However, they did not contain timesheets after June 1, 2006. We have been unable to locate those post June 1, 2006 timesheets but are aware that work on the PIRC grant continued until it was terminated.

(4) Indirect Cost Rate Agreement. The LX did have an indirect cost rate agreement, which was dated in 2003 and was signed by the Department of Education in 2004. When the term of that agreement was coming to an end, the LX, through its then Chief Financial Officer (Tracy Burrow who did perform her work well and was not the one referenced above), asked for a new form of agreement or a renewal of the old one. We cannot locate any renewal or subsequent Indirect Cost Rate Agreement and presume that none was signed.

(5) Timesheets. The auditors did find some timesheets that were unsigned, but based upon our information and review by the outside accountants for LX, timesheet preparation from 2003 to June, 2006 was taken very seriously and regularly completed.

Conclusion

As indicated above, in 2005 there was significant turnover in PIRC personnel at LX. This, coupled with a change in the LX's funding base and resulting organizational restructuring, created a reduced ability to fully staff and perform under the PIRC grant. Part of the restructuring involved a move of the organization from the Exchange City location at Metropolitan Community Colleges' Penn Valley

Campus to The Earthworks facility. In the process of that move, there were changes in the computers, and apparently a significant amount of data was lost. As a result, it has been difficult to present backup in a variety of areas sought by the auditors.

As soon as the LX leadership recognized that it would have to contend both with turnover in the LX staff and with a dramatic reduction in its funding sources, the LX acknowledged to the Department of Education its inability to fully perform under the PIRC grant, and it sought to transfer responsibility for the grant to Partnership for Children, which did have sufficient staffing available to manage the program. This approach was rejected by the Department, but the motivation of the LX has always been to assure delivery of top flight useful information and education to parents under the PIRC grant. When its request for transfer was not accepted, LX voluntarily terminated as the operator of the PIRC program in Kansas City.

PROPOSAL FOR RESOLUTION

As stated above, to the extent we did not operate the PIRC grant properly, we regret and apologize for that. Having taken the steps referenced above to assure accounting and record-keeping regularity, and in order to allow LX to remain in business so that it may continue to operate its core experiential learning programs, we propose the following resolution to the issues raised by the draft audit:

- 1) LX would agree to be de-barred for a reasonable amount of time from federally funded contracts;
- 2) LX would pay an amount, e.g. \$10,000, which would serve as a recognition of the issues and mistakes raised in the draft audit but would not put LX out of business so that it can continue delivering its core experiential education programs to children in Greater Kansas City;
- 3) LX will commit to continue strengthening its board and staff and to continue using an outside accounting firm to assure that LX accounting and bookkeeping records remain in good order going forward.

We appreciate your consideration of this proposal and our situation as you complete your final audit. Thank you.