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| EMPLOYMENT AND TRAINING ADMINISTRATION ADVISORY SYSTEM U.S. DEPARTMENT OF LABOR Washington, D.C. 20210 | CLASSIFICATION SWA Real Property |
| | CORRESPONDENCE SYMBOL OFAM |
| | DATE December 7, 2004 |

ADVISORY : FIELD MEMORANDUM NO. 3-05

TO : ALL REGIONAL ADMINISTRATORS
/s/

FROM : Jack H. Rapport
Administrator,
Office of Field Operations

SUBJECT : Fiscal Year 2005 Update of State Workforce Agency Real Property Records

1. Purpose. To prepare for the Fiscal Year (FY) 2005 update of records of Department of Labor equity in grantee-owned real property financed with administrative grant funds provided under Title III (Unemployment Insurance) of the Social Security Act and the Wagner-Peyser Act (Employment Security).

2. References. Field Memorandum (FM) No. 26-97; FM No. 38-93; FM No. 32-00; Training and Employment Guidance Letter (TEGL) No. 7-04; General Administration Letter (GAL) No. 5-94; 29 CFR Part 97; and OMB Circular No. A-87.

3. Background. DOL's Office of Inspector General (OIG) has done several reviews of the management of real property acquired with grant funds provided to states under the Wagner-Peyser (W-P) Act, as amended, and Title III of the Social Security Act [Unemployment Insurance (UI)]. These reviews have improved State Workforce Agency (SWA) real property management procedures, and increased compliance property management requirements which appear in DOL regulations at 29 CFR 97.31.

A comprehensive, 1988 OIG review of DOL equity in SESA (now SWA) real property, determined inadequate property management records and failure to compensate DOL for federal equity in disposed real properties.

The January 1990 Inspector General Audit Report No. 04-90-002-03-325, entitled "DOL Basis/Equity in State-Owned Real Property" presented the findings of the 1988 OIG review.

The audit recommendations resulted in the development of a SWA property reporting system and the issuance of GAL 5-94 (1/24/94) which provided comprehensive guidance on the acquisition, use, and disposition of real property involving the use of Reed Act, W-P, and UI grant funds.

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| RESCISSIONS | EXPIRATION DATE December 31, 2005 |
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The property reporting system database, maintained in the National Office, is updated as acquisitions and dispositions occur. The system generates Individual Property Reports and State Summary reports, identifies each piece of property by a unique number and maintains the following information: (a) name and address of the property; (b) size, including acreage of land and square foot area of a building; (c) year of acquisition; (d) original cost of the property including land, building and any finance costs; (e) original fund source(s); (f) how the cost of the property is being amortized; and (g) the same information as above for each improvement.

Also, in response to a September 30, 2004 Inspector General Audit Report No. 06-04-002-03-325, entitled "DOL Has Not Maintained Accountability Over Equity in Real Property Held By States" the OIG recommends that ETA implement controls over data validity and reliability that:

- a. establish verifiable values for its real property inventory using available information such as the OIG's 1997 inventory report and projected equity schedules that were agreed to by ETA and the states;
- b. require the states to provide explanations for differences between the states' annual certified valuations and the OIG's 1997 reports estimated valuations for the same properties for the same period. (The OIG's estimated valuations were generally based on ETA-approved amortization schedules; consequently, unless ETA has amended the amortization schedules, the valuations should be similar.);
- c. provide monitoring and follow-up on all significant differences between ETA's established inventory of equity values and the states reported values; and
- d. provide states current certification instructions that are clear and specific, including a requirement that the states submit documentation regarding properties added to or removed from the real property inventory list.

To address these recommendations and better oversee the acquisition and disposition of properties and to protect Department of Labor equity, ETA plans to bi-annually update the SWA real property inventory. In order to do this, the National Office will obtain from each SWA a bi-annual certification for each individual property financed with grant funds provided under Title III of the Social Security Act and the Wagner-Peyser Act. The current SWA inventory will be provided to all Regional Administrators for review so that any property updates that have not been entered into the database can be identified and provided to the National Office for inclusion in the SWA Real Property Database before State certifications are requested.

The Audit also recommends that ETA monitor states' compliance with applicable requirements by implementing additional procedures. ETA concurs with the recommendations and will increase oversight to ensure states holding DOL equity cash from SWA real property dispositions:

a. are identified;

b. submit the funds to ETA for deposit to the U.S. Treasury, as required, unless ETA has documented approval of specific state plans for using the proceeds for bona fide replacement property in a reasonable timeframe and that will ensure ETA can monitor states' handling of future sales proceeds from SWA property dispositions;

c. do not use any DOL equity cash from property sales to accelerate amortization of properties with existing amortization schedules; and

d. do not use any DOL equity cash to recover prior period space costs not recovered in accordance with existing amortization schedules because of a SWA's decision to use its grant funds for other purposes and delay amortization of its space costs because of budget limitations.

TEGL No.7-04, issued on October 20, 2004, provides guidance on the use of (SWA) buildings for One-Stop purposes, the effect of such use on pre-existing amortization arrangements, and other matters concerning use of real property by SWAs and the Workforce Investment Act (WIA) One-Stop system. Except as otherwise indicated, TEGL No. 7-04 is applicable to all real property occupied by ETA grantees using grant funds provided under the Wagner-Peyser, Unemployment Insurance, and WIA programs.

The TEGL also provides guidance on the proper treatment of costs, interpretations of Federal law governing space occupancy in SWA buildings used for One-Stop purposes, and related matters based, in part, on the resolution of findings from the DOL OIG's 2001 review of shared facility arrangements between a SWA and several WIA local Workforce Investment Boards.

4. Policy. SWAs must procure, manage and dispose of real property purchased with Federal grant funds according to Department of Labor regulations found at 29 CFR 97.31, 97.36, 97.40, and TEGL No.7-04.

5. National Office Role. The National Office through the Office of Financial and Administrative Management, Office of Financial and Administrative Services is responsible for maintenance of the national SWA inventory and policy guidance. This includes updating individual property acquisitions and dispositions. The National Office will provide summary reports of property as requested.

6. Inventory System. Assigned Regional Office staff has read-only access to the SWA Real Property Database through EIMS. EIMS and "Equity / Basis in SESA Real Property" records may be accessed through the *ETA Intranet Portal* at the *ETA Tools* sight.

7. Regional Office Activities. Regional Offices are responsible for providing the National Office with any information regarding acquisitions, dispositions or improvements to SWA real property as well as issuing acquisition/disposal instructions to SWAs. The Regional Administrator's role includes providing guidance and oversight to states sufficient to protect Federal equity interests in SWA real property in accordance with appropriate guidance from the ETA grant officer.

8. Action Required. Regional Administrators are requested to:

- Print your regional “Equity / Basis in SESA Real Property” records from the EIMS screen, noted in item 6.above. (Note: This is the only format that should be updated by the SWA. In the past, some SWAs created their own formats which, in some instances, did not capture all the required data elements.);

- Send the printed records to your SWAs to be annotated with changes resulting from the TEGL No. 7-04-required update to SWAs’ real property records. The update must reflect current, accurate information on the costs of land, buildings improvements, and interest as well as the fund sources used for acquisition. The updating should include property that has been disposed of, but not recorded as such. The TEGL-required completion date for SWA updating is no later than December 31, 2004. (The Regionally-established timeframe for return of updated records from the SWAs should allow, at a minimum, for the following actions.):

- Review returned copies of the SWA-updated records to determine completeness of the inventory;

- Record updated information in Regional Office property records and ensure that each “Equity / Basis in SESA Real Property” record is certified by the appropriate SWA official. The data in these records will be either correct as printed from EIMS or as updated by the SWA. In either case, this will be the data that the SWA certifies as accurate;

- Transmit copies of all certified “Equity / Basis in SESA Real Property” records to the National Office, Attn: Jim Giuliano, Room N-4653, 200 Constitution Avenue, N.W., Washington, D.C. 20210 by January 31, 2005; and

- Ensure that SWAs are cognizant of the amortization phase-out explained in section 15 of TEGL 7-04, dated October 20, 2004, prompted by the May 10, 2004 revision of OMB Circular No. A-87.

9. Inquiries. Questions should be directed to Jim Giuliano in the Division of Administrative Services on 202-693-2815.