State of California
Employment Training Panel

Arnold Schwarzenegger, Governor

March 30, 2010

Lee Harris
Managing Director
Evolution Manufacturing Trade Association
444 West Ocean Blvd., Suite 505
Long Beach, CA 90802

Dear Mr. Harris:

Enclosed is our final audit report relative to the Employment Training Panel Agreement No. ET05-0107 for the period July 5, 2004 through July 4, 2006.

We did not receive a response to the draft audit report; therefore, our findings and recommendations remain unchanged.

Also enclosed is a demand letter for payment of costs disallowed in the audit report. Payment is due upon receipt of this letter. If you wish to appeal the audit findings, you must follow the procedure specified in Attachment A to the audit report.

We appreciate the courtesy and cooperation extended to our auditors during the audit. If you have any questions, please contact Stephen Runkle, Audit Manager, at (916) 327-4758.

Sincerely,

Original signed by:

Stephen Runkle
Audit Manager

Enclosures

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EVOLUTION MANUFACTURING TRADE ASSOCIATION

Agreement No. ET05-0107

Final Audit Report

For The Period

July 5, 2004 through July 4, 2006

Report Published March 30, 2010

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TABLE OF CONTENTS

	Page Number
AUDITOR'S REPORT	
Summary	1
Background	2
Objectives, Scope, and Methodology	2
Conclusion	3
Views of Responsible Officials	3
Audit Appeal Rights	3
Records	4
SCHEDULE 1 - Summary Of Audit Results	5
FINDINGS AND RECOMMENDATIONS	6

ATTACHMENTS

ATTACHMENT A - Appeal Process
ATTACHMENT B - Table of Disallowed Trainees (Finding No. 1)
ATTACHMENT C - Table of Disallowed Trainees (Finding No. 2 – 4)

AUDITOR'S REPORT

Summary

We performed an audit of Evolution Manufacturing Trade Association's compliance with Agreement No. ET05-0107, for the period July 5, 2004 through July 4, 2006. Our audit pertained to training costs claimed by the Contractor under this Agreement. Our audit was performed during the period April 21, 2008 through April 24, 2008, except for Finding Nos. 2 – 5, for which our report is dated June 24, 2008.

The Employment Training Panel (ETP) reimbursed the Contractor a total of $1,455,877.67. Our audit supported $1,424,113.67 is allowable. The balance of $31,764 is disallowed and must be returned to ETP. The disallowed costs resulted from 22 trainees who had unsupported class/lab training hours, 4 trainees who failed to meet minimum wage requirements, and 3 trainees who were placed in occupations not included in the Agreement. We also noted administrative findings for 3 trainees who did not meet retrainee eligibility requirements and for the inaccurate reporting of trainee wage rates.

Background

Evolution Manufacturing Trade Association (EMTA) was established in 2003 to support California's economic development by providing educational opportunities, industry representation, and training services that foster global competitiveness and operating efficiencies for its members.

This Agreement was the first one between ETP and EMTA. The business model developed by EMTA sought to link small and medium-sized manufacturers and suppliers with appropriate training resources, customized to their needs. EMTA noted that small-to-medium-sized companies have limited resources and expertise in assessing training needs, designing a formal training program, and finding qualified vendors to conduct training that meets their needs. Therefore, EMTA staff worked to assess training needs and develop a customized training plan for each participating employer. After developing a training plan, EMTA could then subcontract with California-based training providers to provide class/lab, computer based or videoconference training or train employees of participating employers to act as internal trainers. In the second case, EMTA would reimburse employers for the overall cost of ETP training provided by the employer's own training staff.

This Agreement allowed EMTA to receive a maximum reimbursement of $1,626,748 for retraining 1,204 employees. During the Agreement term, the Contractor placed 744 trainees and was reimbursed $1,455,877.67 by ETP.

Objectives, Scope, and Methodology

We performed our audit in accordance with *Government Auditing Standards*, promulgated by the United States General Accounting Office. We did not audit the financial statements of Evolution Manufacturing Trade Association. Our audit scope was limited to planning and performing audit procedures to obtain reasonable assurance that Evolution Manufacturing Trade Association complied with the terms of the Agreement and the applicable provisions of the California Unemployment Insurance Code.

Accordingly, we reviewed, tested, and analyzed the Contractor's documentation supporting training cost reimbursements. Our audit scope included, but was not limited to, conducting compliance tests to determine whether:

- Trainees were eligible to receive ETP training.
- Training documentation supports that trainees received the training hours reimbursed by ETP and met the minimum training hours identified in the Agreement.

- Trainees were employed continuously full-time with a participating employer for 90 consecutive days after completing training, and the 90-day retention period was completed within the Agreement term.

- Trainees were employed in the occupation for which they were trained and earned the minimum wage required at the end of the 90-day retention period.

- The Contractor's cash receipts agree with ETP cash disbursement records.

As part of our audit, we reviewed and obtained an understanding of the Contractor's management controls as required by *Government Auditing Standards*. The purpose of our review was to determine the nature, timing, and extent of our audit tests of training costs claimed. Our review was limited to the Contractor's procedures for documenting training hours provided and ensuring compliance with all Agreement terms, because it would have been inefficient to evaluate the effectiveness of management controls as a whole.

Conclusion

As summarized in Schedule 1, the Summary of Audit Results, and discussed more fully in the Findings and Recommendations Section of our report, our audit supported $1,424,113.67 of the $1,455,877.67 paid to the Contractor under this Agreement is allowable. The balance of $31,764 is disallowed and must be returned to ETP.

Views of Responsible Officials

The audit findings were discussed with Lee Harris, Managing Director, at an exit conference held on April 24, 2008 and via e-mail on December 9, 2008. A draft audit report was issued to the Contractor on February 18, 2010. The Contractor did not respond in writing to the draft audit report.

The issuance of your final audit report had been delayed by the audit unit. Therefore, ETP waived the accrual of interest for the disallowed costs beginning June 25, 2008 through the issue date of this final audit report. The interest waiver (adjustment) was $3,680.03, which was deducted from the total accrued interest.

Audit Appeal Rights

If you wish to appeal the audit findings, it must be filed in writing with the Panel's Executive Director within 30 days of receipt of this audit report. The proper appeal procedure is specified in Title 22, California Code of Regulations, Section 4450 (attached).

Records

Please note the ETP Agreement, Paragraph 5, requires you to assure ETP or its representative has the right, "...to examine, reproduce, monitor and audit accounting source payroll documents, and all other records, books, papers, documents or other evidence directly related to the performance of this Agreement by the Contractor... This right will terminate no sooner than four (4) years from the date of termination of the Agreement or three (3) years from the date of the last payment from ETP to the Contractor, or the date of resolution of appeals, audits, or litigation, whichever is later."

Stephen Runkle
Audit Manager

Fieldwork Completion Date: April 24, 2008, except for Finding Nos. 2 – 5, for which our report is dated June 24, 2008.

This report is a matter of public record and its distribution is not limited. The report is intended for use in conjunction with the administration of ETP Agreement No. ET05-0107 and should not be used for any other purpose.

SCHEDULE 1 – Summary of Audit Results

EVOLUTION MANUFACTURING TRADE ASSOCIATION

AGREEMENT NO. ET05-0107

FOR THE PERIOD

JULY 5, 2004 THROUGH JULY 4, 2006

	Amount	Reference*
Training Costs Paid By ETP	$ 1,455,877.67	
Disallowed Costs:		
Unsupported Class/Lab Training Hours	20,228.00	Finding No. 1
Minimum Wage Requirement Not Met	6,831.00	Finding No. 2
Ineligible Trainee Occupation	4,705.00	Finding No. 3
Retrainee Eligibility Not Met	-	Finding No. 4
Inaccurate Reporting	-	Finding No. 5
Total Costs Disallowed	$ 31,764.00	
Training Costs Allowed	$ 1,424,113.67	

* See Findings and Recommendations Section.

FINDINGS AND RECOMMENDATIONS

FINDING NO. 1 – Unsupported Class/Lab Training Hours

Training records maintained by Evolution Manufacturing Trade Association (EMTA) do not support paid training hours for 1 Job No. 1 trainee, 5 Job No. 2 trainees, 10 Job No. 3 trainees, and 6 Job No. 4 trainees. As a result, for the Job No. 1 and 3 trainees, unsupported training hours were disallowed at the rate of ($13 per hour + support costs), for the Job No. 2 and 4 trainees, at the Small Business rate of ($20 per hour + support costs). Total disallowed costs claimed for these trainees = $20,228.

Title 22 California Code of Regulations (CCR), Section 4442(a) requires the Contractor to maintain and make available records that clearly document all aspects of training. All classroom/laboratory training records must include hours of attendance and dates of training, be certified daily by the instructor during training, signed (or initialed) daily by the trainee, and signed by the trainer for each type of training.

Paragraph 2(a.1) of the Agreement between EMTA and ETP states: "Reimbursement for class/lab and videoconference training for trainees in Job Number 1 and 2 [and in Job No. 3 and 4, which were added in Amendment No. 1] will be based on the total actual number of training hours completed by training delivery method for each trainee, up to the maximum specified in Chart 1, providing the minimum and no more than the maximum hours are met." Exhibit A, Chart 1 of the Agreement requires that Job Nos. 1, 2, 3 and 4 trainees complete between 24 to 200 class/lab hours.

Paragraph 5(a.1) of the Agreement states in part that, "Records must be retained within the control of the primary Contractor and be available for review at the Contractor's place of business within the State of California…"

ETP auditors found that original class/lab rosters maintained by EMTA do not support reported training hours for the 22 trainees noted above due to multiple issues, such as missing trainee signatures and missing rosters. Auditors also noted that two separate rosters maintained to support paid training hours for Trainee Nos. 5, 7 and 13 include signatures that do not appear to match the signatures included on the remaining rosters maintained for those trainees, and that Trainee No. 21 had training recorded prior to her actual date of hire with the participating employer. Attachment A, Table of Disallowed Trainees (Finding No. 1), details the paid training hours, audited training hours, disallowed training hours and resulting disallowed costs for each of the 22 trainees noted above. The table below details the audit basis for unsupported class/lab hours as noted for each trainee.

Trainee No.	Job No.	Audit Basis for Unsupported Class/Lab Training Hours
1	2	Missing Trainee Signature 10/21/04 & Missing Rosters 10/22-11/1/04
2	3	Missing Rosters 2/2-2/3/06
3	3	Missing Rosters 2/1-2/2/06
4	2	Missing Rosters 12/4/05 & 12/15/04-3/17/05
5	4	Trainee Signature On Rosters 1/4-2/17/06 Does Not Match Other Rosters
6	3	Missing Rosters 2/3-2/8/06
7	4	Trainee Signature On Rosters 10/26-11/22/05 Does Not Match Other Rosters
8	2	Missing Rosters 12/4/05 & 12/15/04-3/17/05
9	3	Missing Rosters 2/1-2/2/06
10	4	Trainee Not On Rosters (Not Employed by Participating Employer During Training)
11	4	Trainee Signature On Rosters 10/26-11/23/05 Does Not Match Other Rosters
12	3	Missing Rosters 2/1-2/2/06
13	4	Trainee Not On Rosters (Not Employed by Participating Employer During Training)
14	3	Missing Rosters 2/1-2/2/06
15	3	Missing Rosters 2/2-2/8/06
16	3	Missing Rosters 2/2-2/8/06
17	1	Missing Rosters 2/3-2/8/06
18	3	Missing Rosters 2/2-2/8/06
19	2	Missing Rosters 6/6/05-8/11/05
20	2	Missing Trainee Signature 10/21/04 & Missing Rosters 10/22-11/1/04
21	4	14 Hours Training Reported Prior to Hire Date with Particiapting Employer
22	3	Missing Rosters 2/1-2/2/06

Recommendation EMTA must return $20,228 to ETP. In the future, the Contractor should ensure that training records support hours submitted for reimbursement from ETP.

FINDING NO. 2 – Minimum Wage Requirement Not Met

Trainee employment information shows that 1 Job No. 3 trainee and 3 Job No. 4 trainees did not meet the minimum wage requirement specified in the Agreement. Therefore, we disallowed $6,831 [(1 Job No. 3 trainee x $1,698) + (3 Job No. 4 trainees x $1,711)] in training costs claimed for these trainees.

Exhibit A, paragraph VII of the Agreement states, "Each trainee must be employed full-time… for a period of at least ninety (90) consecutive days immediately following the completion of training… Wages at the end of the 90-day retention period shall be equal to or greater than the wages listed in [the Agreement]."

The Agreement required that Job No. 3 trainees employed in Los Angeles County (Trainee No. 31) earn a minimum wage rate of $12.37 per hour following the post-training retention period. Job No. 4 trainees employed in Santa Barbara County (Trainee Nos. 23, 28 and 29) were required to earn a minimum wage rate of $11.34 per hour following the post-training retention period. The Agreement allowed the Contractor to include the dollar value of employer-paid health benefits to meet minimum wage requirements.

The table below shows the wage reported by EMTA, required wage rate, wage reported by employer, and employer-paid health benefits. The actual wage rate and documented health benefits shown for Trainee Nos. 23, 28 and 29 were reported directly by the employer. The employer did not respond to our requests to provide wage or health benefit information for Trainee No. 31.

Trainee No.	Job No.	Reported Wage Rate	Required Wage Rate	Wage Rate Per Employer Responses	Employer-Paid Health Benefits	Total Actual Wage Rate
23	4	$11.10	$11.34	$7.75	$0.00	$7.75
28	4	$8.50	$11.34	$8.50	$0.00	$8.50
29	4	$11.00	$11.34	$8.00	$0.00	$8.00
31	3	$9.50	$12.37	-	-	$9.50

Recommendation

EMTA must return $6,831 to ETP. In the future, the Contractor should ensure all trainees meet minimum wage requirements and obtain documentation of employer-paid health benefit costs, if necessary, before claiming reimbursement from ETP.

FINDING NO. 3 – Ineligible Trainee Occupation

EMTA claimed reimbursement for 1 Job No. 2 trainee and 2 Job No. 4 trainees who were not employed in occupations specified in the Agreement. We previously disallowed $1,711 in training costs claimed for Trainee No. 28 in Finding No. 2. Thus, we disallowed the remaining $4,705 in training costs claimed for these trainees ($2,139 +$2,566).

Exhibit A, paragraph VII. A. of the Agreement states, "Employment for each trainee shall be in the occupations listed in [the Agreement]…." The occupations identified in the Agreement for Job No. 2 and 4 do not include Driver, Janitor or Senior Managers.

Paragraph 5i, page 4 of the Agreement states, "No senior level managers or executive staff who set company policy are included in ETP-funded training under this Agreement."

The following table shows the job title reported by employer for the three trainees noted above. The occupations shown for Trainee Nos. 24, 27 and 28 were reported directly by the employer. In addition, the employer of Trainee No. 27 also confirmed that Trainee No. 27 had the authority to set company policy based on his position.

Trainee No.	Job No.	Job Title Reported by Employer
24	4	Driver
27	2	Branch Manager
28	4	Janitor

Recommendation

EMTA must return $4,705 to ETP. In the future, the Contractor should ensure all trainees are employed in the occupations specified in the Agreement and/or were not employed in senior management or executive positions, prior to claiming reimbursement from ETP.

FINDING NO. 4 – Retrainee Eligibility Not Met

Employment information shows 3 Job No. 4 trainees were ineligible to receive training. These trainees did not meet employment requirements prior to the start date of training. As a result, the Contractor did not comply with the terms of the Agreement.

Exhibit A, paragraph III of the Agreement requires that trainees be employed full-time by the Contractor or a participating employer for at least 90 days before the trainee begins training. Otherwise, to be eligible a trainee must have been employed at least 20 hours per week for at least 90 days by an eligible employer during the 180-day period preceding the trainee's hire date with the current employer.

EMTA reported that Trainee No. 25 was hired on September 26, 2005 and EMTA training records show she began training on October 28, 2005. The employer did not respond to our requests to provide employment information for Trainee No. 28. Employment Development Department base wage information shows this trainee was not employed full-time for at least 20 hours per week for at least 90 of the 180 days preceding the hire date. Thus, this trainee was not eligible to receive training.

Employment information submitted directly from their employers, along with EMTA training records, show Trainee No. 26 was hired on August 31, 2005 and began training on October 6, 2005, and Trainee No. 30 was hired on September 30, 2005 and began training on November 1, 2005. Employment Development Department base wage information shows these trainees were not employed full-time for at least 20 hours per week for at least 90 of the 180 days preceding the hire date. Thus, these trainees were not eligible to receive training.

Recommendation

In the future, EMTA should comply with all terms specified in an Agreement with ETP. Failure to comply with the terms of an Agreement may result in repayment of unearned funds, plus applicable interest, to ETP.

FINDING NO. 5 – Inaccurate Reporting

Trainee hourly wage rates reported by EMTA on invoices submitted to ETP were inaccurate. As a result, the Contractor did not comply with Agreement reporting requirements.

Paragraph 2(d) of the Agreement states, "Contractor shall submit invoices and necessary statistical data to ETP in a form and manner prescribed by ETP." Actual, complete trainee wage rate information is required to verify compliance with Exhibit A, paragraph VII.A of the Agreement. This section states, "Each trainee must be employed full time… for a period of at least ninety (90) consecutive days immediately following the completion of training… Wages at the end of the 90-day retention period shall be equal to or greater than the wages listed in [the Agreement]."

We documented actual trainee wage rates based on employer responses for 35 of the 74 initial random sample trainees for whom Employment Verification Questionnaires were mailed. Trainee wage rates reported by EMTA varied by 5 percent or more from actual wage rates for 14 of the 35 trainees (40 percent).

Recommendation

In the future, EMTA should ensure all trainee wage rate data submitted to ETP is accurate and complete. Inaccurate or incomplete data may result in repayment of unearned funds, plus applicable interest, to ETP.

ATTACHMENT A – Appeal Process

4450. Appeal Process.

(a) An interested person may appeal any final adverse decision made on behalf of the Panel where said decision is communicated in writing. Appeals must be submitted in writing to the Executive Director at the Employment Training Panel in Sacramento.

(b) There are two levels of appeal before the Panel. The first level must be exhausted before proceeding to the second.

(1) The first level of appeal is to the Executive Director, and must be submitted within 30 days of receipt of the final adverse decision. This appeal will not be accepted by the Executive Director unless it includes a statement setting forth the issues and facts in dispute. Any documents or other writings that support the appeal should be forwarded with this statement. The Executive Director will issue a written determination within 60 days of receiving said appeal.

(2) The second level of appeal is to the Panel, and must be submitted within 10 days of receipt of the Executive Director's determination. This appeal should include a statement setting forth the appellant's argument as to why that determination should be reversed by the Panel, and forwarding any supporting documents or other writings that were not provided at the first level of appeal to the Executive Director. If the Panel accepts the appeal and chooses to conduct a hearing, it may accept sworn witness testimony on the record.

(A) The Panel must take one of the following actions within 45 days of receipt of a second-level appeal:

(1) Refuse to hear the matter, giving the appellant written reasons for the denial; or

(2) Conduct a hearing on a regularly-scheduled meeting date; or

(3) Delegate the authority to conduct a hearing to a subcommittee of one or more Panel members, or to an Administrative Law Judge with the Office of Administrative Hearings.

(B) The Panel or its designee may take action to adopt any of the administrative adjudication provisions of the Administrative Procedures Act at Government Code Section 11370 *et seq.*, for the purpose of formulating and issuing its decision. Said action may take place at the hearing, or in preliminary proceedings.

(C) Upon completion of the hearing, the record will be closed and the Panel will issue a final ruling. The ruling may be based on a recommendation from the hearing designee. The ruling shall be issued in a writing served simultaneously on the appellant and ETP, within 60 days of the record closure.

(c) The time limits specified above may be adjusted or extended by the Executive Director or the Panel Chairman for good cause, pertinent to the level of appeal.

(d) Following receipt of the Panel's ruling, the appellant may petition for judicial review in Superior Court pursuant to Code of Civil Procedure Section 1094.5. This petition must be filed within 60 days from receipt of the Panel's ruling.

Authority: Section 10205(m), Unemployment Insurance Code; Section 11410.40, Government Code.
Reference: Sections 10205(k), 10207, Unemployment Insurance Code.
Effective: April 15, 1995

Amended: December 30, 2006