NOTICE

Public Law 117-263 requires the Office of Inspector General to post written responses received within 30 days of publication from nongovernmental organizations or business entities specifically identified in an OIG report.

To comply with this statute, this attachment includes written responses in their entirety. The content of each response is the sole responsibility of the submitting organization and their inclusion here does not imply our endorsement or agreement. Questions regarding the content of the attached responses should be directed to the respective nongovernmental organization or business entity. We reaffirm the findings and recommendations in our report.

As required by generally accepted government auditing standards, Department of Commerce management's official response to our evaluation is included in the report, along with OIG's assessment of their response.

March 20, 2025

Electronic Mail (PMcBarnette@oig.doc.gov and OAE_Projecttracking@oig.doc.gov)

Patricia McBarnette, Audit Director
United States Department of Commerce
Office of Inspector General
1401 Constitution Avenue NW
Washington, DC 20230

Re: Final Report No. OIG-25-011-1 (February 25, 2025)
Response of California Manufacturing Technology Consulting

Dear Ms. McBarnette:

California Manufacturing Technology Consulting (CMTC) is writing today in response to the Office of Inspector General's recently published Final Report No. OIG-25-011-1 of February 25, 2025. That report concerns the National Institute of Standards and Technology's (NIST's) Hollings Manufacturing Extension Partnership (MEP) Program. Because CMTC is one of two MEP Centers specifically identified in the report, the OIG's Office has provided CMTC with the opportunity to submit a written response to the report. The CMTC appreciates the opportunity to respond to the report and to supply important, additional information.

However, CMTC respectfully disagrees with the report's recommendations to NIST related to CMTC because the recommendations do not include CMTC's position and response to the findings as it relates to program income or the status of those issues. The final report incorporates a NIST memorandum (dated January 15, 2025) that agrees with the OIG's recommendations, but the memorandum is incomplete and, therefore, potentially misleading information. Although the report recommends that NIST recover funds from CMTC based on allegations about treatment of program income by CMTC and a subrecipient, CMTC is compliant with the program's purposes and all relevant program requirements. However, neither the OIG's final report nor the NIST memorandum includes CMTC's previous responses to NIST about the program income issues or the status of those issues. CMTC has not received a response from NIST regarding supplemental documentation or explanation provided by CMTC, therefore no resolution has been provided by NIST to date. Consequently, CMTC maintains that the report's recommendations do not represent the entirety of the situation, is premature, unwarranted and should be withdrawn.

The underlying issues concern NIST's allegations about expenditure and reporting of program income, but CMTC disputes the allegations and is still working to resolve them through the administrative process. Briefly, California Manufacturing Technology Consulting's position is that CMTC properly accounted for program income because expenses incurred exceeded any income generated. After deducting the expenses, as allowed under the MEP Program's terms and conditions as well as the governing regulations, CMTC had a loss. As to CMTC's subrecipient, CMTC's position is that the subrecipient (MANEX) did not have unreported program income because the income in question was not from the MEP Program or from related activities. The remainder of this response explains CMTC's position in more detail.

Background

The NIST memorandum, which is attached to Final Report No. OIG-25-011-1, does not include any information about CMTC's position on the program income issues, but this background is important for understanding these base issues. California Manufacturing Technology Consulting has been a long-standing member of the MEP network for thirty years.   That network has fifty-one MEP Centers across the country. CMTC was formed specifically to operate a MEP Center and was organized as a 501(c)(3) nonprofit corporation to manage California's MEP Program statewide. Today, CMTC is not only the largest MEP Center in the country but also operates additional programs using multiple funding sources.

The CMTC is committed to compliance with the MEP Program's requirements. California Manufacturing Technology Consulting meets the requirements for having a satisfactory fiscal management system and has implemented effective controls as required under 2 C.F.R. pt. 200. *See* 2 C.F.R. §§ 200.302-.303 (listing requirements for fiscal management and internal controls). This has been validated by a NIST-sponsored review of internal controls conducted by Franklin and Turner; the review found that CMTC had above-average scores compared to the other MEP Centers studied. In addition, CMTC maintains a robust set of written fiscal policies and procedures and has a well-qualified finance staff to help ensure compliance with MEP Program terms and conditions. CMTC has provided NIST with copies of its policies and procedures related to program income.

Furthermore, CMTC undergoes a rigorous Single Audit Act audit on an annual basis. The questions concerning CMTC's generation of program income in the OIG's report cover Fiscal Years 2022 and 2023. For those fiscal years, Windes audited CMTC, and Windes did not make any findings about program income. The CMTC properly accounted for all income and for all expenditures during Fiscal Years 2022 and 2023 in accordance with Generally Accepted Accounting Principles (GAAP).

California Manufacturing Technology Consulting is committed not only to compliance but also to cooperation. CMTC has been working with the NIST Grants Management Division to resolve the issues about program income through the normal administrative process. Since receiving NIST's letter dated May 8, 2024, CMTC has been in contact with the NIST Grants Management Division about a resolution to this matter. The CMTC submitted a timely response to NIST's letter explaining CMTC's position that CMTC properly accounted for program income and that its subrecipient did not have any unreported program income. Since then, CMTC has submitted additional documentation in response to follow-up questions from NIST. That administrative review process is still on-going, which makes both NIST's January 2025 memorandum and the OIG's report premature and unwarranted.

Response

Not only are the OIG's report and NIST's memorandum premature and unwarranted, but the memorandum fails to consider CMTC's position about the underlying program income issues.

As noted, the NIST memorandum does not mention CMTC's position even though CMTC has timely and openly communicated to NIST its disagreement with the recovery of any funds related to the program income issues and has provided ample justification. The OIG did not provide CMTC with a draft report or make any inquiries about CMTC's position before issuing Final Report No. OIG-25-011-1. Therefore, this response is CMTC's first opportunity to comment on the recommendations and to make its position known directly to OIG.

In short, California Manufacturing Technology Corporation disagrees with the OIG report's first recommendation because CMTC properly accounted for program income. The report recommends that NIST recover funding associated with the expenditure of program income during Fiscal Years 2022 and 2023, but CMTC has already addressed this issue with NIST and provided supporting documents and justification. CMTC's position is consistent with the MEP Program's terms and conditions as well as the grants management regulations at 2 C.F.R. pt. 200.

Under the MEP Program's terms and conditions, CMTC is allowed to deduct the costs of generating any program income before determining the amount of program income produced. Terms and conditions in CMTC's cooperative agreement with NIST expressly provide in Section 12.E that the "[c]osts incidental to the generation of program income may be deducted from gross income to determine program income, provided these costs have not been charged to the award." These MEP Program terms and conditions parrot the relevant program income regulations, which provide as follows:

> If authorized by Federal regulations or the Federal award, costs incidental to the generation of program income may be deducted from gross income to determine program income, provided these costs have not been charged to the Federal award.

2 C.F.R. § 200.307(b) (2024). Although cost sharing was not required in Fiscal Years 2022 and 2023 because of temporary cost sharing relief, CMTC still budgeted for cost share for both fiscal years. In Fiscal Year 2022, the cost of CMTC's efforts in generating program income exceeded gross program income by $181,790. Then in Fiscal Year 2023, CMTC's expenses in generating program income exceeded gross program income by $177,496. These losses were covered by CMTC from its retained earnings in both fiscal years. As a result, CMTC did not have unexpended program income in Fiscal Year 2022 or 2023, and CMTC properly accounted for program income.

The issue with reporting of program income that NIST noted in its letter dated May 8, 2024, was the result of a reporting artifact. As mentioned, during the 2022 and 2023 Fiscal Years, the MEP Program did not require cost sharing. This change to the MEP Program was significant and resulted in confusion about reporting requirements. However, CMTC has already revised the reports and explained to NIST that CMTC did not have unreported or unexpended program income during those fiscal years. In addition, CMTC has provided NIST with all the requested documentation supporting CMTC's position on the reporting artifact. This documentation includes a certification from CMTC's Board of Directors and from its independent auditors certifying that CMTC did not have unreported or unexpended program income during either fiscal year.

As well as direct operations, California Manufacturing Technology Consulting has subrecipients under the MEP Program. These subrecipients include MANEX. Final Report No. OIG-25-011-1 includes a second recommendation that NIST should "determine and recover any additional amounts owed . . . as a result of underreporting program income by [CMTC's] subrecipients." This recommendation relates to MANEX. In its January 2025 memorandum, NIST agrees with the recommendation but provides no analysis and does not explain either CMTC's or MANEX's position. However, CMTC respectfully disagrees with the report's recommendation because MANEX has not underreported any MEP program income.

All CMTC subrecipients are subject to on-going monitoring by CMTC. As part of this monitoring, CMTC requires subrecipients to report program income regularly to CMTC. Contrary to the implications of this OIG recommendation related to MANEX, CMTC has not found any unreported or under-reported program income for MANEX.

California Manufacturing Technology Consulting believes that the stated basis for this recommendation is incorrect. The OIG's report includes a statement that "MANEX acknowledged the revenues were generated through the use of federal funds provided by MEP and that those funds supported MANEX's total operating costs," but CMTC understands that statement is incorrect. Rather, California Manufacturing Technology Consulting's understanding is that MANEX has not acknowledged use of any federal funds for non-MEP projects, but rather that MANEX has denied any use of MEP funding in connection with its other projects. The report and the incorporated NIST memorandum do not discuss how MANEX operates other projects besides the MEP Program and that those include projects that are not federally funded. Here, the income in question was generated from work with an industry (oil and gas) that is non-manufacturing and is not eligible for the MEP Program. Whereas MANEX may have generated income, the income was not MEP program income because it was from other projects, and the income was not derived from services connected with the MEP Program.

Conclusion

In conclusion, California Manufacturing Technology Consulting appreciates this opportunity to submit a response to Final Report No. OIG-25-011-1. As explained, CMTC respectfully disagrees with the recommendation for NIST to recover funds from CMTC because the underlying premise is incorrect. The memorandum from NIST agreeing with the OIG's recommendations does not include CMTC's position, supporting documentation, and gives the misleading impression that the base issue regarding program income has been resolved when resolution through the normal administrative process is still pending.

CMTC properly accounted for program income and its subrecipient MANEX did not have unreported or under-reported MEP income. Although NIST has alleged that CMTC did not properly account for program income, CMTC has explained to NIST that expenses incurred generating income exceeded the income and resulted in a loss. In responding to NIST's follow-up requests, CMTC has provided additional documentation in support of CMTC's position that

CMTC
California's Manufacturing Network

CMTC did not have unreported or unexpended program income. Furthermore, CMTC has explained to NIST that its subrecipient did not have unreported or under-reported MEP program income because the identified income was unrelated to the MEP Program. Consequently, the recommendations in Final Report No. OIG-25-011-1 about CMTC are not justified. Therefore, California Manufacturing Technology Consulting requests that OIG withdraw the two recommendations concerning CMTC.

Sincerely,

Erin Dyer

Erin Dyer, Chair
CMTC Board of Directors

James Watson

James Watson, President & CEO
CMTC

March 17, 2025

Patricia McBarnette
Audit Director
Office of the Inspector General
U.S. Department of Commerce

RE: Final Report No. OIG-25-011-1
OIG's Evaluation of MEP's Economic Impact Reporting Process Also Identified Instances of Noncompliance at Centers

Ms. McBarnette,

Maryland MEP has received and reviewed the Final Report No. OIG-25-011-1 titled "OIG's Evaluation of MEP's Economic Impact Reporting Process Also Identified Instances of Noncompliance at Centers, Led to NIST Action" and is providing the attached as our formal response and comment to the observations, findings and recommendations that directly mention our organization.

As the Manufacturing Extension Partnership (MEP) Center cooperative agreement recipient for the State of Maryland and a proud member of the MEP National Network, we continually work hard to deliver on the mission of the program to support and serve the small and medium manufacturing enterprises. In support of this mission, we follow the guidance issued by the National Institute of Standards and Technology (NIST) including the NIST's Grants Office and the NIST Manufacturing Extension Partnership Program Office (NIST MEP), inclusive of the Terms and Conditions of our Cooperative Agreement, as well as the program-specific requirements provided by NIST MEP. Additionally, as part of our mission to deliver programs and services to support the manufacturing sector we actively work to ensure strong public-private partnership and administer programs funded by the State of Maryland in support of the manufacturing community.

We appreciate the efforts of the Office of Inspector General and the Program to review and recommend opportunities for improvement for the national MEP program, however, we do believe that some of the conclusions related to Maryland MEP do not accurately or adequately reflect the activities, outcomes and efforts of the organization.

Specifically, we provide the written responses below for the record:

Findings and Recommendations

Finding II. Maryland Center's Use of State Grant Funds Was Unallowable and Not Properly Reported, Leading NIST to Issue a Notice of Material Noncompliance. (Page 2)

Each MEP award pays for up to 50 percent of the Center's total project costs, while the recipient maintains responsibility for the remaining portion, called nonfederal cost share. A 5-year cooperative agreement with the Maryland Center that ended in June 2023 required nearly $5.9 million in nonfederal cost share, made up in part from grants provided by the state of Maryland. However, a portion of the Maryland Center's nonfederal cost share, specifically its use of certain state grant funds to reimburse manufacturing clients was unallowable per award terms and conditions.

The state grant funds were used to subsidize manufacturers by partially reimbursing them for the total cost of workforce development training obtained through the Maryland Center. To qualify for the reimbursement, the Maryland Center submitted documentation to the state indicating the manufacturing completed workforce training. The state then provided partial reimbursement for the workforce training. Costs to the Maryland Center. In turn, the Maryland Center provided cash reimbursements to its manufacturing client. The Maryland Center recorded over $700,000 in reimbursement payments toward its non-federal costs share on its multiyear cooperative agreement. We also identified nearly $10,000 in reimbursement payments as a federal expense on another award that ended in September 2021.

We informed the Maryland Center and NIST of our concerns regarding the Maryland Center's treatment of reimbursement payments as award expenses. After conducting its own review of the matter, NIST issued a notice of material noncompliance to the Maryland Center stating that its reimbursements to clients were not authorized under MEP and that the MEP authorizing statute does not allow Centers to provide direct funding to clients. Further, NIST stated that the Maryland Center failed to report the specific use of these state funds to reimburse manufacturers and determined the Maryland Center must return $378,052.65 of NIST award funds as a result of its unallowable expenses. NIST also stated it will follow up separately on the Maryland Center's treatment of similar reimbursements on its other NIST award.

Recommendations

We recommend that the Under Secretary of Commerce for Standards and Technology and the Director of NIST Do the following:

3. Recover $378,052.65 from the Maryland Center as stated in NIST's notice of material noncompliance and demand for repayment.

4. Determine and recover any additional amounts owed by the Maryland Center as a result of incorrectly providing cash reimbursements to clients on other NIST awards.

Maryland MEP Response:
Maryland MEP has always worked to develop, deliver and administer programs and services for the manufacturing sector in Maryland. Additionally, the Maryland MEP team has always worked closely with NIST MEP, the Program Office and the Grant Management Division to adequately, accurately and correctly report all program costs inclusive of cost share in an effort to effectively measure and monitor the program. As part of this, Maryland MEP is the recipient of state of Maryland workforce training funding under the EARN Maryland Program.

- Maryland MEP annually submits a single year budget and budget narrative to NIST which is reviewed and approved on an annual basis.
- Maryland MEP participates in an annual review process during which Maryland MEP's training programs and services were discussed and documented.
- All of Maryland MEP's activities and actions have been conducted in good faith and with the intent of tracking and reporting the full cost of the program pursuant to the existing guidelines provided by NIST and the Grant Management Division.
- EARN is a state-funded, competitive workforce development grant program that is industry-led, regional in focus, and a proven strategy for helping businesses cultivate the skilled workforce they need to compete. It is flexible and innovative, designed to ensure that Maryland employers have the talent they need to compete and grow in an ever-changing 21st century economy. In compliance with the state grant requirements, Maryland MEP accurately administered and recorded all program expenses reflecting the total cost of training, inclusive of amounts remitted to clients.
- Although NIST subsequently determined these remittances to clients as "reimbursements" and therefore amounts to be excluded from cost-share, the total amounts were reported in good faith and in the interest of reporting the total cost of training under the program.
- Maryland MEP disagrees with the premise of the finding that the MEP program requires a 50 percent cost share to be provided by the MEP Center. In fact, the Federal CARES ACT and subsequent Consolidated Appropriations Act for 2020 provided cost share relief to the program, thereby removing the 50 percent cost share requirement for much of the period of performance.
- The minimum required cost share under Maryland MEP's cooperative agreement ended in June 2023 was $2,800,000.
- For the cooperative agreement ended June 2023, Maryland MEP voluntarily provided and reported $5,412,295 in non-federal cost share, EXCEEDING the minimum required cost-share by more than $2.3 million ($2,318,789). Although NIST has determined $732,711 of reported non-federal costs as unallowable, the Center still exceeded the minimum required cost share for the total period of the cooperative agreement.
- In response to the Notice of Material Noncompliance dated June 17, 2024, Maryland MEP submitted an Objection to the Notice of Material Noncompliance. As of the date of this letter, no response to the objection has been received by Maryland MEP.

CONCLUSION

Maryland MEP appreciates the time and effort of the Office of the Inspector General in reviewing the program activities and the administration and reporting of the total program expenses inclusive of the training grant funds. In support of the information above, we respectfully submit the following:

- Maryland MEP disagrees with the recommendation that NIST recover $378,052.65 in funding. No federal funding was used to reimburse clients for training costs. Additionally, Maryland MEP overmatched its cost share by over $2.3 million, over four times the disallowed cost share. Further, all cost share reported was voluntarily reported in excess of the required minimum.
- Additionally, while Maryland MEP has not received direction or guidance from the NIST Grants Management Division, Maryland MEP has updated the policies and procedures related to the recording of training and the administration of state-funded training grants.

Maryland MEP will continue to work closely with the NIST MEP Program Office and the Grants Management Division to accurately and effectively ensure that we follow the requirements of the program and implement changes to the process should they be required.

I appreciate your time and the opportunity to provide Maryland MEP's response to the final report as written and hope that you will take these comments into consideration.

Sincerely,

Michael Kelleher
Executive Director, Maryland MEP

Cc: Maryland MEP Advisory Board