



Health, Education and Human Services Division

B-278937

February 27, 1998

The Honorable Jim Saxton
Chairman, Joint Economic Committee
United States Congress

Subject: Pension Plans: Status of Labor's Economically Targeted Investments Clearinghouse

Dear Mr. Chairman:

In 1992, the Department of Labor's Advisory Council on Employee Welfare and Pension Benefit Plans (established by the Employee Retirement Income Security Act of 1974) issued a report that evaluated economically targeted investments (ETI)¹ as an investment approach for pension funds to consider. The Advisory Council report endorsed ETIs as a viable pension fund investment alternative and concluded that Labor should take the initiative in gathering information about ETIs' investment performance and attributes and make it available to those in the pension community to aid investment decisions.² In a related 1993 report, the Advisory Council recommended that Labor take a leadership role in designing the structure of an ETI clearinghouse or network and committing start-up capital to permit such an entity to compile and analyze data. The Advisory Council envisioned that the clearinghouse would eventually generate enough revenues from users to become self-sustaining.³

¹ETIs are generally defined as investments selected for the economic benefits that they create for the public in addition to the investment return to plan participants. Investments in, for example, community development and infrastructure projects may create benefits such as construction of affordable housing, job creation or retention, or sales and tax revenue generation.

²Economically Targeted Investments - An ERISA Policy Review, Advisory Council on Employee Welfare and Pension Benefit Plans, U.S. Department of Labor (Washington D.C.: Nov. 1992).

³A Clearinghouse or Network for Economically Targeted Investments, Advisory Council on Employee Welfare and Pension Benefit Plans, U.S. Department of Labor (Washington D.C.: Nov. 1993).

This correspondence responds to your request for information about Labor's contract to establish and operate an ETI clearinghouse. As agreed with your office, we addressed the following questions: (1) Were the applicable federal statutes and regulations fully adhered to in selecting the ETI Clearinghouse contractor? (2) How much was budgeted for and paid to the contractor? (3) What Labor staff resources were involved in setting up and operating the ETI Clearinghouse? (4) What work did the contractor perform? and (5) What is the ETI Clearinghouse's current status?

To answer these questions, we reviewed Labor's procurement process used for this contract and analyzed pertinent contract procurement documents maintained by Labor's Procurement Services Center within the Office of the Assistant Secretary for Administration and Management. We also worked extensively with Labor's Office of the Assistant Secretary for Pension and Welfare Benefits to obtain additional material. Hamilton Securities declined to respond to our request for information on these issues. We performed our work from December 1997 through February 1998 in accordance with generally accepted government auditing standards.

In summary, we found that Labor complied with the applicable federal procurement law and regulation in awarding the ETI Clearinghouse contract to Hamilton Securities. The entire contractor selection process was competitive among three vendors. Labor held negotiations with each vendor. Of the \$1,520,411 base period contract awarded in September 1994 for a 2-year period, Labor's share of the approved contract expenses was to be 55 percent, and the contractor's share was the remaining 45 percent. For the 2-year base period, Labor approved payments of \$774,723 of the \$780,000 initially budgeted to reimburse Hamilton Securities for approved contract expenses. Labor estimates that about 16 individuals from seven departmental offices spent nearly 630 hours from January 1993 through December 1997 on the ETI Clearinghouse project. Labor personnel activities included ETI Clearinghouse contract procurement, development, analysis, policy research, and monitoring.

According to our analysis of material provided by Labor for our review, Hamilton Securities successfully completed each of the eight required contract tasks by the end of the contract base period. Among other things, the contractor developed an ETI database and created a clearinghouse web site for use by members of the pension community. In August 1996, Labor decided not to exercise the option year (third year) permitted by the September 1994 contract because the contract requirements had been met by the end of the 2-year base period. After the base period contract ended in September 1996, Hamilton Securities continued to operate the ETI Clearinghouse but without any further Labor financial support. In December 1997, the firm decided to cease clearinghouse operations. Labor cited operational difficulties and long-term revenue concerns as the reasons for Hamilton Securities' decision to discontinue these operations.

ETI CLEARINGHOUSE CONTRACTOR SELECTION PROCESS
COMPLIED WITH APPLICABLE FEDERAL STATUTE AND REGULATION

Our review of Labor's ETI clearinghouse contract files has shown that the contract award on September 30, 1994, to Hamilton Securities to develop and operate an ETI clearinghouse was made through a competitive procurement process that complied with the Competition in Contracting Act (CICA) and the Federal Acquisition Regulation (FAR). By the end of the 2-year base period, the contractor was to have developed an ETI Clearinghouse web site to provide ETI-related information to the public.⁴ As Labor envisioned the clearinghouse, the Department wanted the public to be able to search the web site, which would display information—free of charge—as either a standard report or in custom report format. Hard copy, diskette, and CD-ROM reports were to be publicly available for a nominal handling and processing fee.⁵

The contractor selection process involved five major steps: (1) solicitation of complete proposals, both technical and business, from each competitor; (2) initial evaluation of technical proposals after the contracting officer narrowed the field to those within a competitive range; (3) discussions between the contracting officer and each vendor in the competitive range; (4) invitations made after completion of discussions by the contracting officer to remaining competitors to submit best and final offers (BAFO); and (5) award selection by the contracting officer after evaluation of BAFOs, consistent with the award criteria stated in the solicitation.

As part of its selection process, Labor advertised on three occasions in Commerce Business Daily, sent solicitations to over 80 companies, created a scoring plan for its review of proposals submitted by vendors, and established a three-member technical evaluation panel (TEP) to review offers received from prospective contractors. According to Labor, it held negotiations with vendors who submitted initial offers. Labor received proposals from three vendors—the Center for Policy Alternatives (CPA), Excelsior Capital Corporation, and Hamilton Securities—before the prescribed closing time and date.

⁴The ETI Clearinghouse web site contained separate databases on publications (articles, studies, books, and so forth); resources (individuals and organizations who were interested or had expertise in ETIs); investments (types of investments, terms of investment, projected rate of return, special legal terms, fees, and so forth); and time series measures (performance measures tracked over time from available public domain sources).

⁵According to Labor, Hamilton Securities collected no revenues from the ETI Clearinghouse project during the entire contract base period.

The ETI clearinghouse TEP, established by Labor to review the submitted proposals, consisted of two Labor officials and an official from the Department of Housing and Urban Development (HUD).⁶ On July 25, 1994, a scoring plan was developed for evaluating the three proposals for the ETI clearinghouse contract. The plan established a maximum of 100 points—50 points for the offeror's technical approach, 30 points for the qualifications and commitment of individual staff, and 20 points for the offeror's qualifications—for each vendor. Separate weights were assigned for each of nine subfactors in these three broad areas.

Table 1 shows the results of the initial technical evaluation made on August 8, 1994, by the TEP members.⁷

Table 1: Summary of Initial Offer Technical Evaluation (August 8, 1994)

Vendor	Consensus TEP score (Maximum=100)	Technical category ^a
CPA	66	Acceptable
Excelsior	28	Technically unacceptable but susceptible to improvement so as to become acceptable
Hamilton Securities	65	Acceptable

^aAccording to the FAR, technical proposals are considered to be "acceptable," "unacceptable", or "reasonably susceptible of being made acceptable." It is generally expected that technical proposals included in BAFOs will improve. The contracting officer awards the contract on the basis of both the technical and business proposals.

After the TEP reviewed the initial offers, Labor told us that it held negotiations to discuss both the technical and business proposals submitted by each vendor. These negotiations took place with CPA and Excelsior on September 1, 1994, and with Hamilton

⁶Labor used a HUD official on its technical panel because it needed housing and urban development expertise to evaluate vendor proposals that would deal with housing investments. Labor had used such expertise from HUD before.

⁷In addition, Labor's Division of Cost Determination had been requested on Aug. 1, 1994, to conduct a field pricing review of each of the three vendors' pricing data. Reports on each vendor were provided to the contracting officer on Aug. 19, 1994.

Securities on September 6, 1994. CPA and Hamilton Securities subsequently submitted BAFOs on September 15, 1994. Both vendors made changes to their business and technical portions of their earlier offers. Labor eliminated Excelsior from further consideration when the company informed the Department that it did not want to be considered further. The TEP reviewed the BAFO technical proposals and submitted its report to the Labor contract officer on September 22, 1994. (See table 2.)

Table 2: Summary of BAFO Technical Evaluation (September 22, 1994)

Vendor	Consensus TEP score	Technical category
CPA	72	Acceptable
Hamilton Securities	81	Acceptable

After the TEP evaluated the vendors' BAFOs, the technical scores of the vendors were considered along with Labor's share of the cost over all 3 years (2-year base period and 1-year option period) for use in selecting the ETI clearinghouse contractor. On the basis of the vendors' business proposals, Labor's share of expected costs of the contract for the 3-year period for the CPA BAFO was \$716,997; the Department's share of the Hamilton Securities' BAFO for the same period was \$1,250,204.

According to Labor, its contract negotiator learned in late September 1994 that a CPA subcontractor was withdrawing from that vendor's BAFO to Labor. Furthermore, Labor knew that Hamilton Securities' BAFO had problems because its business proposal did not include several schedules of backup data, and the vendor objected to certain contract wording. Because of Labor's assessment of the seriousness of both BAFOs' problems, it reopened negotiations with CPA and Hamilton Securities on September 23, 1994. The Department received revised BAFOs on September 26, 1994.

As shown in table 3, the only change made in the BAFO technical scores and Labor's share of the costs for all 3 contract years for the September 23 submissions was a slight increase in CPA's calculation of Labor's cost for the entire 3 years of the contract.

Table 3: Summary of Revised Vendor Technical and Cost Proposals (September 28, 1994)

Vendor	Consensus TEP score	Technical category	Labor's share of contract (base/option periods)
CPA	72	Acceptable	\$718,040
Hamilton Securities	81	Acceptable	\$1,250,204 ^a

^aAs prescribed by the contract award criteria in the request for proposal, this amount represents Labor's share (55 percent) of the total estimated contract costs for the 3-year period covered by the 2-year base period and the 1-year option period. The 3-year estimated costs for the ETI Clearinghouse contract totaled \$2,273,099—\$1,520,411 for the base period and an additional \$752,688 for the option period.

The contract award criteria used by the contracting officer to select a vendor appear in section M.2 of the request for proposal (RFP). Section M.2 states, "The Government will award the contract resulting from this solicitation to the responsible offeror whose offer conforming to the solicitation will be the most advantageous to the Government. In making the selection, technical merit will be given major consideration over the total estimated cost. However, among proposals judged to be substantially equal in technical merit, the total estimated cost will be a major consideration for selection. Total estimated cost is understood to be the cost to the Government (i.e., the Government's share of the total estimated cost under a cost sharing contract) for the performance of all work over both contract periods. The Government will evaluate the offeror's costs for realism." (We added the underlines.)

Because Hamilton Securities' BAFO scored nine points higher than CPA's, Labor's contracting officer believed this technical superiority would offset the additional cost for the entire period (2-year base period and 1-year option period) covered by Hamilton Securities' proposal. Therefore, the contracting officer awarded the contract to Hamilton Securities on September 30, 1994. The 2-year base period cost-sharing contract that Labor awarded to Hamilton Securities was for \$1,520,411, of which Labor's share was estimated to be no more than \$836,226 (55 percent).

In reviewing the consensus TEP scores for the initial offers and BAFOs submitted by CPA and Hamilton Securities, we found that the award to Hamilton Securities could be attributed to its higher technical scores for three of nine evaluation plan subfactors. The subfactors that resulted in higher scores for Hamilton Securities involved the availability and commitment of the ETI Clearinghouse project's executive director and a legal

consultant as well as a list of proposed users of and contributors to the clearinghouse from the pension community and other contacts.

LABOR PAYMENTS TO CONTRACTOR
WITHIN INITIALLY BUDGETED AMOUNT

Because Labor's \$1.5 million September 1994 contract award to Hamilton Securities for the 2-year base period was a cost-sharing arrangement, Labor was responsible for paying 55 percent of the total approved contract expenses and Hamilton Securities was responsible for the remaining 45 percent. In practical terms, this arrangement worked by Labor's periodically reimbursing Hamilton Securities for 55 percent of all the approved expenses the contractor incurred. If the anticipated base period costs agreed upon during negotiations between Labor and Hamilton Securities had actually been incurred, Labor would have been responsible for paying up to \$836,226 (55 percent) of the \$1.5 million contract.

Rather than allocate enough funds to provide for the entire \$836,226 that might be needed by Labor during the 2-year contract period to pay its share of the contractor's expenses incurred under the contract, Labor initially budgeted \$780,000. For this period, Labor approved payments to Hamilton Securities totaling \$774,723 of the \$780,000 initially budgeted, according to our review.

HOURS SPENT BY LABOR PERSONNEL
ON ETI CLEARINGHOUSE PROJECT

Labor told us that its time and attendance system cannot produce data needed to determine the exact amount of time that Department staff spent on specific projects, such as the ETI Clearinghouse. In response to our request, however, Labor asked departmental offices to determine the extent to which Labor personnel had worked on the ETI Clearinghouse project for determining an estimate of their time spent on this project.⁸ According to Labor, 16 people from seven Labor offices spent 628 hours from January 1993 through December 1997 on the ETI Clearinghouse project. Labor personnel activities included ETI Clearinghouse contract procurement, development, analysis, monitoring, and policy research. (See table 4.)

⁸Labor staff time would not be used in calculating the ETI Clearinghouse contract costs, which were incurred entirely by the contractor.

Table 4: Estimated Number of People Who Worked on and Staff Hours Spent by Labor Personnel Working on ETI Clearinghouse Project (January 1993 through December 1997)

Department of Labor office	Number of people	Number of hours
Office of Assistant Secretary for Pension and Welfare Benefits	6	240
Office of Research and Economic Analysis	2	90
Office of Program Planning, Evaluation, and Management	1	1
Office of Solicitor	3	65
Office of Procurement Services	2	200
Office of Program Services	1	12
Office of Information Management	1	20
Total	16	628

ALL REQUIRED CONTRACT WORK WAS PERFORMED

During the ETI Clearinghouse contract's base period, Hamilton Securities was required to design, implement, and operate a clearinghouse for collecting and distributing information on ETIs. Specifically, the contractor was required to collect and maintain ETI-related information, create a database for storing and retrieving this information, periodically deliver the database and certain reports, provide technical assistance to pension funds and other parties seeking to develop or evaluate ETIs as an alternative investment approach, and operate the clearinghouse in a way that would encourage the distribution of information on ETIs to pension funds and other interested parties.

The following eight specific tasks were outlined in the contract's statement of work for the base period:

- Task 1: Design a plan for the structure and operation of the clearinghouse for the base period and the option period.

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- Task 2: Prepare a plan for creation and operation of a clearinghouse database for the base period and the option period to include the inputting, storing, and retrieving of information on ETIs.
- Task 3: Obtain approval from the Office of Management and Budget of the data collection work to be performed in accordance with the plan developed under task 2.
- Task 4: Submit a list of potential members of the clearinghouse administrative board to the Contracting Officer's Technical Representative.
- Task 5: Operate and maintain the clearinghouse and its database in accordance with tasks 1 and 2 above.
- Task 6: Prepare written reports on the development of clearinghouse database and overall operation of the clearinghouse. (Required reports included monthly progress reports, quarterly reports, a report on first year of contract, and a report on entire base period.)
- Task 7: Distribute clearinghouse information to the pension community and other potentially interested parties.
- Task 8: Provide basic technical assistance to those parties interested in structuring and making ETIs.

According to our review of data supplied by and discussions with Labor officials, we believe Hamilton Securities successfully completed all eight tasks required under the contract during the 2-year base period. The contract with Hamilton Securities was a "cost sharing/cost reimbursement" contract, which required that the contractor provide specific resources and demonstrate satisfactory progress toward completing certain tasks by certain previously established dates. Labor told us that in using such contracts, it defines deliverable dates, the nature and timing of which are then adjusted as knowledge about the development of the project grows. In Labor's view, Hamilton Securities fulfilled its contract requirements by providing the staff and other resources specified in the contract and producing the database for which Labor contracted.

Under the September 1994 contract provisions, Labor could have chosen to exercise a 1-year option period before the expiration of the 2-year base period contract. In August 1996, however, Labor decided not to contract for a third year because contract requirements had been fulfilled.

ETI CLEARINGHOUSE NO LONGER IN OPERATION

After the base period contract ended in September 1996, Hamilton Securities continued to operate the ETI Clearinghouse without any further financial assistance from Labor. In December 1997, however, Hamilton Securities stopped operating the ETI Clearinghouse rather than try to continue to operate as a self-sustaining entity. Labor cited operational difficulties and long-term revenue prospects as reasons for the firm's decision to cease operations.

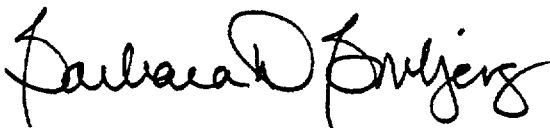
After the ETI Clearinghouse stopped operating, Hamilton Securities provided the clearinghouse database to Labor's Office of the Assistant Secretary for Pension and Welfare Benefits. Labor officials told us that the clearinghouse database will be used internally for research purposes and be available upon request for use by interested members of the pension community. Labor has no staff resources, however, to maintain the database.

AGENCY COMMENTS

In its February 23, 1998, response to our request for comments on a draft of this correspondence, the Assistant Secretary for Pension and Welfare Benefits stated that Labor had no comments. (See appendix.) Subsequently, Labor provided us with verbal technical comments, which were incorporated where appropriate.

We will make copies of this correspondence available to interested parties upon request. If you or your staff have any questions, please call me on (202) 512-7215. Other staff who contributed to this correspondence include Fred E. Yohey, Jr., Dennis M. Gehley, and Stefanie G. Weldon.

Sincerely yours,



Barbara D. Bovbjerg
Associate Director
Income Security Issues

COMMENTS FROM THE DEPARTMENT OF LABOR

U.S. Department of Labor

Assistant Secretary for
Pension and Welfare Benefits
Washington, D.C. 20210



February 23, 1998

Barbara D. Bovbjerg
Associate Director
Income Security Issues
General Accounting Office
Washington, D.C. 20548

Re: ETIs Clearinghouse

Dear Ms. Bovbjerg:

Thank you for the opportunity to review proposed correspondence entitled "Pension Plans: Status of Economically Targeted Investments (ETI) Clearinghouse" (GAO/HEHS-98-99R). We have no comments on the draft correspondence you forwarded to the Department.

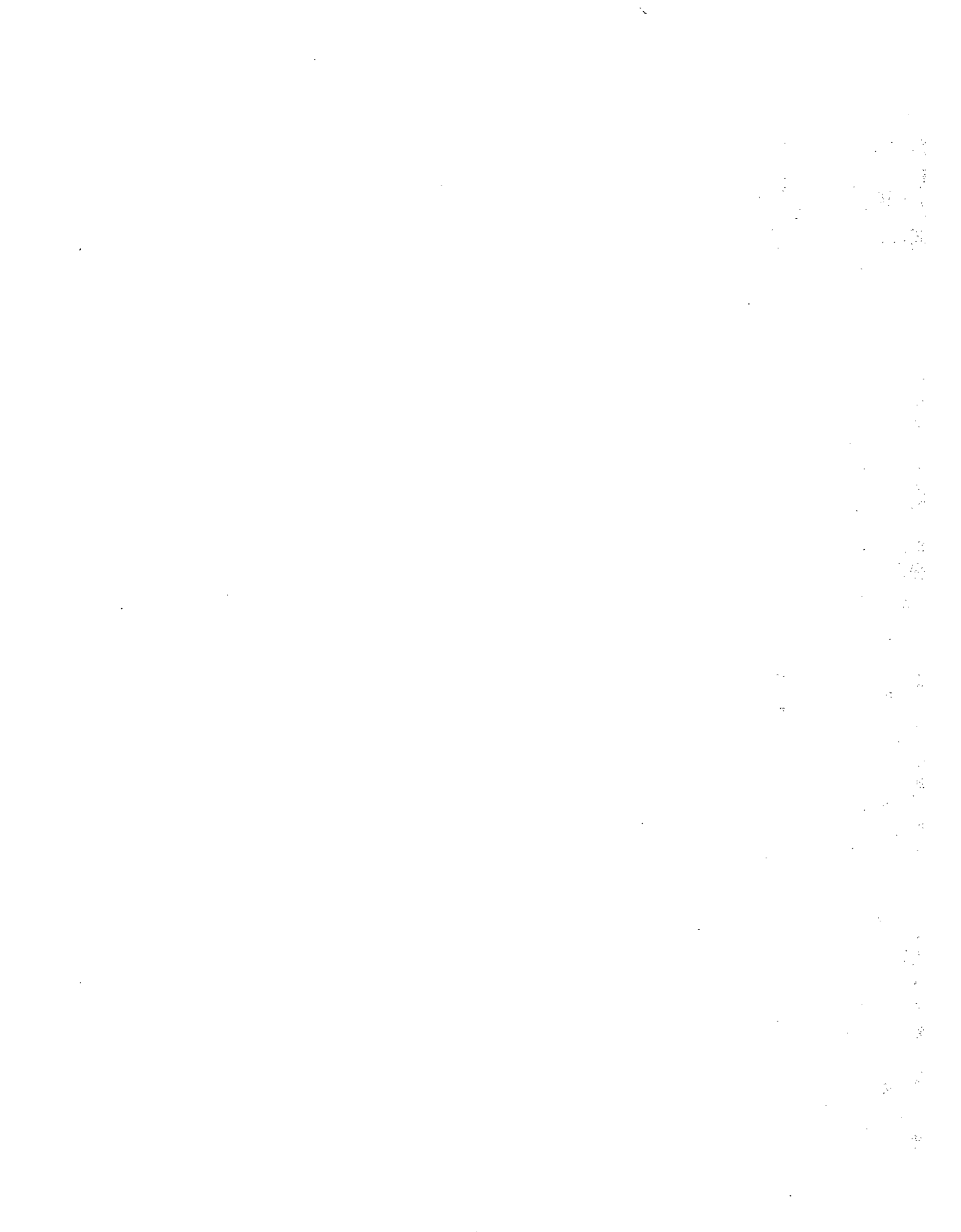
Sincerely,

A handwritten signature in cursive script that reads "Olena Berg".

Olena Berg

(207025)

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