

THOMAS P. DINAPOLI
COMPTROLLER



110 STATE STREET
ALBANY, NEW YORK 12236

STATE OF NEW YORK
OFFICE OF THE STATE COMPTROLLER

August 13, 2013

Dr. John B. King, Jr
Commissioner
State Education Department
89 Washington Avenue Room 125
Albany, NY 12234

Gladys Carrión, Esq.
Commissioner
Office of Children and Family Services
52 Washington Avenue
Rensselaer, NY 12144

Re: Educators for Children, Youth and
Families, Inc. - Use of Contract Funds
Report 2012-F-16

Dear Dr. King and Commissioner Carrión:

According to the State Comptroller's authority as set forth in Article V, Section 1 of the State Constitution and Article II, Section 8 of the State Finance Law, we have followed up on the actions taken by officials of the State Education Department (SED) and the Office of Children and Family Services (OCFS) to implement the recommendations contained in our audit report, *State Education Department and the Office of Children and Family Services: Educators for Children, Youth and Families, Inc. Use of Contract Funds* (Report 2007-S-128) issued August 20, 2010.

Background, Scope and Objective

New York State awards grants and contracts to non-profit community-based organizations that offer after-school services to children. Some of these grants and contracts are funded in whole or in part by the Federal government and are administered by various State agencies. Our prior audit focused on seven contracts awarded to Educators for Children, Youth and Families, Inc. (Educators). Four of these contracts were administered by SED and the other three by OCFS.

To receive reimbursements for program-related expenditures, Educators submitted periodic expenditure reports to SED and OCFS. The contracts required Educators to have a comprehensive accounting system in place to capture all program-related financial activities, as well as related

controls to prevent the misuse of government monies. Educators' overall operations also had to be overseen by its Board of Directors, who were responsible for establishing policies and procedures to help achieve the organization's goals, and for monitoring its operations. According to a former company official, Educators' operations were entirely government funded through a combination of Federal, State and New York City funding.

Our initial audit examined whether Educators appropriately used \$3.2 million of State funds received from SED and OCFS under the seven grant contracts for the period July 1, 2002 through June 4, 2008. We reviewed claims amounting to \$1.8 million to determine if they were properly supported and appropriate. We found that Educators could not support or justify \$883,530 of expenditures claimed. Of this amount, \$687,360 had been paid to Educators by SED, while \$196,170 was paid by OCFS. In the case of OCFS, the \$196,170 represented more than 98 percent of all the costs that Educators submitted for payment. We attributed the unsupported, inappropriate and potentially fraudulent transactions to an inactive and ineffective Board of Directors that had not taken steps to put appropriate policies, procedures or controls in place, or to monitor Educator's financial activities. The objective of our follow-up was to assess the extent of implementation, as of June 28, 2013, of the three recommendations included in our initial report.

Summary Conclusions and Status of Audit Recommendations

We determined that SED and OCFS officials have made some progress in addressing the matters in our initial report. However, no funds have yet been recovered and all three recommendations have only been partially implemented.

Follow-up Observations

Recommendation 1

Recover the respective payments made to Educators for the unsupported and inappropriate claims detailed in Exhibit A of our report.

Status - Partially Implemented

Agency Action - On November 15, 2010, SED and OCFS referred Educators to the Attorney General's Civil Recoveries Bureau for legal assistance in seeking restitution. Officials from the Civil Recoveries Bureau informed us that they had initially received notice of a potential bankruptcy filing by Educators and, therefore, were blocked from proceeding with legal action to force collection. As such, the case has not moved forward to a conclusion. Both SED and OCFS need to reestablish contact with the Attorney General's Office to determine the current status of Educators and what further steps, if any, can be taken to seek restitution. To be certain there are no ongoing contracts with Educators, we reviewed summary contract data for all State agencies and found no contracts were in force with Educators.

Recommendation 2

Investigate the support and propriety of the \$1.4 million expenditures paid to Educators that we did not include in our audit.

Status - Partially Implemented

Agency Action - Since May of 2008, SED and OCFS have attempted to contact Educators by phone and by mail. In each instance, Educators has failed to respond. Given their belief that Educators is insolvent, SED and OCFS officials have ceased efforts to investigate the support and propriety of the remaining \$1.4 million in expenditures. However, there is no conclusive evidence that Educators has filed for bankruptcy, or is no longer a viable organization. Pending the outcome of the results obtained through contacting the Attorney General's Office, SED and OCFS need to determine whether further efforts to investigate these expenditures would be productive.

Recommendation 3

Review contract oversight procedures for grant recipients and determine how they can be strengthened to address the conditions cited in the report.

Status - Partially Implemented

Agency Action - SED officials advised us that they have significantly improved their monitoring of grant/contract recipients. These changes include adding monitoring staff and awarding contracts to outside contractors to conduct additional site reviews. However, SED officials acknowledge that these enhanced monitoring efforts focus on program services and not on expenditure analyses that would identify the type of inappropriate and undocumented expenditures noted in our prior report. In addition, starting with the 2013-2014 program year, SED plans to monitor program enrollment to ensure that the \$1,500 funding cap per individual is not exceeded. If a provider's actual student roster is less than 95% of the number set forth in its budget, SED indicates it will reduce the grantee's funding proportionately. While this measure may help to contain overall costs, it will not serve to identify inappropriate or undocumented expenses. As a result, SED still needs to consider ways that it can conduct limited reviews of expenditure documentation, likely based on an assessment of the risk posed by individual grantees and expenditure categories.

OCFS officials also indicated they have developed and implemented procedures to strengthen oversight of grant recipients, including a risk assessment process to identify expenditure summaries containing cost or claim reimbursement patterns that are not consistent, indicating a potential misuse of funds. Managers monitor the monthly reports that are filed electronically by grantees to track expenditures in specific budget categories and must approve these reports before the grantee is paid. OCFS also conducts periodic site visits to determine whether grantees are meeting program goals. These visits include limited reasonableness checks of some financial details such as looking for equipment purchased and comparing personnel charges to the number of people observed working

at a site. However, these measures are not directed toward identifying inappropriate and undocumented expenditures. With about 150 active grants, OCFS officials indicate that they do not have the resources necessary to conduct audits to ensure expenditures are appropriate and adequately documented. However, we believe OCFS could conduct such reviews by limiting their focus to select high risk grants and/or high risk expenditure categories.

Major contributors to this report were: Brian Lotz, Don Collins and Dick Gerard.

We would appreciate your response to this report within 30 days, indicating any actions planned to address the unresolved issues discussed in this report. We also thank the management and staff of SED and OCFS for the courtesies and cooperation extended to our auditors during this review.

Very truly yours,

A handwritten signature in black ink that reads "Brian Reilly". The signature is written in a cursive, flowing style.

Brian Reilly
Audit Manager

cc: Thomas Lukacs, Division of the Budget
James Conway, State Education Department
Ralph Timber, Office of Children and Family Services