



New York State Office of the State Comptroller
Thomas P. DiNapoli

Division of State Government Accountability

Compliance With the Reimbursable Cost Manual

**State Education Department
Kew Gardens SEP, Inc.**



Report 2014-S-63

December 2015

Executive Summary

Purpose

To determine whether the costs reported by Kew Gardens SEP, Inc. (Kew Gardens) on its Consolidated Fiscal Reports (CFRs) were properly documented, program-related, and allowable pursuant to the State Education Department's (SED) Reimbursable Cost Manual (Manual). The audit covered expenses claimed on Kew Gardens' CFR for fiscal year 2012-13 and certain expenses claimed on Kew Gardens' CFRs for the two fiscal years ended June 30, 2012.

Background

Kew Gardens is a Queens, New York-based for-profit organization that is authorized by SED to operate Preschool Special Education Itinerant Teacher (SEIT) and Related Services programs for disabled children between the ages of three and five years. During the 2012-13 fiscal year, Kew Gardens served 103 students. The New York City Department of Education (DoE) refers preschool special education students to Kew Gardens based on clinical evaluations and pays for Kew Gardens' services using rates established by SED. The SEIT rates are based on the financial information that Kew Gardens reports to SED on its annual CFRs. The State reimburses DoE for a portion of its payments to Kew Gardens based on the SED-established rates. For the three fiscal years ended June 30, 2013, Kew Gardens reported approximately \$9.8 million in reimbursable costs for the audited SEIT program.

Key Findings

For the three fiscal years ended June 30, 2013, we identified \$295,997 in reported costs that did not comply with the requirements in the Manual and recommend such costs be disallowed. The ineligible costs included \$283,649 in personal service costs and \$12,348 in other than personal service (OTPS) costs, as follows:

- \$119,906 in accrued pension plan expenses. On its CFR for the fiscal year ended June 30, 2011, Kew Gardens officials accrued \$120,000 in costs for a profit-sharing plan. The plan was not established. Instead, Kew Gardens distributed \$78,335 in wages to 14 employees and used the remaining \$41,665 to reduce a prior period's liability. We recommend that \$119,906, the amount allocated to the SEIT program, be disallowed;
- \$93,771 in accrued compensation paid to 19 employees in subsequent years. These payments were not added to the employees' base compensation. As such, they met the Manual's definition of bonuses. The performance evaluations for each of the 19 employees indicated they rarely met expectations during the periods for which the extra compensation was paid;
- \$50,851 in excess retirement plan contributions for five employees;
- \$19,120 in salary expenses paid to two individuals whose timesheets showed they worked the same 12 p.m.-2 p.m. time period at another preschool special education provider;
- \$8,680 in advertising costs that were insufficiently documented; and
- \$3,668 in over-allocated costs for supplies.

Key Recommendations

To SED:

- Review the recommended disallowances resulting from our audit and make the appropriate adjustments to the costs reported on Kew Gardens' CFRs and to Kew Gardens' tuition reimbursement rates.
- Work with Kew Gardens officials to help ensure their compliance with the Manual's provisions.

To Kew Gardens:

- Ensure that costs reported on future CFRs comply with the requirements in the Manual.

Other Related Audits/Reports of Interest

[Whitestone School for Child Development: Compliance With the Reimbursable Cost Manual \(2014-S-38\)](#)

[Institutes of Applied Human Dynamics: Compliance With the Reimbursable Cost Manual \(2014-S-39\)](#)

**State of New York
Office of the State Comptroller**

Division of State Government Accountability

December 31, 2015

Ms. MaryEllen Elia
Commissioner
State Education Department
State Education Building
89 Washington Avenue
Albany, NY 12234

Mr. Leonid Yakubov
Executive Director
Kew Gardens SEP, Inc.
159-16 Union Turnpike
Queens, NY 11366

Dear Ms. Elia and Mr. Yakubov:

The Office of the State Comptroller is committed to helping State agencies, public authorities, and local government agencies manage government resources efficiently and effectively and, by so doing, providing accountability for tax dollars spent to support government operations. The Comptroller oversees the fiscal affairs of State agencies, public authorities, and local government agencies, as well as their compliance with relevant statutes and their observance of good business practices. This fiscal oversight is accomplished, in part, through our audits, which identify opportunities for improving operations. Audits can also identify strategies for reducing costs and strengthening controls that are intended to safeguard assets.

Following is a report, entitled *Compliance With the Reimbursable Cost Manual*, of our audit of the costs submitted by Kew Gardens SEP, Inc. to the State Education Department for the purposes of establishing preschool special education tuition reimbursement rates. This audit was performed pursuant to the State Comptroller's authority as set forth in Article V, Section 1 of the State Constitution; Article II, Section 8 of the State Finance Law; and Section 4410-c of the State Education Law.

This audit's results and recommendations are resources for you to use in effectively managing your operations and in meeting the expectations of taxpayers. If you have any questions about this draft report, please feel free to contact us.

Respectfully submitted,

*Office of the State Comptroller
Division of State Government Accountability*

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This report is also available on our website at: www.osc.state.ny.us

Background

Kew Gardens SEP, Inc. (Kew Gardens) is a for-profit organization that is authorized by the State Education Department (SED) to operate Preschool Special Education Itinerant Teacher (SEIT) and Related Services programs for disabled preschool children ages three through five years. Based in Queens, New York, Kew Gardens provides these services to children throughout the five boroughs of New York City. During the 2012-13 fiscal year, Kew Gardens served 103 students.

The New York City Department of Education (DoE) refers preschool special education students to Kew Gardens based on clinical evaluations and pays for Kew Gardens' services using rates established by SED. These SEIT rates are based on the financial information that Kew Gardens reports to SED on its annual Consolidated Fiscal Reports (CFRs). To qualify for reimbursement, Kew Gardens' expenses must comply with the criteria set forth in SED's Reimbursable Cost Manual (Manual), which provides guidance to special education providers on the eligibility of reimbursable costs, the documentation necessary to support these costs, and cost allocation requirements for expenses relating to multiple programs. The State reimburses DoE 59.5 percent of the statutory rates paid to Kew Gardens. Reimbursable costs must be reasonable, necessary, program-related, and properly documented.

Chapter 545 of the Laws of 2013 mandates the State Comptroller to audit the expenses reported to SED by special education service providers for preschool children with disabilities. For the three fiscal years ended June 30, 2013, Kew Gardens reported approximately \$9.8 million in reimbursable costs for its SEIT program. Our audit scope period focused on the 2012-13 fiscal year, and we included certain items claimed on the CFRs for the 2010-11 and 2011-12 fiscal years.

Audit Findings and Recommendations

For the three fiscal years ended June 30, 2013, we identified \$295,997 in reported costs that did not comply with the Manual's requirements for reimbursement. The ineligible costs included \$283,649 in personal service costs and \$12,348 in other than personal service (OTPS) costs (see Exhibit at the end of the report).

Personal Service Costs

According to the Manual, personal service costs, which include all taxable and non-taxable salaries and fringe benefits paid or accrued to employees on the agency's payroll, must be reported on the provider's CFR as either direct care costs (e.g., teachers' salaries) or non-direct care costs (e.g., administrators' salaries). All claimed costs must comply with the applicable provisions of the Manual. For the three fiscal years ended June 30, 2013, Kew Gardens reported about \$9.1 million in reimbursable personal service costs. We identified \$283,649 in personal service costs that do not comply with the Manual's guidelines for reimbursement, as follows:

Payments in Lieu of Pension Contributions

According to the Manual, payments in lieu of pensions made to or for the benefit of school officers, directors, or presidents are not reimbursable as a fringe benefit, but will be considered as a salary expense.

On its CFR for the fiscal year ended June 30, 2011, Kew Gardens accrued \$120,000 in costs for a profit-sharing plan that would benefit 15 employees. However, Kew Gardens officials advised us that plan documents were not filed and the plan was not established by the end of the fiscal year, as required. Kew Gardens officials further advised that instead of making payments to an established plan, they distributed \$78,335 of the \$120,000 as wages to 14 employees (five non-direct care and nine direct care) during fiscal year 2011-12. This payout was not included in the recipients' base salaries in subsequent years. According to Kew Gardens, the remaining \$41,665 was used to reduce a prior period's liability.

SED advised us that it is inappropriate to pay an expense for any other purpose than that for which it was accrued. Further, given the aforementioned circumstances, Kew Gardens should have amended the CFR for the fiscal year ended June 30, 2011 and returned the accrued funds rather than distributing them as wages. Therefore, we recommend that SED disallow \$119,906 of the \$120,000, the amount allocated to the SEIT program.

Additional Compensation/Bonuses

According to the Manual, bonus compensation shall mean a non-recurring and non-accumulating (i.e., not included in base salary of subsequent years) lump sum payment in excess of regularly scheduled salary, which is not directly related to hours worked. A bonus may be reimbursed if it is based on merit, as measured and supported by employee performance evaluations. For the two

fiscal years ended June 30, 2012, Kew Gardens accrued expenses totaling \$396,606 (\$360,799 in salaries and \$35,807 in fringe benefits). However, we identified \$93,771 (\$85,280 in salaries and \$8,491 in fringe benefits) that did not comply with the Manual's requirements, as follows:

- Kew Gardens officials advised us that, in order to be competitive with other providers and to improve employee morale, they accrued \$220,236 (\$80,201 for fiscal year 2010-11 and \$140,035 for fiscal year 2011-12) in personal service expenses so that they could increase the hourly rates of 111 SEIT teachers from their then-current rates of \$50/\$55/\$60 to \$65 per hour. The SEIT teachers were told that they would receive the increased rate if the entity's cash flow improved. During fiscal years 2012-13 and 2013-14, some of the teachers had already resigned. Therefore, Kew Gardens paid the accrued salaries to the 47 SEIT teachers who were still employed by the entity. However, the teachers' base salaries did not increase in the subsequent years. As a result, these payments met the Manual's definition of a bonus. Further, when we reviewed performance evaluations for the 47 teachers, we noted that 19 teachers had received "Rarely Meets Expectations" ratings - the lowest rating on Kew Gardens' three-point performance scale. Thus, the payments to the 19 teachers were not based on merit, as otherwise required by the Manual. Therefore, we recommend that SED disallow the \$53,413 (\$48,633 in salaries and \$4,780 in fringe benefits for the two fiscal years ended June 30, 2012) because these payments to the 19 teachers did not comply with the requirements in the Manual.
- For the fiscal year ended June 30, 2011, Kew Gardens accrued an additional \$68,641 in salaries for the 111 SEIT teachers. Because some of the teachers had already resigned, Kew Gardens officials distributed the \$68,641 to the 47 teachers who were still on the entity's payroll in August 2012. We noted that the payments did not increase the base salaries of the 47 teachers in subsequent years. Therefore, these payments met the Manual's definition of a bonus. Further, we reviewed the performance evaluations of the 47 teachers and noted that 19 teachers had received "Rarely Meets Expectations" ratings - the lowest rating on Kew Gardens' performance rating scale. Thus, the payments to the 19 teachers were not based on merit. Therefore, we recommend that SED disallow the \$22,070 (\$19,912 in salaries and \$2,158 in fringe benefits) because these payments to the 19 teachers did not comply with the requirements in the Manual.
- Further, for the fiscal year ended June 30, 2012, Kew Gardens accrued \$71,922 in expenses on behalf of the same 111 SEIT teachers. These expenses were categorized as bonuses on Kew Gardens' general ledger and were not included in the teachers' base salaries in subsequent years. Further, we reviewed the performance evaluations for the 47 SEIT teachers who were still working for Kew Gardens at the time of the payout and noted that 19 of the 47 teachers had received performance ratings of "Rarely Meets Expectations" - the lowest rating on Kew Gardens' performance scale. Thus, the payments were not based on merit. Therefore, we recommend that SED disallow the \$18,288 (\$16,735 in salaries and \$1,553 in fringe benefits) because these payments to the 19 teachers did not comply with the requirements in the Manual.

We noted that Kew Gardens officials advised us that evaluations are used to establish a threshold for achieving a bonus, not for evaluating competency.

Retirement Plan Contributions

According to the Manual, fringe benefits (including pensions, life insurance, and tax-sheltered annuities) for individual employees or officers/directors should be proportionately similar to those received by other classes or groups of employees. According to guidance provided to us by SED, fringe benefits are proportionately similar if the benefits-to-salaries ratio is the same/similar among all employees.

For the fiscal year ended June 30, 2012, Kew Gardens contributed \$442,194 to a 401(k) retirement plan on behalf of 30 employees. We noted that 23 of the 30 employees were each assigned contributions that represented 22 percent of their gross salaries. The contributions for the seven remaining employees (three executives and four staff) ranged from 29 percent to 47 percent of their gross salaries. We determined that the contributions of 29 percent to 47 percent of gross salaries for the seven employees did not comply with the requirements in the Manual. For the seven employees, we disallowed contributions that were in excess of 22 percent of their gross salaries. Therefore, we recommend that SED disallow the \$50,851 because these payments did not comply with the requirements in the Manual.

Salary Expense

According to the Manual, compensation costs must be based on approved, documented payrolls, supported by employee time records prepared during, not after, the time period for which the employee was paid. Employee timesheets must be signed by the employee and a supervisor, and must be completed at least monthly.

For the period of November 29, 2010 through March 15, 2011, Kew Gardens accrued and subsequently paid \$17,250 (\$11,250 and \$6,000, respectively) in salaries for a Program Director and a Chief Financial Officer (CFO). Timesheets for the two employees indicated they each worked two hours, from 12:00 p.m. to 2:00 p.m., daily - a total of 10 hours per week. However, interviews and other available documentation indicated that, during the same period, the two employees were working a five-day, full-time schedule at another preschool special education provider.

When we queried this discrepancy, Kew Gardens officials told us that the 12:00 p.m. to 2:00 p.m. time period, attested to on Kew Gardens' timesheets, did not accurately reflect the time worked by the Program Director and the CFO. Kew Gardens officials added that although the two employees did not work each day from 12 p.m. to 2 p.m., a new billing system software had used a default setting of 12 p.m. to 2 p.m. to memorialize the two hours worked daily. We then requested the work product for the two employees to verify if they had indeed worked for Kew Gardens during that period. However, Kew Gardens officials failed to provide the requested documentation. In the absence of such documentation, we recommend that SED disallow the \$19,120 (\$17,250 in salaries and \$1,870 in fringe benefits) in compensation claimed by Kew Gardens.

Other Than Personal Service Costs

According to the Manual, OTPS costs must be reasonable, necessary, program-related, and supported by sufficient and appropriate documentation. During fiscal year 2012-13, Kew Gardens charged \$706,941 in OTPS expenses to the SEIT program. We identified \$12,348 of these expenses that did not comply with SED's reimbursement requirements, as follows.

Advertising

According to the Manual, costs must be reasonable, necessary, and sufficiently documented in order to be reimbursed. For the three fiscal years ended June 30, 2013, Kew Gardens reported \$15,129 in advertising expenses.

Kew Gardens officials provided us with samples of 28 advertisements that reportedly ran in various publications. However, officials were unable to provide copies of publications that carried 12 of the 28 advertisements. Absent copies of the publications, there was insufficient assurance that advertisements costing \$8,680 were actually published. Thus, we recommend that SED disallow the \$8,680 in advertising expenses that were not in compliance with the Manual's guidelines.

Supplies

Kew Gardens operated two SED programs (SEIT and Related Services) during fiscal year 2012-13. According to the Manual, costs must be charged to specific programs whenever possible. The cost of supplies that are purchased for distribution among multiple programs must be allocated among those programs, if direct charges are not possible. Entities operating programs must use allocation methods that are fair and reasonable, as determined by the Commissioner's fiscal representatives. Such allocation methods, as well as the statistical basis used to calculate allocation percentages, must be documented and retained for a minimum of seven years. For the fiscal year ended June 30, 2013, Kew Gardens reported \$19,548 in supply expenses for its SEIT program.

We reviewed available documentation to determine if Kew Gardens had allocated the correct amount of supply expenses to the SEIT program. We found that only \$1,210 of the \$19,548 in supply expenses were directly related to the SEIT program. The remaining \$18,338 should have been allocated across all programs using the accepted ratio-value allocation methodology for expenses that are not directly related to a program. Using the ratio-value methodology, we determined that, in total, only \$15,880 of the \$19,548 should have been charged to the SEIT program and the remaining \$3,668 to the Related Services program. Therefore, we recommend that SED disallow \$3,668 in supplies expenses because these costs did apply to the SEIT program.

Recommendations

To SED:

1. Review the recommended disallowances resulting from our audit and make the appropriate adjustments to the costs reported on Kew Gardens' CFRs and to Kew Gardens' tuition reimbursement rates.
2. Work with Kew Gardens officials to help ensure their compliance with the Manual's provisions.

To Kew Gardens:

3. Ensure that costs reported on future CFRs comply with the requirements in the Manual.

Audit Scope and Methodology

We audited the costs reported on Kew Gardens' CFRs to determine whether they were properly documented, program-related, and allowable pursuant to SED's Manual. The audit included all claimed expenses for fiscal year 2012-13, and certain expenses claimed on Kew Garden's CFRs for the two fiscal years ended June 30, 2012.

To accomplish our objectives, we reviewed the Manual and the Consolidated Fiscal Reporting and Claiming Manual, Kew Gardens' CFRs, and relevant financial records for the audit period. We also interviewed Kew Gardens officials, staff, and independent auditors to obtain an understanding of their financial and business practices. In addition, we assessed a judgmental sample of reported costs to determine whether they were supported, program-appropriate, and reimbursable. Our review of Kew Gardens' internal controls focused on the controls over Kew Gardens' CFR preparation process.

We conducted our performance audit in accordance with generally accepted government auditing standards. These standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained during our audit provides a reasonable basis for our findings and conclusions based on our audit objectives.

In addition to being the State Auditor, the Comptroller performs certain other constitutionally and statutorily mandated duties as the chief fiscal officer of New York State. These include operating the State's accounting system; preparing the State's financial statements; and approving State contracts, refunds, and other payments. In addition, the Comptroller appoints members to certain boards, commissions, and public authorities, some of whom have minority voting rights. These duties may be considered management functions for purposes of evaluating organizational independence under generally accepted government auditing standards. In our opinion, these management functions do not affect our ability to conduct independent audits of program performance.

Authority

The audit was performed pursuant to the State Comptroller's authority as set forth in Article V, Section 1 of the State Constitution; Article II, Section 8 of the State Finance Law; and Section 4410-c of the State Education Law.

Reporting Requirements

We provided draft copies of this report to SED and Kew Gardens officials for their review and formal comment. We considered their comments in preparing this final report and attached the comments in their entirety to the report. In responding to our draft report, SED officials agreed with our recommendations. In their response, however, Kew Gardens officials disagreed with our report's findings. Our rejoinders to certain Kew Gardens comments are included in the report's State Comptroller's Comments.

Within 90 days of the final release of this report, as required by Section 170 of the Executive Law, the Commissioner of Education shall report to the Governor, the State Comptroller, and the leaders of the Legislature and fiscal committees, advising what steps were taken to implement the recommendations contained herein, and if the recommendations were not implemented, the reasons why.

Contributors to This Report

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Vision

A team of accountability experts respected for providing information that decision makers value.

Mission

To improve government operations by conducting independent audits, reviews and evaluations of New York State and New York City taxpayer financed programs.

Exhibit

Kew Gardens SEP, Inc.
Schedule of Submitted and Disallowed Program Costs
for the 2010-11, 2011-12, and 2012-13 Fiscal Years

Program Costs	Amount Per CFR	Amount Disallowed	Amount Remaining	Notes to Exhibit
Personal Services				
Direct	\$8,337,657	\$235,929	\$8,101,728	A - D, F
Agency Administration	758,327	47,720	710,607	A - D, F
Total Personal Services	\$9,095,984	\$283,649	\$8,812,335	
Other Than Personal Services				
Direct	\$78,873	\$3,668	\$75,205	A, E
Agency Administration	628,068	8,680	619,388	A, E
Total Other Than Personal Services	\$706,941	\$12,348	\$694,593	
Total Program Costs	\$9,802,925	\$295,997	\$9,506,928	

Notes to Exhibit

The following Notes refer to specific sections of SED's Reimbursable Cost Manual used to develop our recommended disallowances. We summarized the applicable sections to explain the basis for each disallowance. We provided the details supporting our recommended disallowances to SED and Kew Gardens officials during the course of our audit.

- A. Section II - Costs will be considered for reimbursement provided such costs are reasonable, necessary, directly related to the education program, and sufficiently documented.
- B. Section II.13.A.10 - A merit award (bonus compensation) shall mean a non-recurring and non-accumulating (i.e., not included in base salary of subsequent years) lump sum payment in excess of regularly scheduled salary, which is not directly related to hours worked. A merit award may be reimbursed if it is based on merit, as measured and supported by employee performance evaluations.
- C. Section II.13.B(2)c - Benefits including pensions, life insurance and tax sheltered annuities for individual employees or officers/directors are proportionately similar to those received by other classes or groups of employees.
- D. Section III.1.A - Compensation costs must be based on approved, documented payrolls. Payroll must be supported by employee time records prepared during, not after, the time period for which the employee was paid. Employee time sheets must be signed by the employee and a supervisor, and must be completed at least monthly.
- E. Section III.1.M.2 - Entities operating programs must use allocation methods that are fair and reasonable, as determined by the Commissioner's fiscal representatives. Such allocation methods, as well as the statistical basis used to calculate allocation percentages, must be documented and retained.
- F. Section II.13.C(1)a - Payments in lieu of pensions made to or for the benefit of school officers, directors, presidents, etc. are not reimbursable as a fringe benefit but will be considered as salary expense.

Agency Comments - State Education Department



THE STATE EDUCATION DEPARTMENT / THE UNIVERSITY OF THE STATE OF NEW YORK / ALBANY, NY
12234

DEPUTY COMMISSIONER
Office of Performance Improvement and Management Services
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December 23, 2015

Mr. Frank Patone
Audit Director
Office of the State Comptroller
Division of State Government Accountability
59 Maiden Lane, 21st Floor
New York, NY 10038

Dear Mr. Patone:

The following is the New York State Education Department's (SED) response to the draft audit report, 2014-S-63, Compliance with the Reimbursable Cost Manual: Kew Gardens SEP, Inc.

In addition to the actions that will be taken in response to the specific recommendations described below, SED will closely examine the circumstances that led to the findings described in the audit report. This examination will include an assessment of the programmatic oversight and fiscal management employed at Kew Gardens SEP, Inc. (Kew Gardens) and will be a factor in the consideration of the continued approval of this provider and the corrective action or enforcement actions that may be warranted.

Recommendation 1:

Review the recommended disallowances resulting from our audit and make the appropriate adjustments to the costs reported on Kew Gardens' CFRs and to Kew Gardens' tuition reimbursement rates.

We agree with this recommendation. SED will review the recommended disallowances as noted in the report and make adjustments to the reported costs to recover any overpayments, as appropriate, by recalculating tuition rates.

Recommendation 2:

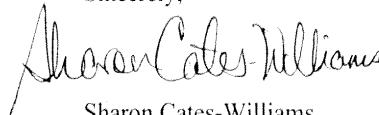
Work with Kew Gardens officials to help ensure their compliance with the Manual's provisions.

We agree with this recommendation. SED will continue to provide technical assistance whenever requested and will strongly recommend the Kew Gardens officials take advantage of our availability to help them better understand the standards for reimbursement as presented in

Regulation and the Reimbursable Cost Manual (RCM). Furthermore, Consolidated Fiscal Report (CFR) training is available both in person, at one of the six locations it is offered across the State, and online on SED's webpage. SED recommends that all individuals signing the CFR certification statements, namely Executive Directors and Certified Public Accountants, complete this training. At the direction of the Board of Regents, the Department intends to require that this training be mandatory and will require individuals to verify that they have completed the training.

If you have any questions regarding this response, please contact Suzanne Bolling, Director of Special Education Fiscal Services at (518) 474-3227.

Sincerely,

A handwritten signature in black ink that reads "Sharon Cates-Williams". The signature is written in a cursive style with a large initial 'S'.

Sharon Cates-Williams

c: James P. DeLorenzo
Belinda Johnson
Suzanne Bolling

Agency Comments - Kew Gardens SEP, Inc.

SHEBITZ BERMAN COHEN & DELFORTE, P.C.

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December 22, 2015

**BY EMAIL (ksifontes@osc.state.ny.us)
AND FEDERAL EXPRESS**

Kenrick Sifontes
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Re: Kew Gardens SEP, Inc.; OSC Draft Audit Report #2014-S-63

Dear Mr. Sifontes:

We are counsel to Kew Gardens SEP, Inc. ("KGSEP"). We submit this letter on behalf of KGSEP in response to the Office of the State Comptroller's ("OSC") draft audit report issued November 20, 2015.

At the outset, we reiterate our position that OSC does not have legal authority to audit KGSEP. See, *Blue Cross & Blue Shield of Cent. N.Y. v McCall*, 89 N.Y.2d 160 (1996), *New York Charter Schools v. DiNapoli*, 13 N.Y.3d 120 (2009); *Handler v. DiNapoli*, 23 N.Y.3d 239 (2014). By continuing to cooperate with this audit, and by submitting this response, KGSEP does not waive any of its rights to challenge OSC's authority to conduct this audit or any decision by OSC or others to act upon it, and KGSEP expressly reserves all rights to do so.

*

Comment

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As a second threshold matter, we note that the scope of this audit was originally limited to the 2012-2013 fiscal year. While expenses for that year totaled approximately \$3.8 million dollars, OSC recommended disallowances of only \$3,668, which represented supply costs that OSC believed should not have been allocated to the SEIT program. Thus, the recommended disallowances for 2012-13 were less than one-tenth of one-percent. Nevertheless, without any

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Comment

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*See State Comptroller's Comments, Page 26.

SHEBITZ BERMAN COHEN & DELFORTE, P.C.
ATTORNEYS-AT-LAW

Ken Sifontes
December 22, 2015
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apparent basis for doing so, let alone a rational one, OSC expanded its audit to include the 2010-11 fiscal year (KGSEP's inaugural year) and 2011-12 fiscal year. We believe OSC's decision to expand the scope of the audit was illegal, since there was no rational basis for doing so. As a result, we believe the final audit report should be redrawn to include only OSC's findings pertaining to the 2013 year. Significantly, we note further that most of the recommended disallowances resulting from expanding the audit's scope were for costs incurred in KGSEP's first year of operation. While for the reasons below we believe most of these disallowances were made in error, the fact that OSC's own audit reflects KGSEP's fiscal excellence by year three is worthy of positive recognition and should be noted in the final audit report.

We will now address OSC's specific conclusions contained in the draft report.

A. Payments in Lieu of Pension Contributions

The payments at issue were payments in lieu of pension contributions, which under the State Education Department's ("SED") Reimbursable Cost Manual ("RCM") are allowable as salary expenses. As KGSEP explained during the field audit, in its response to the preliminary audit reports, and at the exit conference, the \$119,906 was accrued as a profit-sharing expense, because KGSEP intended to establish a profit-sharing plan and make contributions in this amount for the 2010-11 fiscal year. However, due to an administrative error, the requisite documents were not filed in time to establish the profit-sharing plan for the 2010-11 year. KGSEP decided to distribute the money it had set aside for the profit-sharing plan nevertheless, to those who would have participated in the plan had it been established. KGSEP did so because it wanted to provide these individuals with the closest equivalent benefit to a profit-sharing plan contribution that could be provided by law. Thus, the payments were payments in lieu of a profit-sharing contribution, made to compensate the employees for their loss of the contemplated profit-sharing contribution benefit.

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Comment
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Pursuant to Section II(c)(1)(a) of the RCM, "payments in lieu of pensions made to or for the benefit of school officers, directors, presidents, etc. are non-reimbursable as a fringe benefit but will be considered as salary expense." The payments KGSEP made in lieu of pension went to a broader class of personnel than those listed above, but are reimbursable nonetheless. This provision is not expressly limited to specific types of employees, nor does it expressly prohibit an agency from claiming such payments as salary expense for particular types or classes of employees. Rather, the guiding principle of the RCM provision cited is that a payment in lieu of a pension contribution – for example, payments to compensate for loss of pension benefits, which is what these payments were – is treated as a reimbursable salary expense. There is no logical reason to discriminate based on title or class of employee when applying this principle. . The concept, motivation, and reason for making the payment – to compensate the employee for loss of pension benefits – are exactly the same.

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Comment
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Moreover, \$41,665 of the \$119,906 disallowance cannot be disallowed under any circumstance. As KGSEP explained during the field audit, at the exit conference, and during follow-up to the exit conference, \$41,665 of the \$119,906 was never paid and also recouped in connection with KGSEP's 2011 rate decrease. Because these monies were never spent, and were functionally repaid to boot, disallowing it again would result in KGSEP repaying the same money twice.

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Comment
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OSC also stated the following in the draft audit report: "According to SED, it is inappropriate to pay an expense for any other purpose than that for which it was accrued." First, OSC has not cited to any law, regulation, or provision within the RCM to support SED's position, and we are unaware of any such legal support. If such legal support does exist, OSC should cite to it and allow KGSEP an opportunity to respond in writing, as well as to meet and discuss its response with OSC, which is what OSC's audit procedures call for, before the draft report can be made final and published. Second, because SED claims something is "inappropriate" doesn't make it so, nor does it mean that the expense in this instance is not reimbursable. To the contrary, the RCM allows payments in lieu of pension to be claimed as salary expense. Therefore, it was reasonable for KGSEP to rely on the RCM in doing so, after KGSEP learned that the retirement plan was not established due to an administrative error. Third, OSC did not communicate SED's position, which it now relies on in recommending this disallowance, during the course of the field audit or at the exit conference. What's more, a member of SED's Rate Setting Unit participated in the exit conference and did not convey such position at that time, or at any other time. OSC is presenting this basis for its recommended disallowance for the very first time. As stated above, KGSEP must be afforded an opportunity to respond in accordance with OSC's audit procedures and consistent with GAGAS.

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For all these reasons, OSC's proposed disallowance is incorrect and should not be included in the final audit report.

B. Additional Compensation/Bonus

We disagree with OSC's conclusion that the accrued SEIT salaries converted to bonuses on the basis that the salaries were non-recurring. First, as KGSEP explained during the field audit and in its response to the preliminary audit reports, these payments were catch-up salary payments that KGSEP made once its cash flow problems were resolved; problems that were created by a state funding system that has since been reinvented and amended in part to avoid the very problems KGSEP (and innumerable other SEIT providers) encountered. As KGSEP explained, it made salary catch-up payments that were not paid until RSU finalized its rate determination, and the New York City Department of Education ("NYCDOE") completed its annual payment reconciliation. Only when those two things occurred could KGSEP know with complete certainty that it would have sufficient funds to pay those amounts. As KGSEP also advised, at the time KGSEP filed its CFR the NYCDOE owed KGSEP almost \$800,000.

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KGSEP believed that it would receive those funds, which were critical to its cash flow, but needed NYCDOE to complete its reconciliation to know for sure that nothing would be recouped. The SEITs were told that they would receive the additional salary amounts if KGSEP's cash flow permitted after RSU made its rate determination and the DOE reconciliation process ended, which KGSEP expected it would. Thus, these were not bonus payments, but rather accrued salary payments.

Because these were not bonuses, we do not address the substance of OSC's "merit" analysis, which pertains only to bonuses and therefore is irrelevant. However, we feel compelled to clarify OSC's reference in the draft audit report to the bonus rating scale, which was incorrect and could lead to unintended confusion by the public. OSC stated that, based on its review of KGSEP teacher evaluations, 19 teachers "rarely met expectations", which suggests that these 19 teachers were substandard teachers or incompetent, which is not true. The evaluations are used to establish a threshold for achieving a bonus, not for evaluating competency, which KGSEP believes is an important distinction that the public should know. It also understands how the bonus evaluation rubric could be misinterpreted in the way that OSC did, and is actively reviewing it as a result.

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Comment
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Secondly, as OSC knows, the RCM defines bonus compensation as, in relevant part, "non-recurring and non-accumulating (i.e., not included in base salary of subsequent years) lump sum payment in excess of regularly scheduled salary, which is not directly related to hours worked." Regarding the disallowed amounts of \$53,413 and \$22,070, these payments were not made in excess of regularly scheduled salary and also were based on hours worked. Therefore these salary payments cannot be treated as bonuses.

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Comment
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C. Retirement Plan Contributions

In its draft audit report, OSC referred to the RCM, without citing to a particular section, to conclude that fringe benefits "*should be* proportionately similar" for all classes or groups of employees.¹ OSC then goes on to establish the standard for when fringe benefits are "proportionately similar" based on "guidance" it received from SED; namely, SED purportedly told OSC that fringe benefits are "proportionately similar if the benefits-to-salaries ratio is the same/similar among all employees."

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First, by OSC concluding that fringe benefits "should be" proportionately similar for all classes/groups of employees, rather concluding that fringe benefits "shall be" so, OSC acknowledges by implication that proportionate similarity is not required by the RCM, or by law or regulation.

¹ Emphasis added.

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Second, as we stated in our response to the preliminary report, OSC relies incorrectly on an RCM standard of general applicability that pertains to all fringe benefits, including pensions. *See*, §II(14)(B)(2)(c). However, as we explained, the RCM also defines other cost principles that specifically apply only to pension payments. One such principle applies directly to the payments at issue here and renders the general cost principle relied on by OSC, and the unsupported definition of “proportionately similar” provided to OSC by SED, completely irrelevant and inapplicable. In particular, the RCM requires only that the costs of pension plans be approved by the Internal Revenue Service and accounted under GAAP. *See*, §II(14)(C)(1). KGSEP’s pension plan costs were approved by the IRS, and therefore are allowable. Notably, to be approved by the IRS, pension cost are not required to be “proportionately similar” among employees, but rather to pass the requisite discrimination test created by federal law, which KGSEP’s payments met. Therefore, the retirement contributions made by KGSEP were allowable costs.

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Comment
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Even if the “proportionately similar” language relied on by OSC applied to pension payments alone, as opposed to fringe benefits in total, which is not the case, OSC’s decision to disallow these payments on the basis that they were not “proportionately similar” is wrong. OSC points out that 23 of 30 employees received a pension contribution equal to 22 percent of those employee’s salaries, and disallowed the amount over 22% that was paid to the other seven employees. Thus, by implication OSC has taken the position that “proportionately similar” means “the same as” or “equal to”, which is simply not the case. Indeed, the RCM does not define “proportionately similar”, and nowhere within the RCM can a rational conclusion be drawn that “proportionately similar” means, or was intended to mean, “equal”. To the contrary, in the absence of a specific definition within the RCM we are left to the discrimination test applicable to 401-k profit sharing and pension plans, which, according to KGSEP’s plan administrator, KGSEP passed without issue. OSC has not made any showing, much less any allegation, to the contrary. Accordingly, the seven payments at issue were appropriately made and cannot be disallowed.

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Comment
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Moreover, OSC communicated the reason for its disallowance — specifically, “guidance provided to [them] by SED” defining proportionate similarity — for the first time through its draft audit report. OSC did not communicate SED’s position at any time from the commencement of this audit up through the date of this response. Therefore, as with the findings cited above, KGSEP was denied the full opportunity to respond that it was entitled to under OSC’s written procedures and GAGAS. As a result, OSC must either provide KGSEP with such process before publishing its final audit report or retract the cited basis for this disallowance.

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D. Salary Expense

We disagree with OSC’s decision to disallow \$17,250 in accrued salaries paid to the Program Director (\$11,250) and Chief Fiscal Officer (“CFO”) (\$6,000) on the basis that

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“interviews and other available documentation indicated that, during the same period, the two employees were working a five-day, full-time schedule at another preschool special education provider.” OSC further claims that its auditors requested work product that would verify that the Program Director and CFO actually worked during the period in question, and that KGSEP failed to provide such documentation.

OSC cites to “interviews” from which it established that the Program Director and CFO were working elsewhere full-time, five days per week, but KGSEP is unaware of any employee who stated same to OSC in an interview or otherwise, and denies that any such statement was ever made. Certainly, the owner, the Program Director, and the CFO never said that the latter were working elsewhere full-time. And OSC has not produced or identified anyone else who purportedly made such a statement. As a result, KGSEP once again is being denied the full response process, since it is unable to rebut, provide context, or respond in any way to unspecified statements made by unknown declarants. Therefore, as explained above, OSC must either afford KGSEP the process anew (e.g., identify the declarant and the statements upon which OSC relied in making the disallowances) or withdraw the disallowances.

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Moreover, as KGSEP explained to the field audit team, and in its written response to the preliminary audit report, the Program Director and CFO each worked two hours per day, for a total of 10 hours per week. Their time was recorded in a new software billing system as a two hour block using a default setting of 12:00pm to 2:00pm each day for the purpose of memorializing that two hours were, in fact, worked. However, as the field auditors were told from the outset, the 12:00pm to 2:00pm time period did not reflect the actual, literal time period during which the Program Director and CFO worked; that is, they did not work each day from noon to 2:00pm, but they did work at least two hours daily during the start-up period in question.² These two employees worked at various and multiple times most days, but the billing system did not allow users to enter more than two blocks of time per day. Thus, for example, if the CFO worked from 11:00 to 11:30, again from 1:00 to 2:00, and again from 3:30 to 4:00 on a given day, his time could not be entered in the then-current billing software system. To avoid such issues and memorialize the two hours that each of these two employees worked each day, they simply set a two hour default of 12:00pm to 2:00pm. There is nothing in the RCM or elsewhere that defines the form that a contemporaneous time sheet or record must take. The two hour entry was contemporaneous and used to capture and memorialize the number of hours worked by these employees each day. It was perfectly appropriate. By OSC’s ultra-narrow interpretation and logic, it would have been perfectly appropriate had these two employees recorded their time intermittently throughout each day on a napkin or piece of scrap paper so long as they did so in real time when they started and ended each time period, but it is not

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² We note that the draft audit report suggests that KGSEP did not reveal and explain the limitation of the time tracking software until the issue was discovered by OSC, which is not true. KGSEP volunteered and explained the limitation of the software program, and the decision to establish a default time entry period for the Program Director’s and CFO’s time, from the outset of the conversation.

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appropriate to establish a default two-hour block of time in a software program used for time recordation, if such electronic recordation did not reflect the actual, literal time period that the two employees were present and working. That decision is arbitrary, capricious, and altogether illogical, as it ignores the fact that the two employees actually worked, on the days at issue, for at least a two hour period of time in the aggregate, and recorded each work day electronically on the actual day that the work was performed. In doing so, KGSEP met the guidelines established by the RCM for recording time.

In addition, there can be no doubt that the work that each of these employees performed was critically important and actually performed. Despite OSC's contention to the contrary, there is no "available documentation indicating that...the two employees were working [elsewhere full-time]." OSC has presented no such documentation to KGSEP and, in fact, there is ample work product evidencing that these two employees did work during the period in question, and at least for the amount of time that each employee billed. Indeed, despite OSC's conclusory statement to the contrary in the draft audit report, KGSEP provided a sampling of the Program Director's work product to OSC during the field audit. OSC's field auditors did not question any of the work product when it was submitted, or at any time thereafter, yet in the preliminary report OSC denies ever having reviewed any of her work product. As KGSEP conveyed to the field auditors, and as we pointed in our response to the preliminary reports, the Program Director had numerous responsibilities and was invaluable to the creation of the program. For example, she met with agency leadership to plan student enrollment, scheduling, and staff hiring; assisted in creating KGSEP's employee handbook and various program-critical forms (e.g., session notes, progress reports, time sheets, etc.); and met with parents, CPSEs, and SEIT coordinators to ensure smooth transitioning into CPSE and that the IEP mandates were met. This list is hardly exhaustive. Despite it all, OSC did not address a single example in its draft audit report.

Likewise, the CFO was instrumental and relied on heavily during the start-up period. Among numerous other responsibilities and tasks, he created and helped to implement policies, procedures, best practices, systems and internal controls, created and negotiating contracts, and organized and conducted management meetings. This list, too, is far from exhaustive, was conveyed to the audit team during the field audit without any questions in return, and also was restated in our response to the preliminary report, but OSC inexplicably has failed to address any of it. Oddly, OSC did not even ask to see the CFO's work product. OSC also ignored completely our offer, stated in our response to the preliminary report, to provide affirmations by the Program Director, CFO, and owner of the company to verify the hours worked and duties performed. There was no reason to do so.

The bottom line is that (1) each of these two employees were instrumental in getting the agency up and running; (2) at times, they worked beyond the two hours they were initially contracted for, but did not charge extra on those days; and, (3) in fact, performed the work. There is no evidence to the contrary, and while OSC has concluded that they did not work the

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hours claimed, it has not produced, let alone even offered, any evidence to support its conclusion. Further, contemporaneous time records were generated and maintained to memorialize the two hours worked each day by both employees, and the records were perfectly appropriate.

E. Advertising

We do not agree with the disallowances proposed by OSC regarding advertising costs, totaling \$8,680, for the three audited years. First, OSC fails to identify with particularity which 12 advertisements out of 28 placed it has chosen to disallow, as it was required to do pursuant to GAGAS. Second, KGSEP provided OSC with all of the invoices and check stubs for all three audited years, and most of the actual advertisements. However, OSC advised during the exit conference that the documentation did not go far enough; that copies of the actual publications containing the advertisements within them also must be produced to establish that the advertisements were actually published. OSC's understanding of a provider's obligation in this respect is wrong. Education Law §4410(9-c) requires providers to maintain a copy of the advertisement language so that SED can ensure, upon inspection, that the content of the advertisement was appropriate; that it was not "false, misleading, deceptive, or fraudulent". *Id.* KGSEP provided a copy of the actual advertisements that were published in years one and three. It was able to only locate some of the actual copies of the advertisements used in year two, but represented to OSC that it used the same language in all of its advertisements. It is more than reasonable to conclude that all such advertisements were placed and published in year two when, as here, an agency produced copies of each invoice, evidence of payment of same, a copy of most of the advertisements that were placed, assurances from employees with firsthand knowledge that the advertisements were actually published, and proof that such advertisements were paid for and placed in the very same journals in the years immediately preceding and subsequent to the second year. Indeed, KGSEP's evidence easily provides "sufficient assurance that the advertisements costing \$8,680 were actually published." There is zero evidence to suggest that KGSEP did not place the advertisements that it paid for in year two, or to assume KGSEP is lying, which, by implication, is the presumption OSC is making by recommending that these costs be disallowed.

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Furthermore, OSC's statement in the draft audit report that "advertising costs should not include information that would mislead a parent to believe their child can receive services at no cost to the parent..." is misleading and must be removed from the report before it is made final and published. The statement is irrelevant since nowhere in the draft report does OSC accuse KGSEP of misleading parents through its advertisements. Rather, it would appear that OSC, in its draft report, attempted to summarize the entirety of the RCM's advertising rule that it cites as applicable here, even those parts of it that are not applicable here. Either way, the statement must be removed, since KGSEP is not accused of misleading parents in its advertising, nor has it done so, and any suggestion to the contrary would be defamatory.

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F. Supplies

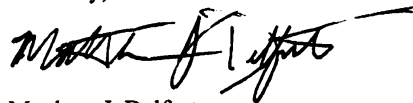
As we stated in our response to the preliminary audit report, OSC's conclusion that KGSEP should have allocated \$18,338 of its total supply costs of \$19,548 across all of its cost centers by the ratio value method, or other fair and reasonable methodology, is incorrect, and OSC provides no reasoning for its conclusion. It provides no basis for why it believes only \$1,210 should have been charged directly to SEIT, and does not identify the specific purchases it determined not to be directly related to the SEIT program, and why it did not. Instead, OSC provided only references to the stores from which the unidentified supplies were purchased. We pointed out this same deficiency in our response to the preliminary report, but OSC has provided no additional clarification in its draft audit report. Thus, OSC continues to fail to meet its burden under GAGAS to identify with particularity the reasons upon which its disallowances are based. Indeed, GAGAS requires OSC to at least provide an articulable basis upon which its conclusions are drawn so that an auditee can understand and respond to the issues identified. Its failure to do so has made it impossible for KGSEP to respond in any meaningful way. It is unable to respond since it has not been provided with an itemized list of the particular, disallowed supplies, and the reasons OSC determined each supply not to be directly related to the SEIT program. Despite OSC's belief to the contrary, all of the costs were attributable to SEIT, which is where all of the costs were charged.

* Comment 18

G. Conclusion

Thank you for your careful consideration of, and attention to, this response. We hope and trust that OSC will revise its draft audit report appropriately and in conformity with this response; will withdraw the misleading and inaccurate statements identified herein; and also will retract any disallowances based on contentions not previously made to KGSEP, since KGSEP had no opportunity to respond meaningfully to those contentions and conclusions.

Sincerely,



Matthew J. Delforte

c: Stephen Lynch
Sheila Jones
Jeffrey Marks

State Comptroller's Comments

1. The State Comptroller's legal authority to audit the costs submitted by Kew Gardens on the CFRs to the State Education Department is expressly cited on pages 3 and 11 of the report.
2. We informed Kew Gardens officials at the audit's opening conference that we reserved the right to expand the scope of the audit based on risk identified during the initial field work.
3. The \$119,906 was claimed on the CFR as a non-mandated fringe benefit. Kew Gardens officials stated the \$119,906 was set aside for the establishment of a profit-sharing plan from which contributions would be made. However, the profit-sharing plan was not established as intended and ultimately the funds were used for other than pension plan contributions. According to SED, it is inappropriate to pay an expense for any other purpose than that for which it was accrued. SED advised us that Kew Gardens should have amended its CFR and returned the accrued funds rather than distributing them as Kew Gardens did. Kew Gardens' response states that "because SED claims something is 'inappropriate' doesn't make it so, nor does it mean that the expense in this instance is not reimbursable." SED is the administrator of the preschool special education program and author of the Manual. We, therefore, sought guidance from SED. Further, Kew Gardens' response indicates that we did not communicate SED's position to them prior to the issuance of the draft audit report. This is not accurate. We, in fact, did communicate this prior to and at the closing conference.
4. Kew Gardens reported the \$41,665 as an expense on its 2010-11 CFR. However, as Kew Gardens acknowledges, the money was not spent. Although the \$41,665 was later reported as a prior period adjustment on the 2012-13 CFR, it was applied to revenue; therefore, it did not have an effect on expenses or the resulting rate decrease for the fiscal year 2010-11.
5. The payments meet the requirements of a bonus: they were non-recurring and non-accumulating (i.e., not included in base salary of subsequent years) lump sum payments in excess of regularly scheduled salary, which was not directly related to hours worked.
6. "Rarely Meets Expectations" is a term developed and used by Kew Gardens on their employee performance evaluations. Kew Gardens officials advised us that the performance evaluations are used to establish a threshold for achieving a bonus, not for evaluating competency. Therefore, OSC did not misinterpret the bonus evaluation rubric. However, we revised our report to note that Kew Gardens advised us that the evaluations are used to establish a threshold for achieving a bonus, not for evaluating competency.
7. We disagree. The payments were bonuses as they were made in excess of the regularly scheduled salary and were not based on hours worked. Further, the bonus payments were not based on merit; therefore, they are not reimbursable.
8. On page 14 of our report, in the Notes to the Exhibit, we cite Section II.13.B(2)c of the Manual, which states that benefits as well as pensions should be proportionately similar to those received by other classes or groups of employees.
9. Although Section II.13.C of the Manual addresses requirements for pensions in detail, it does not obviate Kew Gardens from following the requirements of Section II.13.B(2) of

the Manual, which, as noted on page 8 of our report, states benefits, including pensions for individual employees or officers/directors must be proportionately similar to those received by other classes or groups of employees. Further, this section does not refer to fringe benefits “generally” or “as a group,” as Kew Gardens contends.

10. As detailed in the report, the pension contributions of all but seven employees were 22 percent or less of their respective salaries while the remaining seven employees received contributions of 29 percent to 47 percent of their salaries. Given the magnitude of the differences in contribution rate ranges, we maintain that the contributions were not proportionately similar.
11. We disagree. This issue was discussed in length during the closing conference in which an SED representative was in attendance.
12. In fact, the Program Director and the Chief Financial Officer (CFO) advised us that they had worked full-time at another entity at the same time they were employed by Kew Gardens. Further, Kew Gardens advised us that these two employees would work many nights and weekends to get Kew Gardens “up-to-speed.” Nonetheless, there was no evidence or assurance that the two employees worked outside of the regular work hours.
13. Kew Gardens’ explanation that timesheets were not intended to delineate hours worked for Kew Gardens is counter to the Manual. Section II.13.A(4)(d) states, in part, that “the allocation of compensation must be supported by time and effort reports or equivalent documentation which meets the following standards: they must reflect contemporaneous time records of the actual activity of each employee; and they must account for the total activity for which each employee is compensated.” Thus, without accurate time records, Kew Gardens cannot claim reimbursement for this employee.
14. We disagree. Kew Gardens informed us of the time tracking software limitation only after we found discrepancies with the time records of the Program Director and CFO.
15. The auditors were not provided with any definitive evidence of the work effort of the two employees. The auditors were given anecdotal evidence that the work was done by them, but Kew Gardens did not provide documentary evidence of that effort.
16. Kew Gardens was provided with auditors’ work papers that clearly identified the date of the advertisements and their costs. As stated on page 9 of the report, absent copies of the publications, there was insufficient assurance that the advertisements were actually published.
17. We have revised our report to delete the reference to information that should not be included in advertisements.
18. Kew Gardens’ General Ledger documented only \$1,210 in supply expenses for the SEIT program. We applied the ratio-value method of allocation, a method approved by the Manual, to allocate the rest of the supply expenses. In addition, Kew Gardens is incorrect in its assertion that we did not provide adequate information on the supplies we determined not to be directly related to the SEIT program. In fact, we provided officials with a detailed breakdown that included the date of each transaction, the vendor name, the purchase amount, and a description of the items in question. Also, we maintain that our audit fully complies with Generally Accepted Government Auditing Standards (GAGAS).