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 Inspire (Orange County Cerebral Palsy Association)

Report 2014-S-80

December 2015

Executive Summary

Purpose

To determine whether the costs reported by Inspire on its Consolidated Fiscal Report (CFR) were properly calculated, adequately documented, and allowable under the State Education Department's (SED) guidelines, including the Reimbursable Cost Manual (RCM). Our audit covered the fiscal year ended June 30, 2013.

Background

Inspire, located in Goshen, New York, was originally founded as Orange County Cerebral Palsy Association, Inc. Inspire provides a wide array of outpatient, educational, and support services for individuals of all ages and abilities. Inspire is also an SED-approved provider of preschool special education services. Inspire operates preschool special education programs at three sites (Goshen, Newburgh, and Monroe, New York) that serve approximately 250 students between the ages of three and five years. Inspire is reimbursed for these services through rates set by SED. These reimbursement rates are based on financial information, including costs that Inspire reports to SED on its annual CFR. To be eligible for reimbursement, reported costs must comply with RCM requirements. For the fiscal year ended June 30, 2013, Inspire reported over $6.4 million in reimbursable costs on its CFR for six rate-based preschool special education programs.

Key Findings

For the fiscal year ended June 30, 2013, Inspire claimed $226,382 in ineligible costs for its six rate-based preschool special education programs. The ineligible costs included:

- $149,768 in personal service costs that consisted of bonuses and fringe benefits paid to direct and non-direct care staff. Many of the bonuses in question were not merit-based (as otherwise required by the RCM) or were paid to non-direct care staff for whom the RCM prohibits bonus payments; and
- $76,614 in other than personal service costs that consisted of $31,359 in vehicle costs, $30,855 in costs that were not related to the programs, $10,004 in food and entertainment, and $4,396 in gifts.

Key Recommendations

To SED:

- Review the disallowances identified by our audit and make the necessary adjustments to the costs reported on Inspire's CFR and to Inspire's tuition reimbursement rates, as appropriate.
- Remind Inspire officials of the pertinent SED guidelines that relate to the deficiencies we cited.

To Inspire:

- Ensure that costs reported on annual CFRs fully comply with SED's requirements, and communicate with SED to obtain clarification as needed.

Other Related Audits/Reports of Interest

Summit Educational Resources: Compliance With the Reimbursable Cost Manual (2014-S-49)
Hear 2 Learn PLLC: Compliance With the Reimbursable Cost Manual (2014-S-74)

State of New York
Office of the State Comptroller

Division of State Government Accountability

December 29, 2015

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

Mr. Marcel Martino
President/CEO
Inspire (Orange County Cerebral Palsy Association)
78 Cypress Road
Goshen, NY 10924

Dear Ms. Elia and Mr. Martino:

The Office of the State Comptroller is committed to providing accountability for tax dollars spent to support government-funded services and 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 of our audit of expenses submitted by Inspire to the State Education Department for the purpose of establishing the preschool special education tuition reimbursement rates used to bill public funding sources that are supported by State aid payments, entitled *Compliance With the Reimbursable Cost Manual*. 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 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 report, please feel free to contact us.

Respectfully submitted,

Office of the State Comptroller
Division of State Government Accountability

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Division of State Government Accountability
110 State Street, 11th Floor
Albany, NY 12236

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

Background

Inspire was founded as Orange County Cerebral Palsy Association, Inc. in 1950 primarily to provide rehabilitative and education services to children with cerebral palsy. Today, Inspire provides a wide array of outpatient, educational, and support services for individuals of all ages and abilities. Currently, Inspire operates preschool special education programs at sites in Goshen, Newburgh, and Monroe, New York and is a registered non-profit organization.

For the fiscal year ended June 30, 2013, Inspire offered six State Education Department (SED)-funded rate-based programs at its various locations: Preschool Special Class – over 2.5 hours per day (two classes); Preschool Special Class – 2.5 hours per day (two classes); Preschool Integrated Special Class – over 2.5 hours per day; and Preschool Integrated Special Class – 2.5 hours per day. These programs served about 250 students in 18 school districts in Orange County as well as a small number of students in Sullivan and Ulster Counties. Inspire received $6.3 million in funding from the State and counties in support of these programs.

The counties that use Inspire's preschool special education services pay tuition using reimbursement rates set by SED. The State, in turn, reimburses the counties 59.5 percent of the tuition that counties pay. SED sets the special education tuition rates based on financial information, including costs, reported by Inspire on the annual Consolidated Fiscal Reports (CFRs) that it submits to SED. Costs reported on the CFR must comply fully with the guidelines in SED's Reimbursable Cost Manual (RCM) regarding the eligibility of costs and documentation requirements and meet the reporting requirements prescribed in the Consolidated Fiscal Reporting and Claiming Manual (CFR Manual). For the fiscal year ended June 30, 2013, Inspire reported approximately $6.4 million in reimbursable costs for the six rate-based preschool special education programs it operated.

Audit Findings and Recommendations

According to the RCM, costs reported on the CFR are considered for reimbursement if they are reasonable, necessary, directly related to the special education program, and adequately documented. Of the $6.4 million Inspire claimed on its CFR for the programs we audited, we identified $226,382 in costs that did not comply with RCM requirements for reimbursement, including $149,768 in personal service costs and $76,614 in other than personal service (OTPS) costs. Additionally, during the course of our audit, we identified other reportable matters that Inspire must correct to improve its compliance with requirements prescribed by the RCM. These matters include non-disclosure of less-than-arm's-length business transactions and improper reporting of direct and indirect costs on the CFR.

Personal Service Costs

For the fiscal year ended June 30, 2013, Inspire reported more than $5.48 million in personal service costs. Of this amount, we identified $149,768 in ineligible personal services costs that included $103,651 in bonuses and fringe benefits for direct care staff that were not merit-based or otherwise did not comply with the RCM's requirements for reimbursement, and $46,117 in bonuses and fringe benefits for non-direct care staff, which are not reimbursable per the RCM.

The RCM provides guidance about reimbursable bonuses and describes bonus compensation as 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. Bonus compensation may be reimbursed if it is based on merit as measured and supported by employee performance evaluations and does not exceed three and a half percent of the base salary of the direct care preschool employee who is receiving the bonus. In addition, the RCM specifically restricts bonus compensation to direct care employees and certain non-direct care employees reported in the "100" job code series as defined in the CFR Manual, Appendix R.

We identified $103,651 in bonus payments and fringe benefits to direct care staff that Inspire claimed on its CFR that were ineligible for reimbursement because they either were not supported by a performance evaluation, exceeded the three and a half percent limit, or were paid to staff who did not work in the preschool special education program. We also identified $46,117 in bonuses and fringe benefits for non-direct care staff not reported under the "100" job code series, which the RCM specifically precludes from reimbursement.

Other Than Personal Service Costs

For the fiscal year ended June 30, 2013, Inspire reported more than $963,000 in OTPS costs. Of this amount, we identified $76,614 in costs that were ineligible for reimbursement because they were not properly documented, were not related to the programs we audited, or were otherwise not allowable under the RCM requirements.

Vehicle Expenses

Inspire reported $31,359 in vehicle and travel costs on its CFR, including gas, repairs and maintenance, insurance, and depreciation, that were ineligible for reimbursement because these costs were not in compliance with the RCM. According to the RCM, for vehicle costs to be reimbursable, logs must be maintained by each employee that include at a minimum: the date and time of travel, to and from destinations and the mileage between each, purpose of the travel, and the name of the traveler. However, Inspire did not maintain vehicle logs for three of the six vehicles it owned, and the logs maintained for the other three vehicles did not include required information such as specific destination and the purpose of the travel. Therefore, the reported vehicle costs are not reimbursable.

Other Ineligible Expenses

According to the RCM, costs are reimbursable provided such costs are reasonable, necessary, directly related to the special education program, and properly documented. In addition, food, entertainment, gifts, and expenses of a personal nature are not reimbursable. For the fiscal year ended June 30, 2013, we identified $45,255 in costs that were ineligible for reimbursement because they were not in compliance with RCM or CFR Manual requirements. The ineligible costs include the following:

- $30,855 in costs that were not related to the special education programs;
- $10,004 for food and entertainment for picnics, staff lunches, and holiday parties; and
- $4,396 for gifts, including bracelets, engraved service awards, and flashlights.

We note that SED has already made certain adjustments to some costs that were not program-related.

Non-Compliance With Procedural and Record-Keeping Requirements

Inspire did not comply with provisions of the RCM, the CFR Manual, and other SED requirements pertaining to the disclosure of less-than-arm's-length business transactions and the reporting of direct and indirect costs on the CFR.

Non-Disclosure of Less-Than-Arm's-Length Business Arrangements

In general, a less-than-arm's-length (LTAL) relationship exists when there are related parties, and one party can exercise control or significant influence over the management or operating policies of another party, to the extent one of the parties is (or may be) prevented from pursuing its own separate interests. The CFR Manual requires providers to report on the CFR-5 all transactions, including compensation, where an individual has significant authority and control in the organization with which the reporting entity may deal. Further, the RCM requires special education providers to disclose LTAL relationships in the notes to the provider's audited annual financial statements.

We found that Inspire engaged in two such LTAL relationships. Specifically, Inspire paid an affiliated company (Inspired Alternatives Inc.) to provide CPR training to Inspire staff at a cost of $960. In addition, the son of Inspire's Executive Director was employed by Inspire and was paid $25,000 for the services he provided during the fiscal year ended June 30, 2013. We do not propose disallowing these costs because the costs were not unreasonable, and there was evidence that services were provided. However, Inspire did not disclose these related-party transactions on its CFR-5 or in the notes to the audited annual financial statements, as required.

Reporting Direct and Indirect Care Costs on the Consolidated Fiscal Report

According to the RCM, any expenditures that cannot be directly charged to a specific program must be allocated across all programs that benefit from the expense. Further, agency administration costs should be allocated across all programs operated by the entity. However, we found that Inspire officials did not always comply with these provisions of the RCM. For example, Inspire reported certain administrative expenses (which are generally indirect care costs) as direct program expenses on its CFR. Conversely, Inspire also reported certain direct expenses as indirect expenses. Inspire should ensure that it properly reports all expenses so that the CFR accurately reflects costs claimed for reimbursement. Also, we note that some of these misclassified expenses were included in previous sections of this report and recommended for disallowance based on other RCM requirements.

Recommendations

To SED:

1. Review the disallowances identified by our audit and make the necessary adjustments to the costs reported on Inspire's CFR and to Inspire's tuition reimbursement rates, as appropriate.

2. Remind Inspire officials of the pertinent SED guidelines that relate to the deficiencies we cited.

To Inspire:

3. Ensure that costs reported on annual CFRs fully comply with SED's requirements, and communicate with SED to obtain clarification as needed.

4. Ensure that all LTAL business relationships are properly reported on the CFR-5 and the notes to the audited annual financial statements.

Audit Scope and Methodology

We audited costs that Inspire reported on its CFR for the fiscal year ended June 30, 2013. The objective of our audit was to determine whether the reported costs were allowable, properly calculated, and adequately documented in accordance with applicable SED requirements.

To accomplish our objective, we reviewed the RCM that applied to the year we examined as well as the CFR Manual and its related appendices. We also became familiar with Inspire's internal controls as they related to costs it reported on the CFR. We reviewed Inspire's CFR for the fiscal year ended June 30, 2013 as well as its audited financial statements for this period. We obtained accounting records and supporting information to assess whether costs claimed by Inspire on the CFR were properly calculated, adequately documented, and allowable. Specifically, we reviewed costs that were considered high-risk and reimbursable in limited circumstances, such as employee bonuses, vehicle expenses, food, entertainment, and gifts. We also interviewed personnel to obtain an understanding of the practices for reporting costs on the CFR.

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 objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

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 (some of whom have minority voting rights) to certain boards, commissions, and public authorities. These duties may be considered management functions for purposes of evaluating organizational independence under generally accepted government auditing standards. In our opinion, these 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 a draft copy of this report to SED and Inspire officials for their review and formal comment. We considered their comments in preparing this report and have included them in their entirety at the end of it. In their response, SED officials agreed with our audit recommendations and indicated the actions they will take to address them. In their response, Inspire officials raised issues pertaining to proposed disallowances for bonuses, vehicle costs, and certain other than personal service expenses. Our rejoinders to certain comments by Inspire 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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Karen Bogucki, Audit Supervisor
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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

Inspire
Schedule of Submitted and Disallowed Program Costs
for the Fiscal Year 2012-13

Program Costs	Amounts Submitted Per CFR	Amounts Disallowed	Amounts Remaining	Notes to Exhibit
Personal Service				
Direct Care	$4,657,194	$103,651	$4,553,543	
Administration	825,477	46,117	779,360	
Total Personal Service	**$5,482,671**	**$149,768**	**$5,332,903**	A - E
Other Than Personal Service				
Direct Care	$777,916	$50,403	$727,513	
Administration	185,667	26,211	159,456	
Total Other Than Personal Service	**$963,583**	**$76,614**	**$886,969**	F - R
Total Program Costs	**$6,446,254**	**$226,382**	**$6,219,872**	

Notes to Exhibit

The following Notes refer to specific sections of the Reimbursable Cost Manual (RCM) and the Consolidated Fiscal Reporting and Claiming Manual (CFR Manual) for the fiscal year ended June 30, 2013, that we used as a basis for 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 Inspire officials during the course of the audit.

A. RCM Section II.13.A.10: A merit award (or 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 work hours. A merit award is restricted to direct care employees and may be reimbursed if it is based on merit, as measured and supported by employee performance evaluations and does not exceed three and a half percent of an employee's base salary.
B. CFR Manual Appendix R, Section 51, page 4: Lists job titles in the "100" job code series.
C. RCM Section II.13: Compensation for personal services includes all salaries and wages, as well as fringe benefits and pension plan costs.
D. RCM Section II.13.B.1: Fringe benefits may include paid time off, payments into specific employee benefit packages, employees' retirement and pension plans, Social Security, health insurance, life insurance, unemployment insurance and disability insurance.
E. RCM Section II.13.B.2 (b): Costs of benefits for employees who provide services to more than one program and/or entity must be allocated to separate programs and/or entities in proportion to the salary expense allocated to each program.
F. RCM Section II: Generally, costs will be considered for reimbursement provided such costs are reasonable, necessary, directly related to the special education program and are sufficiently documented.
G. RCM Section II.24: Gifts of any kind are non-reimbursable.
H. RCM Section II.22.C: Costs of food provided to any staff are not reimbursable.
I. IRCM Section II.30.C: Costs for food, beverages, entertainment and other related costs for meetings are not reimbursable.
J. RCM Section II.20.B: All personal expenses, such as beverage charges, parties for staff and holiday parties are not reimbursable.
K. RCM Section II.20.B: All personal expenses, such as personal travel expenses, laundry charges, beverage charges, gift certificates to staff and vendors, flowers or parties for staff, holiday parties, repairs on a personal vehicle, rental expenses for personal apartments, etc., are not reimbursable unless specified otherwise in the RCM.
L. RCM Section II.59.D.5: A vehicle log must be maintained to document fuel charges, mileage and repair costs for all program-owned vehicles.
M. RCM Section III.1.J.2: Vehicle costs are reimbursable if they are supported by vehicle logs consisting of the date, time of travel, destinations, mileage, purpose and the name of the traveler.
N. RCM Section III.1.E: Logs must be kept by each employee indicating dates of travel, destination, purpose, mileage and related costs such as tolls, parking and gasoline and approved by supervisor to be reimbursable.

O. CFR Manual Appendix R, Section 51, page 8: The Physician MD position is only reimbursable under program 9190 (Preschool Evaluations).

P. RCM Section I.4.A: In general, a LTAL relationship exists when there are related parties and one party can exercise control or significant influence over the management or operating policies of another party, to the extent that one of the parties is or may be prevented from fully pursuing its own separate interests. These relationships must be disclosed in the notes to the audited financial statements.

Q. CFR Manual Section 18: The CFR-5 is used to report all transactions, including compensation, between the reporting entity, its affiliates, principal owners, management and members of their immediate families.

R. RCM Section III.1.M. (1): Any expenditures that cannot be charged directly to a specific program must be allocated across all programs and/or entities benefited by the expenditure.

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
O: 518.473-4706
F: 518.474-5392

December 10, 2015

Ms. Andrea Inman
Audit Director
Office of the State Comptroller
Division of State Government Accountability
110 State Street – 11th Floor
Albany, NY 12236

Dear Ms. Inman:

The following is the New York State Education Department's (Department) response to the draft audit report, 2014-S-80, Compliance with the Reimbursable Cost Manual: Inspire (Orange County Cerebral Palsy Association).

In addition to the actions that will be taken in response to the specific recommendations described below, the Department 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 Inspire, 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 disallowances identified by our audit and make the necessary adjustments to the costs reported on Inspire's CFR and to Inspire's tuition reimbursement rates, as appropriate.

We agree with this recommendation. The Department 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: Remind Inspire officials of the pertinent SED guidelines that relate to the deficiencies we cited.

We agree with this recommendation. The Department will continue to provide technical assistance whenever requested and will strongly recommend that Inspire officials take advantage of our availability to help them better understand the standards for reimbursement as presented in Regulation and the Reimbursable Cost Manual. In addition, Consolidated Fiscal Report (CFR) training is available at six locations across the State and online on the Department's webpage. The training is recommended for all individuals signing CFR certification statements, namely Executive Directors and Certified Public Accountants, and is required for preschool special education providers upon approval and reapproval. Furthermore, the Department intends to require that the training be mandatory for all providers.

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

Sincerely,

S. Cates-Williams

Sharon Cates-Williams

c: James P. DeLorenzo
Suzanne Bolling

Agency Comments - Inspire

Community Habilitation
Developmental Disabilities Center
Early Intervention
Inspire Kids Preschool
Occupational Therapy
Physical Therapy
Psychology
Respite & Recreation
Service Coordination
Speech-Language Pathology
Therapeutic Pool

Audiology & Dentistry
provided at Inspire by
The Greater Hudson Valley
Family Health Center

Outpatient Center &
Inspire Kids Preschool
2 Fletcher Street
Goshen NY 10924
Tel: (845) 294-8806
Fax: (845) 294-8650

Disability Services &
Inspire Administration
78 Cypress Lane
Goshen NY 10924
Tel: (845) 294-7300
Fax: (845) 294-2391

Inspire Kids Preschool
344 Gidney Avenue
Newburgh, NY 12550
Tel: (845) 562-6220
Fax: (845) 562-6221

Inspire Kids Preschool
45 Gilbert Street Extension,
Monroe NY 10950
Tel: (845) 783-3022
Fax: (845) 783-3042

December 9, 2015

Mr. Frank Patone, CPA
Audit Director
Office of the State Comptroller
Division of State Government Accountability
110 State Street, 11th Floor
Albany, New York 12236

Dear Mr. Patone:

We have reviewed the OSC audit report of the Inspire (Orange County Cerebral Palsy Association) Consolidated Fiscal Report (CFR) for the fiscal year ending June 30, 2013 and respectfully submit our response to the issues raised during your audit.

<u>Personal Service Cost Disallowances:</u>

The Draft Audit disallowance totaling $149,769 was made up of the following components:

A: (1) Direct care merit based Salary "bonuses" and associated Fringe Benefits
$37,995

(2) Non-direct care merit based Salary "bonuses" and associated Fringe Benefits
$34,369

B: (1) Direct care Salary stipends/COLA and associated Fringe Benefits
$65.658

(2) Non-Direct care Salary stipends/COLA and associated Fringe Benefits
$11,746

Total **$149,768***

*Rounding

A(1). The Section A Personal Service monies were paid to staff as bonuses under RCM. While the OSC chose to look at the bonuses on an individual staff basis regarding the 3.5% limit, we viewed the limit as applying to an overall cap and not on an individual basis. We have previously demonstrated to OSC that when considered in this manner the "bonuses" are under the 3.5 % limitation. The SED RCM is intended to service as a guidance document setting out in general terms what are and are not allowed to be reimbursed through the tuition rates. If the intent of the RCM was to establish maximums on the different types of expenditures, it doesn't seem logical that programs could pay each employee up to 3.5% over their base compensation for a total of $131,492 and that if a program paid between 1.5% and 5.0% but the sum of those payments was $129,186(less than $131,492), that the State would attempt to disallow bonuses on an individual basis as the provider stayed within the gross increase allowed

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Comment
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www.inspirecp.org
An Affiliate of Cerebral Palsy Associations of New York State

*See State Comptroller's Comments on Page 18.

by the RCM. Therefore we request that an amount of $37,995 for direct care bonuses be added back to the Draft Audit reimbursable costs. We believe if the calculation is done so that the ineligible staff enhancements are eliminated first, the remaining salary enhancement amounts are equal to or less than the 3.5% of gross salaries of eligible workers and therefore totally reimbursable.

A(2). We agree with the Draft Audit Finding that monies paid to staff that are reported in ineligible position Title Codes should not be included in the Draft Audit reimbursable costs.

B (1) and (2). That amounts disallowed by the Draft Audit in these components were never considered by Inspire to fall into the "bonus" category.

* Comment 2

The Rate Setting Methodology has eliminated any growth in personal service costs and have materially depreciated the standing in the marketplace of the salaries we are able to offer staff. The zero growth factor began in 2010 and resulted in Inspire imposing a wage freeze in order to sustain the preschool programs being operated. In June 2012, the Board of Directors of Inspire approved the 2012-2013 fiscal year budget which included a salary stipend in lieu of an annual wage adjustment of 1 ½ percent for all staff to be paid in June 2013. The 1.5% increases were payments in lieu of any permanent salary increases and were done to compensate staff whose compensation had fallen further below market and jeopardized Inspire's ability to retain the staff required to teach and treat preschool children with disabilities. The intention was to provide all staff with a cost of living type adjustment (COLA) that was not in any way tied to performance. We understand that the SED rate growth screen may disallow some of the board designated increase but there is nothing to prohibit approved programs from giving staff increases. Therefore the OSC should not be disallowing these monies up front as adjustments to reported costs since the SED methodology will determine the maximum reimbursable dollars. The stipend and related fringe resulted in a disallowance by OSC of $77,404. Inspire believes the full amount of this budgeted and board approved stipend should be reinstated.

__**Other Than Personal Services**__

Vehicle Expenses

* Comment 3

The vehicle logs for 3 of the agency owned vehicles were provided to the OSC examiners and included the destination(s) of all 3 vehicles. The RCM does not require a "specific destination" that was cited as missing. The three vehicles in question are frequently used by direct care staff for travel to and from student locations. The purpose of the trips were not included on the vehicle logs used agency wide to be in compliance with the strict privacy rules mandated by Federal HIPAA and FERPA regulations. NOTE: addresses, zip codes and purpose of encounter (identification of treatment) are each protected "identifiers" under HIPAA.

Inspire feels the destinations that were on all the logs for 3 vehicles was adequate for us to assess the validity of the trip based on management's knowledge of staff schedules and we believe the spirit of the requirement was kept.

* Comment 4

The agency also owned 3 additional vehicles that were not part of the pool for all staff usage but were specifically assigned to the agency President (1) and agency maintenance personnel (2) that were responsible for the maintenance and upkeep of 3 campuses for preschoolers with disabilities and administrative services. Since there could be programs operated at these campuses approved by different state agencies, keeping to and from travel logs to the hardware store from a multiservice campus, for example, to pick up parts for the furnace would be extremely time consuming and inefficient. During the weekdays, these vehicles were used exclusively for agency business and normally included multiple and frequent trips between campuses, banks, post office and supply stores. Management was led to believe mileage logs were not necessary, as these vehicles were not considered part of the agency pool of cars available for general use. The use of these vehicles was allocated consistently with the allocation of janitorial/maintenance support and wages, as described in the RCM.

The automobile component of $6,453 included in the proposed disallowance of $31,359 had been previously disallowed by SED rate setting in the reconciliation process of 2012-2013.

Based on the above, Inspire believes the balance of the disallowed costs of $24,906 should be reinstated.

Other Ineligible Expenses

Of the $30,855 cited as not being costs related to the special education programs, Inspire paid $11,641 to a medical director who did in fact provide supervision to the nursing staffs of the preschools. Even though this expense was clearly related to the special education programs it had been previously disallowed by SED rate setting in the reconciliation process of 2012-2013. While we understand the CFR Manual indicates that position title code 320 M.D. is "Allowed in 9190 program only" for SED, we believe the intent of the prohibition was that medical services in general are not reimbursable in education programs but the MD did not perform Medical procedures in the education program but served as the supervisor of the nursing staff. The allocated time and costs should be reinstated in the Draft Audit. If the school coded this person as a 342 Clinical Coordinator SED would have allowed the related costs.

The remaining disallowance of $19,214 were primarily data processing and computer consultant costs that were reported as indirect and in fact should have been reported as direct costs to non SED programs. Inspire agrees these costs should not have been included in non-direct administrative expenses.

The balance of $14,400 for food at the agency picnic, staff lunches, and holiday party and agency service awards should not have been included in the costs reported on the CFR for 2012-2013 and Inspire agrees with this finding.

Noncompliance with Procedural and Record-Keeping Requirements

Inspire does agree and will include any less than arm's length transactions on the CFR 5 and in the notes to the audited annual financial statements.

Inspire does agree all costs should be more closely reviewed to determine if they should be directly charged to individual programs or charged to agency administration which gets distributed using the ratio value method.

Thank you for the time the OSC team spent throughout the field work. Please feel free to contact us if you have further questions.

Sincerely,

Marcel Martino
President/CEO

Cc James Delorenzo
Suzanne Bolling

State Comptroller's Comments

1. The assertion that OSC erroneously applied the reimbursable limit on bonuses is incorrect. Also, the assertion that bonuses should not be disallowed if, in total, they are less than or equal to 3.5 percent of the gross salaries of all eligible employees is also incorrect. In fact, the RCM clearly states a merit award (bonus) may be reimbursed if it "does not exceed three and a half percent of the base salary of the direct care employee who is receiving the merit award." Inspire, however, claimed bonuses that were up to 5 percent of salary, thus exceeding the 3.5 percent limit. We, therefore, disallowed bonuses in excess of 3.5 percent of each individual employee's salary. Further, SED confirmed that the 3.5 percent limit applied to the salary of each individual employee and agreed with OSC's proposed disallowance. We, therefore, maintain that the bonus payments we identified are ineligible and should be disallowed.
2. We question whether Inspire never considered the payments in question to fall into the "bonus" category, but instead considered them as "a salary stipend in lieu of an annual wage adjustment." In fact, we determined Inspire recorded the payments as bonuses on their payroll register. Further, the RCM defines a bonus as a "non-accumulating (i.e., not included in base salary of subsequent years) lump sum payment" in excess of regularly scheduled salary. In their response, Inspire agrees that the payments were not permanent salary increases. We, therefore, maintain that the payments were bonuses. Further, according to the RCM, a bonus may be reimbursed if it is based on merit. However, the payments in question were not merit-based, and SED agreed with our assessment of this matter. We, therefore, maintain that the amounts in question should be disallowed.
3. The destinations included in Inspire's vehicle logs were not sufficient to determine whether the trip was made in connection with a preschool special education program. In certain instances, a city was listed as a destination; however, Inspire did not operate a special education program in that particular location. Also, Inspire states it did not document the purpose of the trips (despite the RCM's requirement to do so) because of HIPAA and FERPA privacy regulations. However, it is possible to describe the purpose of a trip without revealing information protected by HIPAA and FERPA. For example, "to provide services to a student for program [code]" provides specific information about a trip's purpose. We further note that one of the three vehicles was purchased, in part, by a grant provided to Inspire by the NYS Elks for use by Inspire's home service director. However, this director does not provide services to Inspire's preschool special education programs. SED agreed with our assessment of these payments. Thus, we maintain that the amounts in question should be disallowed.
4. Inspire's assertion is incorrect. In fact, logs are necessary for vehicles that are assigned to specific individuals. The RCM does not make an exception for a vehicle assigned to a single employee. As such, we disallowed the costs associated with the vehicles assigned to single employees because they did not comply with the RCM's requirement. We, therefore, maintain that the amounts in question should be disallowed.