



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 Association to Benefit Children



Report 2017-S-28

February 2019

Executive Summary

Purpose

To determine whether the costs reported by the Association to Benefit Children (ABC) on its Consolidated Fiscal Report (CFR) were reasonable, necessary, directly related to the special education program, and sufficiently documented pursuant to the State Education Department's (SED) Reimbursable Cost Manual (Manual) and the Consolidated Fiscal Reporting and Claiming Manual (Claiming Manual). The audit included expenses claimed on ABC's CFR for the fiscal year ended June 30, 2014.

Background

ABC is a not-for-profit State-approved private school established in 1986. ABC is approved by SED to operate preschool Special Class in an Integrated Setting half-day classes (program 9165) and full-day classes (program 9160) to children who are between three and five years of age. For purposes of this report, these programs are collectively referred to as the cost-based programs. ABC serves about 86 children between three and five years of age with learning disabilities in the cost-based programs. Although ABC has seven locations, SED services are performed at three locations in Manhattan: 86th Street (47 students), 88th Street (25 students), and 126th Street (14 students).

ABC is reimbursed for preschool special education services through rates established by SED. The reimbursement rates are based on financial information that ABC reports to SED on its annual CFR. To be eligible for reimbursement, reported costs must comply with the Manual's requirements and be reasonable, necessary, directly related to the special education program, and sufficiently documented. For the fiscal year ended June 30, 2014, ABC reported approximately \$4.8 million in reimbursable costs for the audited cost-based programs.

In addition to the cost-based preschool special education programs, ABC operates an SED-approved Evaluation program. Payments for services under this program are based on fixed fees, as opposed to costs on the CFR.

Key Findings

For the fiscal year ended June 30, 2014, we identified \$263,196 in ineligible costs that ABC reported on its CFR and recommend such costs be disallowed. These ineligible costs included \$164,004 in personal service costs, \$13,696 in other than personal service (OTPS) costs, and \$85,496 in depreciation expenses. Regarding the ineligible personal service costs:

- For 39 out of the 106 employees, the total hours charged on the CFR were higher than the total hours worked on the ADP payroll. We obtained the payroll system's employee total hours report for the fiscal year ended June 30, 2014, which showed actual hours worked for each employee during this period. We obtained the hourly rates from ABC for these employees and, based on the difference in the number of hours claimed versus payroll, calculated the recommended disallowance of \$164,004 in personal service costs that did not comply with the applicable provisions of the Manual for reimbursement.

Our review of OTPS costs determined that charges/payments totaling \$13,696 were not reimbursable. This disallowed amount included food, non-allowed merchandise, and items without documentation, as follows:

- For program 9165, the costs included several food purchases for staff functions (such as luncheons) and food items that were not age appropriate (such as club soda and coffee creamer). In addition, some of the costs were not documented. The recommended disallowance is \$9,452.
- For program 9160, the recommended disallowance of \$2,213 included adult-size T-shirts and unsupported expenses at a hardware store.
- Some agency administrative expenses (food for staff functions, decorative supplies) were not sufficiently documented because there were no receipts. Based on the ratio value for the 9160 and 9165 programs, we recommend a disallowance of \$2,031.

The provider claimed on the CFR that it purchased buildings and made improvements, claiming depreciation of \$197,689 for the year ended June 30, 2014. Using adjusted values, the recommended disallowance for depreciation is \$85,496.

Key Recommendations

To SED:

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

To ABC:

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

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

Division of State Government Accountability

February 8, 2019

Ms. MaryEllen Elia
State Education Department
State Building – Room 125
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Albany, NY 12234

Ms. Gretchen Buchenholz
Executive Director
Association to Benefit Children
419 East 86th Street
New York, NY 10028

Dear Ms. Elia and Ms. Buchenholz:

The Office of the State Comptroller is committed to helping State agencies, public authorities, and local government agencies manage their resources efficiently. By so doing, it provides 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, entitled *Compliance With the Reimbursable Cost Manual*, of our audit of the expenses submitted by the Association to Benefit Children to the State Education Department for the purposes of establishing the tuition reimbursement rates. 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.

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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Background

The Association to Benefit Children (ABC) is a not-for-profit State-approved private school established in 1986. ABC is approved by the State Education Department (SED) to operate preschool Special Class in an Integrated Setting half-day classes (program 9165) and full-day classes (program 9160) to children who are between three and five years of age. For purposes of this report, these programs are collectively referred to as the SED cost-based programs. ABC provides these services to about 86 children aged three to five years with learning disabilities. Although ABC has seven locations, SED services are performed at three locations in Manhattan: 86th Street (47 students), 88th Street (25 students), and 126th Street (14 students).

The New York City Department of Education (DoE) refers preschool students to ABC based on clinical evaluations and pays for ABC's services using rates established by SED. The State, in turn, reimburses DoE 59.5 percent of the reimbursement rates it pays to ABC. These rates are based on financial information that ABC reports to SED on its annual Consolidated Fiscal Report (CFR). To qualify for reimbursement, costs reported on the CFR must comply with the criteria set forth in SED's Reimbursable Cost Manual (Manual). In addition, ABC must meet the reporting requirements in the Consolidated Fiscal Reporting and Claiming Manual (Claiming Manual). Reimbursable costs must be reasonable, necessary, directly related to the special education program, and sufficiently documented.

Section 4410-c of the Education Law provides that the State Comptroller shall audit the expenses reported to SED by special education service providers for preschool children with disabilities. For the fiscal year ended June 30, 2014, ABC reported approximately \$4.8 million in reimbursable costs for the audited cost-based programs.

In addition to the cost-based preschool special education programs, ABC operates one other SED-approved program: Evaluations. Payments for services under this program are based on fixed fees, as opposed to costs on the CFR.

Audit Findings and Recommendations

For the fiscal year ended June 30, 2014, we identified \$263,196 in reported costs that did not comply with the Manual's requirements and recommend such costs be disallowed. The ineligible costs included \$164,004 in personal service costs, \$13,696 in other than personal service (OTPS) costs, and \$85,496 in depreciation expenses (see Exhibit at the end of the report).

Personal Service Costs

According to the Manual, personal service costs, which include all salaries and fringe benefits paid or accrued to employees on the agency's payroll, must be reported on the 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 applicable provisions of the Manual. Further, the Manual states that costs will be considered for reimbursement provided they are reasonable, necessary, directly related to the education programs, and sufficiently documented. Compensation costs must be based on approved, documented payrolls. For the fiscal year ended June 30, 2014, ABC reported reimbursable personal service costs of \$3,329,460. We reviewed time records, offer letters/applications, pay rate and payday notice sheets, and salary authorizations for 39 of the 106 employees whose salaries, totaling \$1,698,263, were charged to the cost-based programs. We determined that there was insufficient documentation to support \$164,004 in claimed compensation costs. Specifically, we determined that:

- For these 39 employees, the total hours charged on the CFR were higher than the total hours worked on the ADP payroll. We obtained the payroll system's employee total hours report for the fiscal year ended June 30, 2014, which showed actual hours worked for each employee during this period. We obtained the hourly rates from ABC for these employees and, based on the difference in the number of hours claimed versus payroll, calculated the salary that did not comply with the applicable provisions of the Manual for reimbursement.

ABC stated that those expenses were due to input errors of hours on the CFR. However, we used the full-time equivalent (FTE) for each employee obtained from ABC to calculate the amount that should have been reported on the CFR and disallowed the amount in excess of that. Based on ABC's response to the preliminary findings, we reviewed the documentation provided and revised the disallowance from \$203,414 to \$164,004.

- One employee prepared manual time sheets despite having full access to the time record system. The employee, a related party, was the only staff member who prepared hand-written time sheets. ABC stated that the employee was unable to effectively track his time using the time record system because he neglected to swipe in and out, and often justified that by indicating his identification card was lost several times. This employee often worked after regular business hours, so the supervisor was not present to verify the worked hours. It was left up to the employee to state the hours worked without any means to approve them. The employee's salary for the year was \$10,920. The total

recommended disallowance for insufficiently supported personal service costs for this employee is \$10,920. In response to the preliminary findings, ABC indicated that the form used by the employee as a timesheet “includes each of the component data points required by the RCM, including, importantly, attestation through signature by both the employee and the supervisor.”

However, despite the availability of the payroll timekeeping machine at the sites where the employee worked, he chose not to use it. ABC did not provide any record of actual work product for this employee. Therefore, based on the lack of documentation, his salary is part of the recommended personal service disallowance.

Other Than Personal Service Costs

The Manual states that costs, including OTPS costs, will be considered for reimbursement provided such costs are reasonable, necessary, directly related to the special education program, and sufficiently documented. For the fiscal year ended June 30, 2014, ABC reported \$1,499,083 in OTPS costs. Our review of the OTPS costs resulted in a recommended disallowance of \$13,696 because they did not comply with the requirements in the Manual, were insufficiently documented, or were not documented at all, as detailed below.

We reviewed 203 charges/payments totaling \$36,773, including 80 charges totaling \$9,664 related to the 9165 program; 99 charges totaling \$19,051 related to the 9160 program; 12 hardware store credit charges totaling \$1,765; and 12 payments totaling \$6,293 under agency administration. Our review of OTPS charges determined that 106 charges/payments totaling \$13,696 were not reimbursable. The disallowed amount included food, non-allowed merchandise, and items without documentation, as follows:

- For program 9165, the costs included several food purchases for staff functions, such as luncheons, and food items that were not age appropriate, such as club soda and coffee creamer. In addition, some of the costs were not documented. The recommended disallowance is \$9,452.
- For program 9160, the recommended disallowance of \$2,213 included adult-size T-shirts and unsupported expenses at a hardware store.
- Some agency administration expenses (e.g., food for staff functions) were not reimbursable. In addition, there was no documentation to support the purchase of other items, such as kitchen and bath and “seasonal garden” merchandise. Some of the costs were not sufficiently documented because there were no receipts. Based on the ratio value for the 9160 and 9165 programs, we recommend a disallowance of \$2,031.

Based on our review of records and assessment of their accuracy, we concluded that ABC’s controls over procurement need some improvement. Purchases were made without an approval process or purchase orders, and goods were not verified as delivered before payment was made. ABC indicated that its operation did not lend itself to that process. However, ABC did not substitute another process to ensure purchases were appropriate and properly accounted for.

Property Expenses

The provider claimed on the CFR that it purchased buildings and made improvements, and as such, claimed costs for depreciation expenses. ABC used 25 years as the useful life to depreciate its building (and related) costs. ABC allocated depreciation expense by FTE by location. ABC claimed allocated depreciation of \$197,689 for the year ended June 30, 2014.

According to the Manual, Section III, General Requirements, 1. Recordkeeping, K. Buildings: “Records for buildings and land owned by the entity and used by the program must describe the buildings and land owned. Records must include a copy of the purchase agreement, deed, any mortgages and the amortization schedule for such mortgages. Records must include the allocable portion of space in each building used by or for the benefit of each program (education and non-education) and for the purposes of program administration and agency administration. All related information must be retained as long as the facility is used by an approved education program even if this period exceeds seven years.”

The school did not produce sufficient justification for using the 25-year useful life for the building, which resulted in higher depreciation expense charges in the claim year than a 40-year life would have. Accordingly, ABC should use the 40-year life when calculating depreciation expenses for its buildings.

The Claiming Manual states “The useful life of depreciable assets shall be the higher of the reported useful life or the useful life from the latest available edition of the Estimated Useful Lives of Depreciable Hospital Assets. The Estimated Useful Life Guidelines must be used in the calculation of depreciation expense unless the service provider can justify that an alternative useful life is more appropriate. Documentation to support the use of alternative useful lives must be available upon request.” ABC used 25 years as the useful life to depreciate its buildings and related costs. The Estimated Useful Life Guidelines provides for a 40-year useful life based on the type of construction. However, ABC did not provide support for using an alternative useful life. In addition, as per Manual criteria, ABC is required to maintain support for the cost reimbursement. Further, the useful life of office equipment was adjusted from 20 or 25 years to 5 years.

We also revised the depreciation expense for assets that were not eligible for depreciation because they were consumables, such as food, water, and flowers, totaling \$11,218.

The purchase price of land was included in the depreciation expenses claimed on the CFR. We reviewed 85 assets totaling \$17,667,690. According to the Claiming Manual, “Land costs are not depreciable and should be excluded from building costs.” We determined the land value for two buildings by obtaining information from the New York City Department of Finance and recalculating the value for the buildings alone. The following land values were deducted from the purchase price:

Building	Purchase Price	Land Value	Building Value
Echo Park	\$3,000,000	\$250,000	\$2,750,000
Cassidy's Place	\$1,700,000	\$950,000	\$750,000

Using the adjusted values, we recalculated the depreciation expense based on the ratio value of 11.37 percent for Echo Park (126th Street) and 54.89 percent for Cassidy's Place (86th Street). The recommended disallowance for depreciation is \$85,496 out of the \$197,689 amount claimed on the CFR.

Recommendations

To SED:

1. Review the recommended disallowances resulting from our audit and, if warranted, make the appropriate adjustments to the costs reported on ABC's CFR and to ABC's tuition reimbursement rates.
2. Work with ABC officials to help ensure their compliance with the provisions in the Manual and Claiming Manual.

To ABC:

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

Audit Scope, Objective, and Methodology

The objective of this audit was to determine whether the costs reported by ABC on its CFR were reasonable, necessary, directly related to the special education program, and sufficiently documented pursuant to SED's Manual. The audit included expenses claimed on ABC's CFR for the fiscal year ended June 30, 2014.

To accomplish our objective, we reviewed the Manual, the Claiming Manual, ABC's CFR, relevant financial records for the audit period, ABC's personnel files, students' files, and teachers' files. We interviewed ABC officials and staff to obtain an understanding of their financial and business practices. In addition, we selected a judgmental sample of 203 OTPS transactions to determine whether they were supported, program related, and reimbursable. The 203 sampled transactions took into account the relative materiality and risk of the various costs reported by ABC. We selected these transactions because they were not allowed (e.g., food for staff), not documented, or appeared to be unrelated to the audited programs. The 203 sampled transactions were not designed to be projected to the entire population of \$1,499,083 reported OTPS costs. We also evaluated the internal controls over the costs claimed on, and the schedules prepared in support of, the CFR submitted to SED.

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 during our audit 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 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 Education Law.

Reporting Requirements

We provided draft copies of this report to ABC and SED officials for their review and formal comment. Their comments were considered in preparing this final report and they are attached in their entirety at the end of it.

ABC officials generally disagreed with the audit conclusions and challenged select findings regarding the disallowance of personal service costs and property expenses. ABC claims that the personal service costs represent the salary payments to employees for actual hours worked and were accurately reported. For the property expenses, ABC officials believe they justified using an alternative useful life for their depreciable assets that was more appropriate than the useful life in the Manual. We thoroughly reviewed the documents ABC officials provided during the fieldwork and revisited them when the response to the draft report was received. We maintain our position that ABC did not support all of the personal service costs claimed on the CFR for the reasons stated in the audit report and, furthermore, did not justify the use of an alternative method to depreciate its property. SED agreed with our recommendations and indicated it will continue to provide technical assistance whenever requested; and agreed that ABC should take advantage of CFR training online on SED's web page. Our response to certain ABC 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

**Association to Benefit Children
Summary of Submitted and Disallowed Costs
for the Fiscal Year Ended June 30, 2014**

Program Costs	Amount per CFR	Amount Disallowed	Amount Remaining	Notes to Exhibit
Personal Services				
Direct	\$2,897,925	\$143,919	\$2,754,006	A-C,E,J
Agency Admin	431,535	20,085	411,450	B,F-J
Total Personal Services	\$3,329,460	\$164,004	\$3,165,456	
Other Than Personal Services				
Direct	\$1,325,820	\$97,161	\$1,228,659	A,B,D,E,I-K
Agency Admin	173,263	2,031	171,232	A-C,E,I
Total Other Than Personal Services	\$1,499,083	\$99,192	\$1,399,891	
Total Program Costs	\$4,828,543	\$263,196	\$4,565,347	

Notes to Exhibit

The following notes refer to specific sections of SED's Reimbursable Cost Manual (RCM) and the Consolidated Fiscal Reporting and Claiming Manual (Claiming 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 Provider officials during the course of our audit.

- A. RCM Section I.3.A - Schools must be able to demonstrate that sufficient internal controls exist for the protection of school assets.
- B. 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. Such reimbursable costs will be included in the calculation of tuition rates up to any limits or cost parameters approved annually in the rate-setting methodology.
- C. RCM Section II.22 - Costs of food provided to any staff including lunchroom monitors are not reimbursable. Food costs will not be reimbursed for special education itinerant unless required by the student's IEP as instructional supply.
- D. RCM Section II.13.A - Salaries include all taxable and non-taxable salaries and wages paid or accrued to employees on the agency's payroll, including severance pay to regular employees must be reported on the CFR as either direct care costs (e.g., teachers' salaries) or non-direct care costs (e.g., administrators' salaries).
- E. RCM 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.
- F. RCM Section II.13.A.4.(d) - For non-direct care staff under the 500 and 600 position title code series per Appendix R of the Claiming Manual, compensation must be supported by time and effort reports or equivalent documentation.
- G. RCM Section II.13.A.5 - Compensation to all individuals who have a financial interest in the program, such as family members, compensation should be commensurate to actual services provided as appropriately qualified program employees.
- H. RCM Section III.1.M.1.(i) - Salaries of employees who perform tasks for more than one program and/or entity must be allocated among all programs and/or entities for which they work.
- I. RCM 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 for each fiscal year for review upon audit for a minimum of seven (7) years. Allocation percentages should be reviewed on an annual basis and adjusted as necessary.
- J. RCM Section III.1.B - Actual hours of service are the preferred statistical basis upon which to allocate salaries and fringe benefits for shared staff who work on multiple programs. Entities must maintain appropriate documentation reflecting the hours used in this

allocation. Acceptable documentation may include payroll records or time studies. If hours of service cannot be calculated or a time study cannot be completed, then alternative methods that are equitable and conform to generally accepted accounting principles may be utilized. Documentation for all allocation methods (bases and percentages) must be retained for a minimum of seven years.

- K. Claiming Manual Appendix O (Guidelines for Depreciation and Amortization), page 48.2 - The useful life of depreciable assets shall be the higher of the reported useful life or the useful life from the latest available edition of the Estimated Useful Lives of Depreciable Hospital Assets. The Estimated Useful Life Guidelines must be used in the calculation of depreciation expense unless the service provider can justify that an alternative useful life is more appropriate. Documentation to support the use of alternative useful lives must be available upon request.

Agency Comments - State Education Department



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

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December 20, 2018

Ms. Carmen Maldonado
Audit Director
Division of State Government Accountability
NYS Office of the State Comptroller
59 Maiden Lane, 21st Floor
New York, NY 10038

Dear Ms. Maldonado:

The following is the New York State Education Department's (SED) response to the draft audit report, 2017-S-28, Compliance with the Reimbursable Cost Manual: Association to Benefit Children (ABC).

Recommendation 1:

Review the recommended disallowances resulting from our audit and make the appropriate adjustments to the costs reported on ABC's CFR and 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 ABC officials to help ensure their compliance with the provisions in the Manual and Claiming Manual.

We agree with this recommendation. SED will continue to provide technical assistance whenever requested and will strongly recommend the ABC 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, CFR training is available 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. This training is a requirement for preschool special education providers upon approval and reapproval.

If you have any questions regarding this response, please contact James Kampf, Supervising Accountant at (518) 474-3227.

Yours truly,

Sharon Cates-Williams
Deputy Commissioner

c: Christopher Suriano
Suzanne Bolling
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Agency Comments - Association to Benefit Children



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January 14, 2019

VIA ELECTRONIC EMAIL

Carmen Maldonado
Audit Director
Office of the State Comptroller
Division of State Government Accountability
59 Maiden Lane – 21st Floor
New York, NY 10038

**RE: State Education Department
Compliance with the Reimbursable Cost Manual
Association to Benefit Children (ABC)
Report 2017-S-28
Draft Report**

Dear Ms. Maldonado:

We have reviewed the aforementioned Draft Report relating to costs reported by the Association to Benefit Children (ABC) on its Consolidated Fiscal Report (CFR) and the OSC's determinations whether such costs were reasonable, necessary, directly related to the special education program, and sufficiently documented pursuant to the State Education Department's (SED) Reimbursable Cost Manual (RCM) and the Consolidated Fiscal Reporting and Claiming Manual (CFR Manual) for the fiscal year ending June 30, 2014. We appreciate the opportunity to correct certain representations made in the Draft and to provide comments and challenges to select Draft findings.

Personal Service Costs

Reported FTEs

While we appreciate the auditors' careful consideration of our challenge to the preliminary finding which initially disallowed \$203,414 in personal service costs, we renew our assertion that the analysis upon which even the reduced disallowance of \$164,004 is based is flawed.

ABC respectfully, but fundamentally, challenges the auditors' assertion that the total number of employee hours reported on the CFR warrants a disallowance. ABC acknowledges that an error was made in the preparation of the CFR. However, while a calculation error was, in fact, made, the reporting of the actual cost and expense was wholly accurate. Thus, while the number of employee hours was overstated based upon an error in calculation, there was no misrepresentation or exaggeration as to the actual costs and expenses. All such costs were fully substantiated by earnings documentation, employee files and timesheets which confirm the appropriateness of the salary payments. Moreover, the reported salary costs were wholly consistent with SED rate setting unit's expectations for the titles/positions - - the reimbursement rates developed by SED RSU aligned with actual costs, legitimately incurred and

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Comment
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*See State Comptroller's Comments, page 20.

Carmen Maldonado
 January 14, 2019
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appropriately reported. The error in the reporting of the actual hours did not affect the representation of the actual costs - - did not compromise the reporting of these expenses.

Point in fact, were the auditors’ proposed disallowance to stand, ABC would be unfairly disadvantaged - - the disallowance serving to devalue the costs and expenses actually and appropriately incurred. While the number of hours captured and reported on the CFR were, concededly, over-stated in error, the combination of provided documentation substantiates the full extent of each of salaries challenged by the auditors.

ABC restates its assertion that the analysis upon which the revised disallowance is based remains flawed. The auditors’ calculation formulae appears to rely on the FTE’s reported on the CFR which themselves are calculated directly from the hours reported on the CFR -- FTEs are a function of hours, and vice versa. Rather than allow flawed data to produce flawed conclusions, ABC proposed that the auditors base their calculations on the actual hours reflected on the supporting documentation, including timesheets. Under this analysis, the disallowance is nearly eliminated.

Manual Timesheets

ABC renews its challenge of the auditors’ finding that the salary costs of a specific employee should be disallowed for want of sufficiently supportive documentation. Contrary to the Reports’ allegation that “ABC did not provide any record of work product for (this employee)” and the equally misrepresentation that “ABC stated that a manual time sheet should be enough evidence”, ABC provided that auditors all relevant timesheets which reflected manual entry of hours worked, each of which had been reviewed and verified for accuracy by the assigned Supervisor, as reflected in the provided signature.

* Comment 2

We challenge the auditors’ intimation that manual time records are somehow inherently suspect when, as here, the completion of the tasks are visually verified by the Supervisor much as the verification of any task performed outside the standard work day.

Other Than Personal Services

Credit Card Charges

Sufficient Documentation//Maintenance Expenses

ABC acknowledges that it was unable to provide work orders or purchase orders in support of credit card charges reflecting certain maintenance supply expenses such as paint, electrical and garden items. However, ABC did produce invoices and receipts which reflected management review and verification of the legitimacy of the maintenance supply expenses. The Facilities Director is responsible for meeting the facility needs of the agency, including identifying necessary projects and minor maintenance needs. Under his direction, certain purchases are made to meet those maintenance needs - - purchases which do not lend themselves to work orders given the nature of the maintenance projects involved - - commonplace, ordinary and of general maintenance and repair.

We believe strongly that while we were unable to produce the requested work orders or purchase orders, the objective of such orders - - to identify and legitimize the purchase of certain supplies - - was well met by the direction and involvement of the Facilities Director.

Carmen Maldonado
January 14, 2019
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Agency Administration Expenses

ABC does not challenge the auditors' finding that select expenses relating to food for staff development programming should have been reported as a non-allowable expense.

Other Expenses

ABC does not challenge the auditors' finding that we were unable to provide sufficient documentation in support of certain nonetheless legitimate expenses. For example, expenses associated with adult-size T-shirts were clearly program related (necessary uniform for school team activity).

We would also clarify that ABC did not, as the Draft suggests, "indicate that its operation did not lend itself to (a purchase approval process or maintenance of purchase orders)". On the contrary, ABC maintains a sound procurement process with approval protocols and verification mechanisms. Only in the limited instances identified by the auditors were potential weaknesses revealed. ABC has strengthened its protocols to address these weaknesses.

Property Expenses

We respectfully challenge the auditors' claim that "the school did not produce support for using the 25-year useful life for the building "as relates to the allocation of depreciation expenses, nor "provided support for using an alternative useful life". On the contrary, in our response to the relevant preliminary response, ABC acknowledged that Appendix O of the Reimbursable Cost Manual directs that the "useful life of depreciable assets shall be the higher of the reported useful life or the useful life from the latest available edition of the Estimated Useful Lives of Depreciable Hospital Assets". We also note, however, the stated qualification that "the Estimated Useful Life of Guidelines must be used in the calculation of depreciation *unless the service provider can justify that an alternative useful life is more appropriate*" (emphasis added).

Upon review, ABC had confirmed that the Agency's calculation of depreciation was based upon NYS DSS/OCFS guidelines which direct the application of 25 years useful life. This "alternative" useful life value was most appropriate in the case of Group Homes acquired prior to July, 2005, based upon the use of the building at the time of acquisition - - services to young children. (Attachment provided: OCFS Guidelines)

The appropriateness of the 25-year useful life value was further confirmed by the Agency's Accounting Consultants which assisted in the determination of most appropriate value (Attachment provided: BDO Correspondence). Accordingly, we believe the appropriateness of the 25-year value for useful life has been sufficiently substantiated to "justify" the use of an alternative value, as authorized by the CFR Manual. We respectfully request the proposed disallowance be modified accordingly.

Moreover, we are confused by "estimated land values" set out by the auditors in the Draft, as the values are significantly higher than the value of the land at point of purchase. As the auditors are aware, GAAP directs that ABC reflect the historical cost of the property at point of purchase. As a result, any depreciation adjustment must be applied against that stated historical value - - an approach which does not appear to have been employed by the auditors. (Attachment provided: BDO Correspondence). We challenge the auditors' assertion that the NYC Department of Finance is controlling where, as here,

* Comment 3

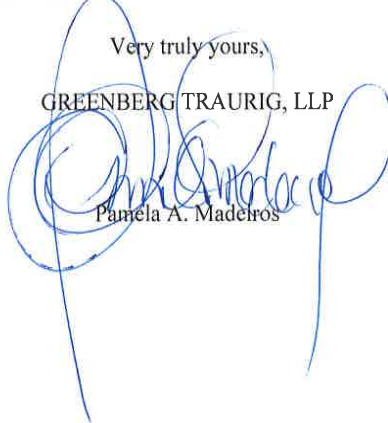
Carmen Maldonado
January 14, 2019
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GAAP directs the use of historical costs at point of purchase. Accordingly, we request the auditors' modify the finding in acknowledgment of the applicability of GAAP.

We appreciate the opportunity to provide comment on the Draft Report; to challenge select findings and to request refinement of certain statements contained within the Draft.

Very truly yours,

GREENBERG TRAURIG, LLP



Pamela A. Madero

PAM/erb
ALB2172599v1

Cc: James Kempf (NYSED)
Hal Matott (NYSED)
Karla Ravida (NYSED)

State Comptroller's Comments

1. The determination of the disallowance for personal service costs was not based on the total number of hours reported on the CFR. The actual number of hours worked are according to ABC's payroll records. The Manual states that "Compensation costs must be based on approved documented payrolls." The hours reported on the payrolls were compared to the number of hours based on each employee's FTE percentage. The difference between the hours based on the employee's FTE and the actual number of hours worked was multiplied by the employee's hourly rate to determine the disallowance.
2. We acknowledge ABC's comments and have revised the report to reflect its response to the preliminary findings. However, we maintain our position regarding this employee because he is a related party and, as such, should comply with the timekeeping system.
3. The Manual allows for a provider to submit an alternative useful life to depreciate its property. ABC proposed the use of the Office of Children and Family Services guidelines of 25 years to depreciate its property. However, the guideline applies to assets acquired after 2005, and ABC's assets were acquired prior to that year. In addition, ABC included the purchase price of land in the depreciation expenses claimed, which is not allowed. Moreover, ABC did not have the value of the land at the time of the purchase. The report does not make reference to "estimated land values." Rather, the land values used were from the New York City Department of Finance and were the actual assessed values at the time of purchase.