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 Developmental Disabilities Institute, Inc.

Report 2018-S-3

December 2018

Executive Summary

Purpose

To determine whether the costs reported by Developmental Disabilities Institute, Inc. (DDI) on its Consolidated Fiscal Reports (CFRs) 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). The audit focused primarily on expenses claimed on DDI's CFR for the year ended December 31, 2015 and certain expenses claimed on its CFRs for the two years ended December 31, 2014.

Background

DDI is a Suffolk County-based not-for-profit organization approved by SED to provide preschool special education services to children with disabilities who are between the ages of three and five years. During our audit period, DDI operated preschool special education full-day Special Classes and half-day and full-day Special Classes in an Integrated Setting. For the purposes of this report, these programs are referred to as the SED preschool cost-based programs. DDI also operated three other SED-approved preschool special education programs: Evaluations, Related Services, and 1:1 Aides. Payments for the services provided by these programs are based on fixed fees. In addition, DDI operated an SED-approved school-age special education program, an Early Intervention program funded through the Department of Health, programs authorized by the Office for People With Developmental Disabilities, and various other programs.

During 2015, DDI served about 577 preschool special education students in its cost-based programs. Local counties refer students to DDI based on clinical evaluations and pay for the services using rates established by SED. The rates are based on the financial information DDI reports to SED on its annual CFRs. For the three years ended December 31, 2015, DDI reported approximately $39.8 million in reimbursable costs for its SED preschool cost-based special education programs.

Key Findings

For the three years ended December 31, 2015, we identified $138,718 in reported costs that did not comply with the RCM's requirements, as follows:

- $69,350 in vehicle expenses that were unsupported and/or were insufficiently documented;
- $34,302 in excess staffing expenses;
- $18,733 in executive compensation that was above the median compensation levels;
- $13,438 in non-mandated fringe benefits that were insufficiently documented and not program related;
- $2,004 in legal costs that were insufficiently documented or charged to the incorrect period; and
- $891 in non-allowable lobbying, food for parents, and personal expenses.

Key Recommendations

To SED:

- Review the recommended disallowances resulting from our audit and make the appropriate adjustments to DDI's CFRs and tuition reimbursement rates, as warranted.
- Work with DDI officials to ensure their compliance with SED's reimbursement requirements.

To DDI:

- Ensure that costs reported on future CFRs comply with SED's reimbursement requirements.

Other Related Audits/Reports of Interest

Infant and Child Learning Center - The Research Foundation for the State University of New York: Compliance With the Reimbursable Cost Manual (2017-S-22)
Interdisciplinary Center for Child Development: Compliance With the Reimbursable Cost Manual (2017-S-31)

State of New York
Office of the State Comptroller

Division of State Government Accountability

December 27, 2018

Ms. MaryEllen Elia
Commissioner
State Education Department
State Education Building - Room 125
89 Washington Avenue
Albany, NY 12234

Mr. John Lessard
Executive Director
Developmental Disabilities Institute, Inc.
99 Hollywood Drive
Smithtown, NY 11787

Dear Ms. Elia and Mr. Lessard:

The Office of the State Comptroller is committed to helping State agencies, public authorities, and local government agencies manage their resources efficiently and effectively and by so doing, providing accountability for the tax dollars spent to support government-funded 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 Developmental Disabilities Institute, Inc. to the State Education Department for the purposes of establishing 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 report, please feel free to contact us.

Respectfully submitted,

Office of the State Comptroller
Division of State Government Accountability

Table of Contents

State Government Accountability Contact Information:
Audit Director: Kenrick Sifontes
Phone: (212) 417-5200
Email: StateGovernmentAccountability@osc.ny.gov
Address:
Office of the State Comptroller
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

Developmental Disabilities Institute, Inc. (DDI) is a Suffolk County-based not-for-profit organization approved by the State Education Department (SED) to provide preschool special education services to children with disabilities who are between the ages of three and five years. During our audit period, DDI provided full-day Special Classes (SC) and half-day and full-day Special Classes in an Integrated Setting (SCIS). For purposes of this report, these programs are collectively referred to as SED's preschool cost-based programs.

DDI also operated three other SED-approved preschool special education programs: Evaluations, Related Services, and 1:1 Aides. However, payments for services under these programs are based on fixed fees, as opposed to the cost-based rates established through financial information reported on the annual Consolidated Fiscal Reports (CFRs) DDI files with SED. In addition, DDI operated an Early Intervention program funded through the Department of Health, an SED-approved special education program for school-age children, programs authorized by the Office for People With Developmental Disabilities (OPWDD), and various other programs. During 2015, DDI served about 577 preschool students.

Local counties refer students to DDI based on clinical evaluations and pay for its services using rates established by SED. The rates are based on the financial information DDI reports to SED on its annual CFRs. To qualify for reimbursement, DDI's expenses must comply with the criteria set forth in the Consolidated Fiscal Reporting and Claiming Manual (CFR Manual) and the Reimbursable Cost Manual (RCM), which provide 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 the counties 59.5 percent of the statutory rates paid to DDI.

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 three years ended December 31, 2015, DDI reported approximately $39.8 million in reimbursable costs for its SED preschool cost-based programs. This audit focused primarily on expenses claimed on DDI's CFR for the year ended December 30, 2015 and certain expenses reported on its CFRs for the two years ended December 30, 2014.

Audit Findings and Recommendations

According to the RCM, costs will be considered for reimbursement provided such costs are reasonable, necessary, directly related to the special education program, and sufficiently documented pursuant to the requirements in the RCM. For the three years ended December 31, 2015, we identified $138,718 in reported costs that did not comply with SED's requirements for reimbursement. The ineligible costs included $66,473 in personal service costs and $72,245 in other than personal service (OTPS) costs (see the Exhibit at the end of this report).

Personal Service Costs

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). For the three years ended December 31, 2015, DDI reported approximately $34.2 million in personal service costs for its SED preschool cost-based programs. We identified $66,473 in personal service costs that did not comply with the RCM's guidelines for reimbursement. SED, pursuant to a desk review, previously disallowed some of these costs.

Excess Staffing Expenses

SED program approval letters establish the direct care student-to-staff ratios under which preschool special education classrooms are to operate. According to the RCM, direct care personnel costs in excess of the approved ratios are not reimbursable.

For the three years ended December 31, 2015, we compared teacher and teacher aide/assistant staffing levels reported on DDI's CFRs with the relevant SED approval letters. We found that DDI exceeded approved staffing levels for the three years, as follows:

- For 2015, the SED-approved staffing limit for DDI SCIS teacher aides/assistants was 4.6016 full-time equivalents (FTEs). However, DDI reported 4.826 FTEs on its CFR – an excess of 0.2244 FTEs. The compensation cost for this excess staffing was $3,588 ($2,783 in salaries and $805 in fringe benefits).
- For 2014, the SED-approved staffing limit for DDI SCIS teacher aides/assistants was 4.7936 FTEs. However, DDI reported 4.994 FTEs on its CFR – an excess of 0.2004 FTEs. The compensation cost for this excess staffing was $2,784 ($2,194 in salaries and $590 in fringe benefits).
- For 2013, the SED-approved staffing limit for DDI SC teachers was 12.104 FTEs. However, DDI reported 12.57 FTEs on its CFR – an excess of 0.466 FTEs. The compensation cost for this excess staffing was $18,670 ($14,497 in salaries and $4,173 in fringe benefits). In addition, the SED-approved staffing level for DDI SCIS teacher aides/assistants was 4.848 FTEs. DDI reported 5.478 FTEs on its CFR – an excess of 0.63 FTEs. The compensation cost for this excess staffing was $9,260 ($7,190 in salaries and $2,070 in fringe benefits).

Consequently, we recommend that SED disallow $34,302 ($26,664 in salaries and $7,638 in fringe benefits) in excess compensation because it did not comply with the RCM's requirements.

Excess Executive Compensation

According to the RCM, compensation (i.e., salaries and fringe benefits) for an entity's staff whose function is that of Executive Director and Assistant Executive Director will be directly compared to the regional median compensation for comparable administration job titles of public school districts. Reimbursement shall not exceed the median compensation paid to comparable personnel in public schools for similar work and hours of employment in the region where the entity is located.

For the three years ended December 31, 2015, DDI reported $1,712,653 ($552,891 in 2013, $566,886 in 2014, and $592,876 in 2015) in compensation for its Executive Director and Assistant Executive Director. However, the total regional median reimbursement limit for those positions for the three years was $1,587,894. Consequently, their compensation exceeded SED's limits by $124,759 ($1,712,653 - $1,587,894). We recommend that SED disallow $18,733, the portion of the excessive compensation that was allocated to the SED preschool cost-based programs.

Insufficiently Documented and Non-Program-Related Fringe Benefit Costs

According to the RCM, costs will be considered for reimbursement provided such costs are reasonable, necessary, directly related to the special education program, and sufficiently documented. In its CFRs for the three years ended December 31, 2015, DDI reported $13,438 in non-mandated fringe benefit costs ($3,868 in 2013, $4,948 in 2014, and $4,622 in 2015) for employees who reportedly worked for the SED preschool cost-based programs. However, DDI officials did not adequately document these expenses (i.e., identify the corresponding employee names). Further, based on a review of DDI's records, these expenses were related to DDI's OPWDD programs and should not have been charged to the SED cost-based programs. Consequently, we recommend SED disallow the $13,438.

Other Than Personal Service Costs

According to the Manual, OTPS costs must be reasonable, necessary, directly related to the special education program, and sufficiently documented. For the three years ended December 31, 2015, DDI reported approximately $5.6 million in OTPS costs for the SED preschool cost-based programs. We identified $72,245 of these costs that did not comply with SED's reimbursement requirements.

Vehicle Expenses

According to the RCM, vehicle use must be documented with individual vehicle logs that include, at a minimum: the date and time of travel, to and from destinations, mileage between each destination, purpose of travel, and name of traveler. If the vehicle was assigned to an employee, the name of that employee must also be listed. The annual mileage for program purposes and repair and maintenance costs for each vehicle should be summarized and maintained.

For the three years ended December 31, 2015, DDI included gas, maintenance, and insurance costs for vehicles on its CFRs. While DDI maintained individual vehicle logs, several logs did not document the travel purpose, as required. Consequently, we were unable to determine if the vehicle use and the corresponding costs were reasonable, necessary, and directly related to the special education program.

We recommend that SED disallow $69,350 ($26,864 in 2013, $27,478 in 2014, and $15,008 in 2015), the amount that DDI allocated to the preschool cost-based programs.

Other Ineligible OTPS Costs

According to the RCM, all payments to consultants who provide legal services must be supported by itemized invoices that indicate the specific services actually provided; the date(s), number of hours provided, and the fee per hour for each service; and the total amount charged. The RCM also requires the accrual basis of accounting be used. Further, expenses for lobbying activities, food for staff, and personal use items are not reimbursable. Our audit identified $2,895 in other OTPS expenses that did not comply with the RCM, as follows:

- $2,004 in legal costs that were insufficiently documented (e.g., no invoices) or charged to the incorrect period; and
- $891 in non-allowable lobbying, food for staff/parents, and personal expenses (e.g., car tires).

Recommendations

To SED:

1. Review the recommended disallowances resulting from our audit and make the appropriate adjustments to DDI's CFRs and tuition reimbursement rates, as warranted.

2. Work with DDI officials to help ensure their compliance with the provisions of the RCM.

To DDI:

3. Ensure that costs reported on future CFRs comply with SED's reimbursement requirements.

Audit Scope, Objective, and Methodology

We audited the costs reported on DDI's CFRs to determine whether they were reasonable, necessary, directly related to the special education programs, and sufficiently documented pursuant to SED guidelines. The audit focused primarily on expenses claimed on DDI's CFR for the year ended December 31, 2015 and certain expenses claimed on its CFRs for the two years ended December 31, 2014.

To accomplish our objective, we reviewed the RCM, the CFR Manual, DDI's CFRs, and relevant financial and program records for the audit period. In addition, we evaluated the internal controls over the costs claimed on, and the schedules prepared in support of, the CFRs submitted to SED. We also interviewed DDI officials and staff to obtain an understanding of DDI's financial and business practices. In addition, we selected and reviewed a judgmental sample of reported costs to determine whether they were supported, program related, and reimbursable. Specifically, we reviewed costs that were considered high risk and reimbursable in limited circumstances based on prior audit report findings, such as salaries, fringe benefits, and vehicle expenses. Our samples were not designed to be projected to the entire population of reported costs.

We conducted our performance audit in accordance with generally accepted government auditing standards. Those 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.

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 DDI officials for their review and formal comment. Their comments were considered in preparing this final report and are included at the end of it. SED officials agreed with our recommendations and indicated they will take steps to address them. DDI officials agreed with many of our proposed disallowances but disagreed with others. Our responses to certain comments are embedded within DDI's response.

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

Kenrick Sifontes, Audit Director
Gene Brenenson, CPA, Audit Manager
Sheila Jones, Audit Supervisor
Tania Zino, Examiner-in-Charge
Hugh Zhang, Senior Examiner
Jaleesa Carter, Staff Examiner

Division of State Government Accountability

Andrew A. SanFilippo, Executive Deputy Comptroller
518-474-4593, asanfilippo@osc.ny.gov

Tina Kim, Deputy Comptroller
518-473-3596, tkim@osc.ny.gov

Ken Shulman, Assistant Comptroller
518-473-0324, kshulman@osc.ny.gov

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

Developmental Disabilities Institute, Inc.
Summary of Submitted and Disallowed Costs
for the 2013, 2014, and 2015 Calendar Years

Program Costs	Amount per CFR	Amount Disallowed	Amount Remaining	Notes to Exhibit
Personal Service Costs				
Direct Care	$32,244,509	$47,146	$32,197,363	A-C
Agency Administration	1,935,838	*19,327	1,916,511	
Total Personal Service Costs	**$34,180,347**	**$66,473**	**$34,113,874**	
Other Than Personal Service Costs				
Direct Care	$4,969,017	$70,241	$4,898,776	B, D-I
Agency Administration	633,256	2,004	631,252	
Total Other Than Personal Service Costs	**$5,602,273**	**$72,245**	**$5,530,028**	
Total Program Costs	**$39,782,620**	***$138,718**	**$39,643,902**	

* SED, pursuant to a desk review, previously disallowed some of these costs.

Notes to Exhibit

The following Notes refer to specific sections of SED's RCM 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 DDI officials during the course of our audit.

A. RCM Section I.6 – Staff-to-student ratios are defined in Part 200 of the Commissioner of Education's Rules and Regulations. A specific approved program's student-to-staff ratio is also defined in that program's programmatic approval letter from SED's Office of Special Education-Special Education Quality Assurance. Direct care personnel in excess of, or not prescribed by such ratios, are not reimbursable, unless supported by the student's individualized education program (IEP) requirements and the program generated summary data relating to those IEPs. An SED programmatic review and approval of variations from these ratios is required for costs of additional staff to be reimbursable.
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 sufficiently documented.
C. RCM Section II.13.A.(4)(a) – Compensation (i.e., salaries plus fringe benefits) for an entity's staff whose function is that of Executive Director, Assistant Executive Director, or Chief Financial Officer will be directly compared to the regional median compensation for comparable administration job titles of public school districts. Reimbursement of employee compensation for these job titles shall not exceed the median compensation paid to comparable personnel in public schools for similar work and hours of employment in the region in which the entity is located.
D. RCM Section II.14.B – Costs associated with retainers for legal, accounting, or consulting services are not reimbursable unless the fee represents payment for actual documented reimbursable services rendered, provided the services are not for lobbying efforts. Lobbying activities including advocating for legislation and activities associated with obtaining grants, contracts, cooperative agreements, or loans are not reimbursable.
E. RCM Section II.20.B – All personal expenses are not reimbursable.
F. RCM Section II.22.C – Costs of food provided to any staff are not reimbursable.
G. RCM Section III.1.C.(2) – All payments must be supported by itemized invoices that indicate the specific services actually provided and, for each service, the date(s), number of hours provided, fee per hour, and total amount charged.
H. RCM Section III.1.J.(2) – Vehicle use must be documented with individual vehicle logs that include at a minimum: the date, time of travel, to and from destinations, mileage between each, purpose of travel, and name of traveler.
I. RCM Section III.2.B – The accrual basis of accounting is required for all programs receiving Article 81 and/or Article 89 funds.

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 7, 2018

Mr. Kenrick Sifontes
Audit Director
Division of State Government Accountability
110 State Street – 11th Floor
Albany, NY 12236

Dear Mr. Sifontes:

The following is the New York State Education Department's (SED) response to the draft audit report, 2018-S-3, Compliance with the Reimbursable Cost Manual: Developmental Disabilities Institute, Inc. (DDI).

Recommendation 1: Review the recommended disallowances resulting from our audit and make the appropriate adjustments to DDI's CFRs and tuition reimbursement rates, as warranted.

We agree with this recommendation; provided that SED will look further into OSC's application of the Reimbursable Cost Manual (RCM) standard that costs for "direct care personnel in excess of, or not prescribed by, such [student-to-staff] ratios are not reimbursable" as the RCM further states, "unless supported by the student's IEP requirements and the program generated summary data relating to those IEPs." If supported by student IEP requirements, DDI's excess staff may be reimbursable. 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 DDI officials to ensure their compliance with SED's reimbursement requirements.

We agree with this recommendation. SED will continue to provide technical assistance whenever requested and will strongly recommend the DDI officials take advantage of our availability to help them better understand the standards for reimbursement as presented in Regulation and the 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 Harold Matott, Director of Rate Setting at (518) 474-3227.

Yours truly,

Sharon Cates-Williams

Sharon Cates-Williams

c: Christopher Suriano
Harold Matott
Suzanne Bolling
Karla Ravida

Agency Comments - Developmental Disabilities Institute, Inc. and State Comptroller's Comments

ddi Developmental Disabilities Institute

November 19, 2018

99 Hollywood Drive
Smithtown, NY 11787
Tel: (631) 366-2900
Fax: (631) 366-2996
www.ddiny.org

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

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

Re: State Education Department
Compliance with the Reimbursable Cost Manual
Developmental Disabilities Institute, Inc.
Response - Draft Audit Report 2018-S-3

Dear Mr. Sifontes:

As an organization that is compliance focused, we acknowledge and appreciate the intent of the OSC audits to identify provider misrepresentations of costs incurred and resulting inaccurate allocations of expenses to State Education Programs.

We have reviewed the above referenced draft audit report concerning costs submitted by Developmental Disabilities Institute, Inc. (DDI) in its Consolidated Fiscal Report (CFR) for the calendar year ending December 31, 2015 and certain expenses reported on CFRs for the two calendar years ending December 31, 2013 and 2014 and the auditors' determinations whether such expenses were properly calculated, adequately documented, and allowable under the Reimbursable Cost Manual (RCM) guidelines, as directed by the State Education Department (NYSED). We provide the following comments and challenges to select findings presented in the report.

Personal Service Costs

Excess Staffing Expenses:

We reassert our challenge of the auditors' finding that staffing exceeded the approved staff levels for the 2015 9160FF SCIS program. DDI acknowledges that FTEs of 0.274 related to DDI job code Assistant Lead Instructors were incorrectly reported under CFR Position Title Code 232 Teacher Assistant, rather than CFR Position Title Code 347 Staff

Integrity *Dignity* *Teamwork* *Compassion*

Training. The details of the staff coded to this position, as well as the job description for the Assistant Lead Instructor position which detailed the responsibilities of the position including oversight and training for the Teacher Aide/Assistant positions, were provided to the auditors. In addition, DDI provided the auditors with email communications between DDI and NYSED's Rate Setting Unit regarding the misclassification of the Assistant Lead Instructor position as part of the 2015/2016 NYSED desk audit and rate reconciliation process. As reflected by the NYSED Rate Setting Unit's Adjustment Entry Sheets, NYSED acknowledged the reporting error relating to the Assistant Lead Instructor positions and made no disallowance of associated expenses. The coded position should not, therefore, be included in the calculation of staffing ratios. Adjusting for the coding error, the staffing levels are then appropriate and no disallowances are warranted.

We also reassert our challenge of the auditors' finding that staffing exceeded the approved staff levels for the 2014 9160FF SCIS program. As noted above, FTEs of 0.333 related to DDI job code Assistant Lead Instructors were incorrectly reported under CFR Position Title Code 232 Teacher Assistant, rather than CFR Position Title Code 347 Staff Training. The details of the staff coded to this position, as well as the job description for the Assistant Lead Instructor position which detailed the responsibilities of the position including oversight and training for the Teacher Aide/Assistant positions, were provided to the auditors. The coded position, then, should not be included in the calculation of staffing ratios. Adjusting for the coding error, the staffing levels are then appropriate and no disallowances are warranted.

We likewise reassert our challenge to the auditors' finding that staffing exceeded the approved levels for the 2013 9160FF SCIS program and recommend that the associated disallowance should be reduced from 0.63 to 0.278 FTE, which amounts to $4,209 in excess costs ($3,268 in salaries and $941 in fringe benefits). As asserted above, FTEs of 0.352 related to Assistant Lead Instructor positions were incorrectly reported under CFR Position Title Code 232 Teacher Assistant, rather than CFR Position Title Code 347 Staff Training. The detail of the staff coded to this position, as well as the job description, were provided to the auditors. As asserted above, NYSED acknowledged the reporting error during the rate setting process and affirmatively also declined to take any disallowance associated with the error. Clearly, NYSED does not consider this coded position to be part of the staffing ratio, and the excess staffing should be reduced to 0.278 FTEs consistent with NYSED's own analysis.

State Comptroller's Comment - We stand by the $34,302 in recommended disallowances for excess staffing. As indicated in our report, the staffing full-time equivalents were overstated. In addition to providing emails from the State Education Department (SED), DDI officials provided employee names, salaries, job descriptions, and a list of "shared" employees who they indicated had worked for multiple programs. However, the documentation was insufficient to show that the salaries for these individuals were appropriately allocated to the cost-based programs.

We do not challenge the disallowance related to the 2013 9100 excess teacher staffing.

<u>Excess Executive Compensation:</u>

We do not challenge the auditors' determination that certain compensation expenses exceeded NYSED's approved levels. However, NYSED has consistently guided providers to report costs as incurred, advising providers not to "self-disallow" any excesses since the rate setting methodology is designed to identify any potential excesses above the median salary and "screen out" such excesses during NYSED's rate calculation process. We respectfully request that the Draft Report be revised to acknowledge that the NYSED's Rate Setting Unit had already identified and disallowed these excess costs through the rate reconciliation process.

State Comptroller's Comment - Our audit is independent of SED's desk reviews. Moreover, we may be aware of information that was unavailable to SED at the time of its review. However, in the Exhibit on page 12, as well as the narrative on page 6 of the report, we acknowledged that SED had disallowed a portion of the ineligible personal service costs during its desk review.

Fringe Benefits:

We do not challenge the disallowance of $13,438 in non-mandated fringe benefits during the years under audit.

Other Than Personal Service Costs

Vehicle Expenses:

We reassert our challenge to the proposed disallowance of $71,075 in vehicle expenses. Weekly vehicle usage logs related to 2013-2015 maintenance staff responsible for the Preschool and agency administration building and property upkeep/repairs were provided to the audit team. Each log contained the date of travel, destination, and the start and end mileage in support of the trip, as required by the Reimbursable Cost Manual. Further, we corroborated the purpose of the trips by providing the audit team with invoices that corresponded to the trips documented on the vehicle logs. The invoices provided were associated with trips to purchase repair and maintenance items, which were charged to the related building and allocated to programs within the building based on square footage utilization.

State Comptroller's Comment - Based on documentation provided by DDI, the recommended vehicle disallowance has been reduced to $69,350. The Reimbursable Cost Manual (RCM) requires vehicle use to be documented in individual vehicle logs. As stated in the report, several logs provided by DDI officials were insufficient to indicate the purpose of vehicle trips.

Thus, a determination as to vehicle use and the reasonableness of the corresponding costs could, in fact, have been made upon thoughtful consideration of the totality of the documentation supporting the vehicle logs.

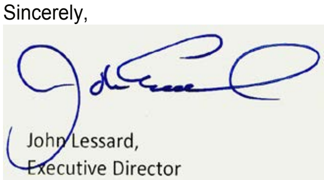
Other Ineligible OTPS Costs:

While we do not challenge certain auditor findings, we reassert our challenge of the proposed disallowance of $533 in legal services as the expense was, in fact, recorded within the school year period. The legal invoice was recorded in April 2015 related to October 2014 services. While the invoice was not accrued in the calendar year 2014, the expense was recorded within the period of July 2014 - June 2015 school year. Accordingly, the expense was properly recorded in compliance with the Reimbursable Cost Manual.

State Comptroller's Comment - The RCM requires providers to use the accrual basis of accounting. Since DDI files calendar-year Consolidated Fiscal Reports (CFR), reporting an October 2014 legal expense on the 2015 CFR rather than on the 2014 CFR, is inconsistent with the accrual basis of accounting.

We appreciate the opportunity to respond to the auditor's report and requests that the auditors reexamine the documentation provided to reduce the aforementioned disallowances.

Sincerely,



John Lessard,
Executive Director

CC: MaryEllen Elia, James Kampf, Karla Ravida, Harold Matott -NYSED
Tania Zino, Sheila Jones, Mark E. Johnson, Donald X. Cavanaugh, Shawn Thompson, Jane E. Hall, Jason Porter, Kate A. Gurnett, Jennifer L. Freeman, Tina Kim, Mary T. Roylance, Kimberly A. Bott, Carlos F. Rodriguez, Christina Baal-Owens, Matthew Sweeney, Tania Lopez, Jennifer B. Paperman, Kenneth Shulman, Mary McCoy, Andrea Majot, Kevin Fung - OSC
Sophia Samuel, Erica Razzano - DDI
Pamela Madeiros - Greenberg Traurig, LLP