New York State Comptroller
THOMAS P. DiNAPOLI

Omni Childhood Center, Inc. – Compliance With the Reimbursable Cost Manual

State Education Department

Report 2019-S-66| **October 2021**

Spotlight on Education

Audit Highlights

Objective

To determine whether the costs reported by Omni Childhood Center, Inc. (Omni) 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) and the Consolidated Fiscal Reporting and Claiming Manual (CFR Manual). The audit focused primarily on expenses claimed on Omni's CFR for the fiscal year ended June 30, 2015 and certain expenses claimed on its CFRs for the two fiscal years ended June 30, 2014.

About the Program

Omni is a New York City-based proprietary organization authorized by SED to provide preschool Special Education Itinerant Teacher (SEIT) services to children with disabilities who are between the ages of 3 and 5 years. During the 2014-15 school year, Omni served approximately 518 students. Omni also operated another SED-approved preschool special education program (Evaluations) and a Department of Health Early Intervention program. 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 CFRs. In addition, Omni shares services, building space, and teaching and administrative staff with another proprietary institution, Feigi Taub Halberstam Audiology and Speech Pathology, P.C. (FTH), owned by the same individuals who own Omni. FTH provides occupational therapy, speech therapy, audiology, and hearing aid services.

The New York City Department of Education refers students to Omni and pays for its services using rates established by SED. The rates are based on the financial information Omni reports to SED on its annual CFRs. For the three fiscal years ended June 30, 2015, Omni reported approximately $29.4 million in reimbursable costs for the SEIT cost-based program.

Key Findings

For the three fiscal years ended June 30, 2015, we identified $1,588,037 in reported costs that did not comply with the requirements in the RCM and the CFR Manual, as follows:

- $488,549 in legal expenses that were not related to the SEIT preschool cost-based program;
- $249,930 in compensation expenses that were overallocated to the SEIT preschool cost-based program;
- $245,526 in non-reimbursable property-related expenses, including $162,739 in overallocated property rental expenses and $82,787 in non-program-related and overallocated expenses;
- $183,027 in unsupported compensation expenses that were charged to the SEIT preschool cost-based program;
- $162,530 in non-program-related compensation expenses that were charged to the SEIT preschool cost-based program;
- $141,596 in non-reimbursable accounting costs, including $122,311 in expenses that were insufficiently documented, $12,782 in unsupported accounting expenses, and $6,503 in ineligible non-audit services that were provided during the same 365-day period of required audit work;

- $43,405 in non-mandated fringe benefits that were not in compliance with RCM requirements, including $40,361 in benefits that were not proportionally similar to those provided for other employees and $3,044 in benefits that were incorrectly allocated to the SEIT preschool cost-based program;
- $38,322 in consulting fee expenses that did not comply with RCM requirements; and
- $35,152 in ineligible expenses, including $26,105 in personal Internet service fees and $9,047 in other expenses that were either not adequately supported, not program related, or overallocated.

Key Recommendations

To SED:

- Review the recommended disallowances identified by our audit and make the necessary adjustments to the costs reported on Omni's CFRs and to Omni's tuition reimbursement rates, as warranted.
- Remind Omni officials of the pertinent SED requirements that relate to the deficiencies we identified.

To Omni:

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

Office of the New York State Comptroller
Division of State Government Accountability

October 20, 2021

Betty A. Rosa, Ed.D.
Commissioner
State Education Department
State Education Building
89 Washington Avenue
Albany, NY 12234

Feigi Taub Halberstam, Au.D.
Executive Director
Omni Childhood Center, Inc.
1651 Coney Island Avenue
Brooklyn, NY 11230

Dear Dr. Rosa and Dr. Halberstam:

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

Following is a report, entitled *Compliance With the Reimbursable Cost Manual*, of our audit of the costs submitted by Omni Childhood Center, Inc. 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. 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,

Division of State Government Accountability

Contents

Glossary of Terms

Term	Description	Identifier
CFR	Consolidated Fiscal Report	*Key Term*
CFR Manual	Consolidated Fiscal Reporting and Claiming Manual	*Policy*
DOE	New York City Department of Education	*Agency*
FTE	Full-time equivalent	*Key Term*
FTH	Feigi Taub Halberstam Audiology and Speech Pathology, P.C.	*Key Term*
IEP	Individualized Education Program	*Key Term*
Omni	Omni Childhood Center, Inc.	*Service Provider*
OTPS	Other than personal service	*Key Term*
RCM	Reimbursable Cost Manual	*Policy*
SED	State Education Department	*Auditee*
SEIT	Special Education Itinerant Teacher	*Key Term*

Background

Omni Childhood Center, Inc. (Omni) is a New York City-based proprietary organization approved by the State Education Department (SED) to provide preschool Special Education Itinerant Teacher (SEIT) services to children with disabilities who are between the ages of 3 and 5 years. During the fiscal year ended June 30, 2015, Omni served approximately 518 students with disabilities.

In addition to the SEIT preschool cost-based program, Omni operated one other SED-approved program (Evaluations) and a Department of Health Early Intervention program. However, payment for services under these programs is based on fixed fees, as opposed to the cost-based rates established through financial information reported on Consolidated Fiscal Reports (CFRs). In addition, Omni shares services, building space, and teaching and administrative staff with another proprietary institution, Feigi Taub Halberstam Audiology and Speech Pathology, P.C. (FTH), owned by the same individuals who own Omni. FTH provides occupational therapy, speech therapy, audiology, and hearing aid services.

The New York City Department of Education (DOE) refers students to Omni based on clinical evaluations and pays for Omni's services using rates established by SED. The rates are based on the financial information that Omni reports to SED on its annual CFRs. To qualify for reimbursement, Omni's expenses must comply with the criteria in SED's Reimbursable Cost Manual (RCM) and the Consolidated Fiscal Reporting and Claiming Manual (CFR Manual), 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 related to multiple programs and entities. SED reimburses the DOE 59.5% of the statutory rate, which DOE pays Omni.

For the three fiscal years ended June 30, 2015, Omni reported approximately $29.4 million in reimbursable costs for the SEIT preschool cost-based program. This audit focused primarily on expenses that Omni claimed on its CFR for fiscal year ended June 30, 2015, but also included certain expenses that Omni claimed on its CFRs for the two fiscal years ended June 30, 2014.

Audit Findings and Recommendations

According to the RCM, costs will be considered for reimbursement provided they are reasonable, necessary, directly related to the special education program, and sufficiently documented. For the three fiscal years ended June 30, 2015, we identified $1,588,037 in reported costs that did not comply with SED's requirements for reimbursement. These ineligible costs include $638,892 in personal service costs and $949,145 in other than personal service (OTPS) costs (see Exhibit).

Strong internal controls are critical to the overall health of an organization. These controls help to safeguard assets and ensure reliable financial reporting and compliance with regulatory requirements. We attributed the disallowances detailed in this report to weaknesses in Omni's internal controls over its compliance with SED's requirements.

Personal Service Costs

Personal service costs, which include all salaries and fringe benefits paid or accrued to employees on the service provider'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 fiscal years ended June 30, 2015, Omni reported approximately $27.2 million in personal service costs for the SEIT preschool cost-based program. We identified $638,892 in personal service costs that did not comply with the RCM's requirements for reimbursement.

Excessive Allocation of Compensation

According to the RCM, compensation of individuals who work on multiple programs should be allocated based upon actual hours of service by program. Entities must maintain appropriate documentation reflecting the hours used in this allocation. Acceptable documentation may include payroll records or time studies. This is especially important when a provider operates multiple programs with different funding sources and staff may work on more than one program or affiliated entity. If hours of service cannot be calculated or a time study cannot be completed, then other fair and reasonable allocation methods may be utilized. One method, ratio value allocation, is approved by SED to allocate the compensation of shared employees. This method of allocation distributes shared costs as a percentage of the agency's total operating costs. We identified $249,930 in allocated costs that were not in compliance with the RCM.

Employee Compensation

We determined that $200,310 in employee compensation was overallocated to the SEIT preschool cost-based program, as follows:

- $198,232 in compensation for four employees who worked for both Omni and FTH. We found that Omni officials did not properly maintain time studies or use the appropriate allocation methodologies to report costs on its CFRs. We allocated these employees' compensation using the ratio value method.

- $2,078 for an employee whose time studies indicated he worked 50% of the time for Omni and 50% of the time for FTH; however, his compensation was not properly allocated to the SEIT preschool cost-based program.

Executive Compensation

We determined that $49,620 in compensation for the Executive Director and Assistant Executive Director was overallocated to the SEIT preschool cost-based program, as follows:

- $27,736 for the Executive Director, who was incorrectly reported as a 1.0 full-time equivalent (FTE) in fiscal year 2012-13. Based on documentation provided by Omni officials, the Executive Director only spent 67% of her time working for Omni for the first 7 months of fiscal year 2012-13. The remaining 33% of her time was spent working for FTH.
- $21,884 for the Assistant Executive Director, who was reported as a 0.446 FTE in fiscal year 2012-13 and a 0.250 FTE in fiscal year 2013-14. We reviewed documentation provided by Omni officials and determined that the Assistant Executive Director's FTEs for those years were 0.354 and 0.222, respectively.

We recommend that SED disallow $249,930 ($200,310 + $49,620) in compensation expenses that were overallocated to the SEIT preschool cost-based program.

Unsupported Compensation Costs

The RCM states that costs will be considered for reimbursement provided they are reasonable, necessary, directly related to the education program, and sufficiently documented. We identified $183,027 in expenses that were not sufficiently documented.

During our audit, we found that one employee's compensation was charged to both the SEIT preschool cost-based program (SEIT teacher, Individualized Education Program [IEP] coordinator) and to the fee-based Evaluations program. According to Omni officials, the employee was contracted to provide SEIT administrative services; however, we determined that she was reported as an IEP coordinator on Omni's CFR. Omni officials stated that, in addition to her contracted position, this employee took on work on a "fee-for-service" basis in an effort to earn extra monies in both the Evaluations program and the SEIT preschool cost-based program as a SEIT teacher. However, Omni officials could not provide any documentation, including evidence of work product, to show that this employee provided IEP coordinator or SEIT administrative services to the SEIT preschool cost-based program.

We recommend that SED disallow $183,027 in insufficiently documented compensation expenses that were charged to the SEIT preschool cost-based program.

Non-Program-Related Costs

The RCM states that costs will be considered for reimbursement provided they are reasonable, necessary, directly related to the education program, and sufficiently documented. In addition to operating the SEIT preschool cost-based program, Omni also operated a preschool Evaluations program. This program is a fee-based program and its costs are required to be charged to a distinct program code (9190). As such, any charges related to the preschool Evaluations program are ineligible for reimbursement through the SEIT preschool cost-based program. We found $162,530 in costs that were not in compliance with the RCM, as follows:

- $103,042 in compensation expenses for three employees who worked for Omni's Evaluations program;
- $40,561 in compensation expenses for 13 employees who Omni officials acknowledged performed work that was not related to the SEIT preschool cost-based program; and
- $18,927 in compensation expenses for four individuals who Omni officials claimed worked for both the SEIT preschool cost-based program and FTH. However, Omni officials could not provide any evidence that these employees worked for the SEIT preschool cost-based program.

We recommend that SED disallow $162,530 ($103,042 + $40,561 + $18,927) in non-program-related expenses that were charged to the SEIT preschool cost-based program.

Ineligible Non-Mandated Fringe Benefit Costs

According to the RCM, compensation for personal services includes all salaries and fringe benefits. Fringe benefits (including pensions, life insurance, and tax-sheltered annuities) for individual employees or officers/directors should be proportionately similar to those received by other classes or groups of employees. The RCM also states that costs will be considered for reimbursement provided they are reasonable, necessary, directly related to the education program, and sufficiently documented. We identified $43,405 in non-mandated fringe benefits that were not in compliance with the RCM's requirements.

We determined that $40,361 in non-mandated fringe benefit costs for Omni's high-level employees were not proportionately similar to the benefits Omni provided for its other employees. While Omni paid the full cost of health insurance benefits for five high-level employees (e.g., Executive Director, Assistant Executive Director), it did not pay health insurance benefits for its other employees. In addition, we found that Omni incorrectly allocated an additional $3,044 in non-mandated fringe benefits to the SEIT preschool cost-based program.

We recommend that SED disallow $43,405 ($40,361 + $3,044) in non-mandated fringe benefits that were not in compliance with the RCM's requirements.

Other Than Personal Service Costs

According to the RCM, costs must be reasonable, necessary, directly related to the special education program, and sufficiently documented. For the three fiscal years ended June 30, 2015, Omni reported approximately $2.2 million in OTPS expenses for its SEIT preschool cost-based program. To determine whether these expenses complied with SED's requirements for reimbursement, we judgmentally selected a sample totaling approximately $1,860,430 in OTPS expenses. We identified $949,145 of these expenses that did not comply with SED's reimbursement requirements.

Non-Program-Related Legal 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. Additionally, the CFR Manual states that agency administration costs include all the administrative costs that are not directly related to specific programs/sites but are attributable to the overall operation of the agency. Further, all attempts should be made to directly charge an expense to the appropriate cost center. We identified $488,549 in legal fees that were incorrectly allocated to the SEIT preschool cost-based program.

Although legal costs resulting from lawsuits against a cost-based program are reimbursable under certain circumstances, we determined that $488,549 in legal fees represented a settlement agreement between Omni and an individual who did not work for the SEIT preschool cost-based program or agency administration. As a result, these legal costs should not have been allocated to the SEIT preschool cost-based program.

We recommend that SED disallow $488,549 in legal expenses that did not comply with the RCM and CFR Manual requirements.

Non-Reimbursable Property-Related Expenses

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. Additionally, the CFR Manual states that when programs share the same geographic location, or more than one State agency is served at the same geographic location, property and related costs must be allocated between the programs/State agencies benefiting from those resources. These costs include expenses such as utilities, repairs and maintenance, depreciation, leases, and mortgage interest. The most common method uses square footage as the statistical basis. However, if the use of this method in a specific situation does not result in a fair allocation of the costs, another reasonable method can be used. For the three fiscal years ending June 30, 2015, we identified $245,526 in rental and other property-related expenses that did not comply with RCM and CFR Manual requirements.

Overallocated Property Rental Expenses

As stated earlier in the report, Omni shares services, building space, and teaching and administrative staff with FTH – a related entity. We reviewed Omni's methodology for allocating property-related expenses and determined Omni did not properly calculate the costs allocated to the SEIT preschool cost-based program, as it did not include the shared space related to FTH in its square footage calculations. To determine the correct amount of property rental expenses that should have been allocated to the SEIT preschool cost-based program, we used the actual rent expenses Omni paid for the building's third floor – where Omni operated its SEIT preschool cost-based program – and then allocated these costs among the SEIT preschool cost-based program, FTH, and other fixed-fee programs sharing the same floor. As a result, we found that Omni overallocated $162,739 in property rental expenses to the SEIT preschool cost-based program.

Omni officials contended that the leases showed Omni occupied space on the first, second, and third floors and that omitting the first and second floors in our allocation calculation was inaccurate. However, we disagree, as Omni officials could not support that they provided SEIT preschool cost-based program services on the first floor, and while a majority of the allocated space on the second floor was related to the "SEIT Group Therapy Area," SED never approved Omni to use space on the second floor to provide instructional SEIT services.

We recommend that SED disallow $162,739 in property rental expenses that were not in compliance with SED's requirements.

Unallowable Expenses

We identified $82,787 in reported costs that were not allowable because they were either overallocated or not related to the SEIT preschool cost-based program. These costs are as follows:

- $23,991 in overallocated equipment depreciation.
- $23,093 in non-program-related leasehold improvements. The invoices provided by Omni showed the expenses were billed to FTH.
- $17,290 in overallocated repairs and maintenance.
- $11,978 in overallocated equipment leases.
- $6,435 in overallocated utilities.

We recommend that SED disallow $82,787 in property-related expenses that were not in compliance with SED's requirements.

Insufficiently Documented and Non-Allowable Accounting Costs

According to the RCM, costs will not be reimbursable on field audit without appropriate written documentation of costs. Adequate documentation for consultants includes, but is not limited to, the consultant's résumé, a written contract that includes the nature of the services to be provided, the charge per day, and service dates. 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. Additionally, costs associated with non-audit services provided by a registered public accounting firm, or any person associated with that firm, during or within 365 days of required audit work (prior to the beginning of the fiscal period being audited or after the date of the audit report issued for the audit period) are not reimbursable.

For the three fiscal years ending June 30, 2015, we identified $141,596 in accounting costs that did not comply with the RCM requirements, as follows:

- $122,311 in insufficiently documented accounting fees. We found that invoices did not provide a description of the actual services provided.
- $12,782 in unsupported costs related to the expenses associated with Certified Public Accountant (CPA) services.
- $6,503 in ineligible non-audit services. Based on our review of the CPA firm's engagement letter, the firm had provided audit services during the same 365-day period of required audit work.

Consequently, we recommend that SED disallow $141,596 in accounting fees allocated to the SEIT preschool cost-based program that were not in compliance with the RCM.

Insufficiently Documented and Unsupported Consultant Fees

According to the RCM, costs will not be reimbursable on field audit without appropriate written documentation of costs. Consultants include independent accountants, lawyers, and other independent contractors. Record-keeping requirements for consultants include, but are not limited to, the consultant's résumé, a written contract that includes the nature of the services to be provided, the charge per day, and service dates. 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. For the three fiscal years ending June 30, 2015, we identified $38,322 in consulting fees that did not comply with RCM requirements, as follows:

- $20,885 in insufficiently documented pension-related consulting fees. The payments were not supported by itemized invoices indicating the specific services actually provided and, for each service, the date(s), number of hours provided, fee per hour, and total amount charged.

- $17,437 in unsupported consultant service fees related to pensions ($11,989) and CFR analysis charges ($5,448).

We recommend that SED disallow $38,322 in consulting fees that were not in compliance with the RCM's requirements.

Omni officials disagreed with the recommended disallowance, contending that they did not employ an independent consultant or a consulting firm regarding its pension plan and, therefore, the vendor did not need to provide itemized invoices. According to Omni officials, they contracted with a professional firm, at a fixed price, to manage Omni's pension requirements. They further stated that, like similar services (e.g., accounting, marketing, payroll), it was not customary for the vendor to provide a documented breakdown of all the tasks and activities it renders. Instead, the vendor issued invoices for monthly services and charged at a prearranged rate. We stand by our disallowance: The RCM explicitly states that 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.

Ineligible 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. Any expenditures that cannot be charged directly to a specific program must be allocated across all programs and/or entities benefited by the expenditure. In addition, entities must use allocation methods that are fair and reasonable, and allocation percentages should be reviewed and adjusted on an annual basis, if necessary. In addition, expenses of a personal nature, such as a residence or personal use of a car, known as perquisites (or perks), are not reimbursable.

We identified $35,152 in reported costs that were unallowable because they did not comply with reimbursable cost guidelines, as follows:

- $26,105 in Internet service fees. Omni reimbursed employees for a portion of their personal Internet service.
- $3,710 in supplies and materials expenses that were either not related to the SEIT preschool cost-based program ($3,384) or not supported ($326).
- $2,606 in unsupported charges reported on the CFRs for fiscal years 2012-13 and 2014-15. Omni's accounting records showed a $2,606 discrepancy between the totals in the general ledger and the amounts reported on the CFRs.
- $1,285 in inadequately documented recruiting costs. Based on our review of

documentation, these expenses were not related to the SEIT preschool cost-based program.

- $789 in other ineligible costs, including $544 in overallocated staff development costs and $245 in non-program-related travel costs.
- $657 in overallocated marketing costs. We determined that Omni did not allocate any of these marketing costs to its affiliate, FTH.

We recommend that SED disallow the $35,152 in unallowable expenses charged to the SEIT preschool cost-based program.

Recommendations

To SED:

1. Review the recommended disallowances identified by our audit and make the necessary adjustments to the costs reported on Omni's CFRs and to Omni's tuition reimbursement rates, as warranted.
2. Remind Omni officials of the pertinent SED requirements that relate to the deficiencies we identified.

To Omni:

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

Audit Scope, Objective, and Methodology

The objective of our audit was to determine whether the costs reported by Omni on its CFRs were reasonable, necessary, directly related to the special education program, and sufficiently documented, pursuant to SED guidelines. The audit focused primarily on expenses claimed on Omni's CFR for the fiscal year ended June 30, 2015 and certain expenses claimed on its CFRs for the two fiscal years ended June 30, 2014.

To accomplish our objective, we reviewed the RCM, the CFR Manual, the Regulations of the Commissioner of Education, Omni's CFRs, and relevant financial and program records for the audited 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 Omni officials and staff as well as Omni's independent auditor to obtain an understanding of Omni's financial and business practices. Additionally, we selected 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 and fringe benefit expenses, cost allocation, and OTPS expenses. Our samples were based on the relative materiality of the various categories of costs reported and their associated levels of risk. Our samples were not designed to be projected to the entire population of reported costs.

Statutory Requirements

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.

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 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. These duties may be considered management functions for purposes of evaluating organizational independence under generally accepted government auditing standards. In our professional judgment, these duties do not affect our ability to conduct this independent performance audit of SED's oversight and administration of Omni's compliance with the RCM.

Reporting Requirements

We provided a draft copy of this report to SED and Omni officials for their review and formal comment. Their comments were considered in preparing this final report and are included at the end of it. In their response, SED officials agreed with our recommendations and indicated that they will take steps to address them. In their response, Omni officials generally disagreed with most of our conclusions. Our responses to certain Omni comments are included in the report's State Comptroller's Comments.

Within 180 days after final release of this report, as required by Section 170 of the Executive Law, the Commissioner of the 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 where recommendations were not implemented, the reasons why.

Exhibit

Omni Childhood Center, Inc.
Summary of Reported and Disallowed Program Costs for the 2012-13, 2013-14, and 2014-15 Fiscal Years

Program Costs	Amount Reported on CFR	Amount Disallowed	Amount Remaining	Notes to Exhibit
Personal Services				
Direct Care	$25,719,425	$464,045	$25,255,380	A,C, E–G,J,K,N
Agency Administration	1,466,075	174,847	1,291,228	
Total Personal Services	**$27,185,500**	**$638,892**	**$26,546,608**	
Other Than Personal Services				
Direct Care	$879,557	$228,834	$650,723	A,B,D,E,H,I, K–O
Agency Administration	1,285,450	720,311	565,139	
Total Other Than Personal Services	**$2,165,007**	**$949,145**	**$1,215,862**	
Total Program Costs	**$29,350,507**	**$1,588,037**	**$27,762,470**	

Notes to the Exhibit

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

A. RCM Section II – Costs will be considered for reimbursement provided such costs are reasonable, necessary, directly related to the special education program, and sufficiently documented.

B. RCM Section II.13.A.(6) – Expenses of a personal nature, such as a residence or personal use of a car, known as perquisites (or perks), are not reimbursable.

C. RCM Section II.13.B.(2)(c) – Benefits including pensions, life insurance, and tax-sheltered annuities for individual employees or officers/directors are proportionately similar to those received by other classes or groups of employees.

D. RCM Section II.14.F – Costs associated with non-audit services provided by a registered public accounting firm, or any person associated with that firm, during or within 365 days of required audit work (prior to the beginning of the fiscal period being audited or after the date of the audit report issued for the audit period) are not reimbursable.

E. RCM Section III.1. – Costs will not be reimbursable on field audit without appropriate written documentation of costs.

F. 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.

G. 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.

H. RCM Section III.1.C.(2) – Adequate documentation for consultants includes, but is not limited to, the consultant's résumé, a written contract that includes the nature of the services to be provided, charge per day, and service dates. 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. In addition, when direct care services are provided, the documentation must indicate the names of students served, actual dates of service, and number of hours of service to each child on each date.

I. RCM Section III.1.D. – All purchases must be supported with invoices listing items purchased, and indicating dates of purchase and payment, as well as canceled checks.

J. 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.

K. RCM Section III.1.M.(2) – Entities operating programs must use allocation methods that are fair and reasonable, as determined by the Commissioner of Education'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 years. Allocation percentages should be reviewed on an annual basis and adjusted, as necessary.

L. CFR Manual Appendix I (page 42.1) – Agency administration costs include all the administrative costs that are not directly related to specific programs/sites but are attributable to the overall operation of the agency.

M. CFR Manual Appendix I (page 42.2) – Service providers should note that all attempts should be made to directly charge an expense to the appropriate cost center (agency administration or program/site and program administration). Where service providers are unable to direct charge expenses to agency administration or program/site(s) and program administration, the CFR Manual recommends certain allocation methods, including square footage.

N. CFR Manual Appendix I (page 42.3) – To ensure equity of distribution and to provide uniformity in allocation of agency administration, OASAS, OMH, OPWDD, and SED require the ratio value (R/V) method of allocation to be used on the core CFR schedules (CFR-1 through CFR-6). The ratio value method uses operating costs as the basis for allocating agency administration expenses. Agency administration expenses must be allocated to programs operated by OASAS, OMH, OPWDD and SED as well as shared programs and "Other Programs" (includes fundraising, special events, management services contracts provided to other entities, all programs funded by non-Consolidated Fiscal Reporting System-participating State agencies, etc.) based upon the ratio of agency administration costs to the service provider's total operating costs.

O. CFR Manual Appendix J (page 43.3) – When programs share the same geographic location or more than one State agency is served at the same geographic location, property and related costs must be allocated between the programs/State agencies benefiting from those resources. These costs include expenses such as utilities, repairs and maintenance, depreciation, leases, and mortgage interest. The most common method uses square footage as the statistical basis. However, if the use of this method in a specific situation does not result in a fair allocation of the costs, another reasonable method can be used.

Agency Comments - State Education Department

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

EXECUTIVE DEPUTY COMMISSIONER
(518) 473-8381
E-mail: Sharon.Cates-Williams@nysed.gov

July 7, 2021

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

Dear Mr. Sifontes:

The following is the New York State Education Department's (SED) response to the draft audit report, 2019-S-66, Omni Childhood Center, Inc. (Omni) - Compliance With the Reimbursable Cost Manual.

<u>Recommendation 1:</u>

"Review the recommended disallowances identified by our audit and make the necessary adjustments to the costs reported on the Omni's CFRs and to Omni's tuition reimbursement rates, as warranted."

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. NYSED will further review the accounting cost recommendations to determine if the adjustments are appropriate.

<u>Recommendation 2:</u>

"Remind Omni officials of the pertinent SED requirements that relate to the deficiencies we identified."

We agree with this recommendation. SED will continue to provide technical assistance whenever requested and will strongly recommend Omni's officials avail themselves of our assistance to help them better understand the rules for cost reporting and criteria for cost reimbursement as presented in the CFR, Regulation and the Reimbursable Cost Manual (RCM). Furthermore, SED will alert Omni of online CFR training that is available on SED's webpage. SED recommends that all individuals signing the CFR certification statements, namely the Executive Director and Certified Public Accountant, 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 Brian Zawistowski, Assistant Director of the Rate Setting Unit, at (518) 474-3227.

Sincerely,

Sharon Cates-Williams

Sharon Cates-Williams

c: Phyllis Morris
Christopher Suriano
Suzanne Bolling
Brian Zawistowski
James Kampf
Jerry Nestleroad

Agency Comments - Omni Childhood Center Inc.

Roth&Co

June 28, 2021

Mr. Kendrick Sifontes
Audit Director
Division of State Government Accountability
NYS Office of the State Comptroller
59 Madison Lane, 21st Floor
New York, NY 10038

Dear Mr. Sifontes,

This letter serves as a response to the findings contained in the draft audit report 2019-S-66 issued by the NY State Comptroller (OSC) on Omni Childhood Center, Inc. ("Omni"). We have reviewed the Draft Report's account of whether the costs reported by Omni Childhood Center Inc. on its Consolidated Fiscal Reports were reasonable, necessary, directly related to the special education program, and sufficiently documented, consistent with the State Education Department's Reimbursable Cost Manual (RCM) and the Consolidated Fiscal Reporting and Claiming Manual (CFR Manual) for the fiscal year ended June 30, 2015, and for certain expenses claimed on its CFRs for the two fiscal years ending June 30, 2014.

At this time, in the interest of confidentiality, we respectfully request that the Office of the State Comptroller amend its Final Draft by removing the names of specific companies or affiliates which were not directly a party to this audit. We appreciate the opportunity to provide comment to this proposed Draft for consideration in the development of a Final Report.

Comment 1

Personal Service Costs

The auditors identified $638,892 in personal service costs that they claimed were not in compliance with the RCM's requirements for reimbursement.

Excessive Allocation of Compensation - The auditors recommended that SED disallow $249,930 ($200,310 + $49,620) in compensation expenses overallocated to the SEIT preschool cost-based progra

Employee Compensation - The auditors determined that $200,310 in employee compensation was overallocated or improperly allocated to the SEIT preschool cost-based program. $198,232 in compensation was for four employees who worked for both Omni and its Affiliate. $2,078 was for an employee whose time studies indicated that he worked 50% of the time for Omni and 50% of the time for the Affiliate.

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The work performed by the first employee under review was comprised of services performed solely for Omni. The employee was only being allocated between Omni and its Affiliate through December 31, 2012. After this date, the employee discontinued her work for the Affiliate and remained working solely for Omni. Thus, there was no allocation between companies. The work performed by the second employee under review was documented using an actual work schedule as opposed to a time study, as previously provided to the auditors.

Comment 2

Comment 3

In regard to the third employee under review, because of the nature of her job as a front desk receptionist, Omni maintained that it would be impossible to perform a proper time study. In a conservative estimate, it allocated her time as 50% for Omni and 50% for its Affiliate. This cautious conclusion was made despite the fact that the majority of her time was spent on tasks performed for Omni.

Comment 4

A detailed time study describing the allocation for a fourth employee was provided. This employee worked one full workday at Omni's Affiliate, while the remainder of the work week was devoted to tasks performed for Omni. Omni believes it clearly specified all the necessary information to determine his time allocation in the time study previously provided and see no insufficiencies. It also bears mention that using the operating expenses of the Affiliate as compared to Omni as way of allocating his salary, completely ignores the fact that the work required to be performed for Omni is more complex, and therefore requires more dedicated time than the work needed to be performed for the Affiliate.

Comment 5

In regard to the employee whose time studies show that he worked 50% of the time for Omni and 50% of the time for its Affiliate, the compensation amount reported represents only his work for Omni, and not for the Affiliate.

Comment 6

Executive Compensation - The auditors determined that $49,620 in compensation for the Executive Director and Assistant Executive Director was overallocated to the SEIT preschool cost-based program.

Response:

The time study, as well as the compensation for the Executive Director, clearly show that her time was split between Omni (70%) and its Affiliate (30%) *only* for the first quarter of the FY 2012-2013. OSC erroneously disallowed 30% of an entire year instead of disallowing 30% of just one quarter. In addition, the Executive Director was paid for work done for the Affiliate directly from that company and not from Omni. Therefore, no

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disallowances are warranted.

Regarding the salary for the Assistant Executive Director, OSC made an error in reviewing the documentation submitted and calculating the FTE. The OSC cites the Assistant Executive Director's average FTE as 24.2%. However, OSC's calculation was based on only the last three studies and did not take into account all four time studies submitted for FY 2012-2013. Correcting this discrepancy yields a lesser disallowance for FY 2012-2013.

Comment 8

Unsupported Compensation Costs - The auditors identified $183,027 that they claimed were unsupported compensation expenses that were charged to the SEIT preschool cost-based program. An employee took on work on a "fee-for-service" basis in an effort to earn extra monies in both the Evaluations program and as a SEIT teacher in the SEIT preschool cost-based program.

Response:

The compensation for the employee under review for the audit time frame was for work done in the SEIT program in the capacity of an administrative staff member only. A copy of the employee service agreement, between Omni and this employee was provided to the auditors. This document details the employee's salaried position; there is no verbiage whatsoever in this documents that indicates that she was expected to hold responsibilities in the pre-school Evaluations Department. She was engaged to perform only administrative tasks in the SEIT Department's offices.

Comment 9

In addition to her administrative salary, in an effort to earn extra monies, the employee took on additional work on a "Fee-for-Service" basis. This work was performed in both the Evaluations Department and the SEIT Department. All of the "Fee for Service" work was performed in her capacity as a SEIT instructor and evaluator. The extra work that she took on was to supplement her regular salary as an administrative employee and this pay was completely separate from her earnings as a salaried administrative employee. Therefore, no time study or allocation method was necessary.

Comment 10

Non-Program-Related Costs - The auditors found $162,530, claiming that these funds were non-program related compensation, charged to the SEIT preschool cost-based program, as follows:

$103,042 in compensation expenses for three employees who worked for Omni's Evaluations program; $40,561 in compensation expenses for 13 employees who Omni officials acknowledged performed work that was not related to the SEIT preschool cost-based program and; $18,927 in

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compensation expenses for four individuals who Omni officials claimed worked for both the SEIT preschool cost-based program and the Affiliate.

Response:

The employees in question performed their duties consecutively, not simultaneously. One employee was initially hired to work as a clerical employee for Omni and maintained that position for the first six weeks of her employment. After that time, it was determined that she would be better suited for a different position within the Affiliate and she was transferred out of Omni entirely. Another employee under review was initially employed in the SEIT Department and was subsequently moved to a position in the Pre-School Evaluations Department. Both of these departments operate within Omni.

Comment 11

Thus, there was no need for allocation for these two employees, as there was never a time where either of them worked for more than one program at one time. Rather, they transferred consecutively from one program to another.

Comment 12

In regard to non-program related compensation, claiming the work was not related to the SEIT program. Documentation has been previously provided to support the fact that the employee in question worked for the SEIT Department, though not always as a direct provider. Regarding the 2014-2015 expenses, it was acknowledged that these discrepancies were due to data entry errors on Omni's part when we prepared the data for the CFR. However, at the same time, it was pointed out a series of errors that were made that had reverse consequences. If data entry errors are considered, then it would follow that all of the errors involved in the calculation need to be taken into account. Taking all factors into account would result in far less of an adjustment.

Comment 13

Ineligible Non-Mandated Fringe Benefit Costs - The auditors identified $43,405, claiming they were non-mandated fringe benefits and that were not in compliance with RCM requirements, as follows: $40,361 in benefits disproportionate to benefits provided to similar employees and; $3,044 in benefits incorrectly allocated in non-mandated fringe benefits to the SEIT preschool cost-based program.

Response:

The auditors are required to share all their findings in their preliminary report in order to allow the audited entity to respond. The issue of disproportionate benefits to Omni officials was not previously presented in any of the auditor's preliminary findings. Because no data

Comment 14

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or source documentation has been provided, Omni is unable to respond to this assertion.

Other Than Personal Service Costs

The auditors identified $954,710 of OTPS expenses that did not comply with SED's reimbursement requirements.

Non-Program-Related Legal Costs - The auditors identified $488,549 in legal fees that were incorrectly allocated to the SEIT preschool cost-based program. They determined that $488,549 in legal fees represented a settlement agreement between Omni and an individual who did not work for the SEIT preschool cost-based program or agency administration. As a result, these legal costs should not have been allocated to the SEIT preschool cost based program.

Response:

> As previously explained in a response to the auditors, and accompanied by supporting documentation, Omni was a Defendant in a lawsuit and is entitled to take this reimbursable expense. The auditors correctly point out that the Plaintiff was not part of the cost-based program. That is why on the CFR, such expense was **not allocated to a specific program but rather to the overall administrative costs of the Company**.

Comment 15

> The RCM Manual in Section II clearly states, "C. (1) Legal, accounting or consultant costs that result from claims or lawsuits against an Article 81 and/or Article 89 funded program are reimbursable to the extent not recoverable from other parties."

Comment 16

> Other legal costs questioned by the auditors represent a legal settlement for a lawsuit filed against Omni. the Courts decided in favor of the Plaintiff, the court awards the legal fees incurred by the Plaintiff to be paid by Omni to the Plaintiff. We previously submitted a copy of an email from the Plaintiff's attorney outlining the Plaintiffs fees, which were to be paid by Omni. The actual settlement amount on this lawsuit is officially recorded in court documents and was previously enclosed in an exhibit, as was proof of the payments relating to the lawsuit.

Comment 17

Non-Reimbursable Property-Related Expenses

The auditors identified $245,694 ($162,907 + $82,787) in rental and other property-related expenses that they claim were not in compliance with RCM and CFR Manual requirements.

Overallocated Property Rental Expenses - The auditors found an over-allocation of property rental expenses. Omni shares services, building space, and teaching and administrative staff with

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a related entity (the 'Affiliate'). The auditors contend that Omni officials could not support that they provided SEIT preschool cost-based program services on the first floor, and while a majority of the allocated space on the second floor was related to the "SEIT Group Therapy Area," SED never approved Omni to use space on the second floor to provide instructional SEIT services.

Unallowable Expenses - The auditors identified $82,787 in reported costs that were not allowable because they were either overallocated or not related to the SEIT preschool cost-based program.

Response:

The auditors considered only the third floor of Omni's facility and completely ignored the 1st and 2nd floors. During the audit, Omni provided OSC with leases that clearly showed that Omni occupied space on the first, second, and third floors. In addition, for the years under audit, a detailed and contemporaneous analysis was performed on an annual basis by Omni to ensure that all the space occupied and used for Omni's operations were properly documented, and that the proper rent and related expenses were correctly reported on the CFR. These annual studies were provided to OSC as well.

Comment 18

To omit the first and second floors in any allocation calculation is simply inaccurate. Had those floors been correctly included in OSC's calculation, no material adjustment to the rent reported on CFR-1 and CFR-3 would be necessary, for all years under audit.

Comment 19

In addition, the disallowance of depreciation, equipment lease, and repairs and maintenance is also inaccurate. OSC assumed that these expenses were shared with Omni's Affiliate, and therefore is disallowing the portion it believes to belong to the Affiliate. However, these expenses as reported on Omni's books are exclusively the expense of Omni and not of its Affiliate.

Comment 20

After reviewing Appendix J of the RCM, we adjusted our calculation to include the common areas in order to arrive at an allocation and show a total adjustment relating to rent reported on CFR-1 for all 3 years. For the other expenses (depreciation, equipment lease and repairs and maintenance) related to CFR-1 and CFR-3, the adjustment would be even smaller than that. After complying with Appendix J of the RCM, the sum of any adjustment would be significantly less than the $245,694 adjustment proposed by OSC.

Comment 21

Insufficiently Documented and Non-Allowable Accounting Costs - For the three fiscal years ending June 30, 2015, the auditors identified $141,596 in accounting costs that they claim did not comply with the RCM requirements, as follows:

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$122,311 in expenses that were insufficiently documented, $12,782 in unsupported accounting expenses and, $6,503 in ineligible non-audit services that they claim were provided in the same 365-day period of required audit work.

Response:

Response:

The auditors pointed out that the invoices provided to them only contained the words "retainer" and did not offer sufficient documentation of what work was actually done. In fact, these invoices were simply monthly reminders to Omni to make the payments they were obligated to make under a Retainer agreement. The signed Retainer agreements clearly explain and outline the audit services to be performed and were submitted to the auditors for review, for all the years under audit.

Comment 22

Ineligible Costs - The auditors identified $40,549 in reported costs that they claim were unallowable because they did not comply with reimbursable cost guidelines. The costs included payment for personal Internet service fees and supplies and materials.

Response:

The auditors identified expenditures for Internet service fees that did not comply with RCM requirements. Specifically, the auditors questioned Omni's reimbursement to employees for a portion of their personal Internet service, even though computer terminal stations were set up at their office location for teachers to upload students' session notes.

Many of Omni's SEIT providers are Ultra-Orthodox and, for religious considerations, do not normally maintain internet access at home to create, maintain and submit the documents required by Omni. They were reimbursed for assuming remote internet service and expense. Additionally, the schools serving special needs students serviced by Omni are also predominantly Ultra-Orthodox and do not offer Wi-Fi. Since SEITs are required to create session notes contemporaneously (at the time that the sessions take place) they were provided with wireless internet to enable them to elaborate on session notes, work on progress notes, and keep up with billing while on school premises.

Comment 23

The auditors claimed that computer terminal stations were set up at Omni's office location in order to handle this, however, the workstations were set up in order to handle different types of documentation that were required of the SEIT's. For example, some reports that the SEIT's needed to submit required a great deal of time, and a school-type set up is not the time or place to create this type of documentation.

Comment 24

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Furthermore, the auditors identified supplies and materials expenses that they claim were either not supported or not related to the SEIT preschool cost-based program, and also indicated that some purchases of non-program-related supplies expenditures were for affiliated companies. Invoices relating to the monies spent for supplies distributed to Omni's SEITs have been provided to the auditors. The supplies were program-related and included folders for the distribution of documents and forms, organizers, calendars, assignment books, notebooks, and other supplies to enhance internal communications, compliance, and scheduling. Other invoices provided to the auditors substantiated the purchase of notebooks which the SEITs used for ongoing communication with parents, calendars used by SEITs to organize client schedules, and folders and organizers which were used to distribute various policy forms and other documents at SEIT orientation meetings.

Comment 25

Insufficiently Documented and Unsupported Consultant Fees - The auditors identified $38,322 in consulting fees that did not comply with RCM requirements, as follows: $20,885 in insufficiently documented pension-related consulting fees and $17,437 in unsupported consultant service fees ($11 ,989 related to pensions and $5,448 CFR for a CFR analysis charge).

Response:

Omni contracted with a professional pension firm, at a fixed price, to manage its pension requirements. This professional firm charges a reasonable and fixed fee for its services. Like similar services (e.g., accounting, marketing, payroll) it is not customary for the vendor to provide a documented breakdown of all the tasks and activities it renders. Instead, it issues invoices for monthly services, charged at a pre-arranged rate.

Comment 26

In regard to other consulting expenses, previously submitted documents supplied to the auditors have included a specific consultant's bills and payments. It includes all the data necessary to substantiate the invoice - date, duration of service, specific services performed, rate, charges, and invoice amounts. Back-up documentation supplied to the auditors also included invoices and proof of payment (checks).

Comment 27

We appreciate the opportunity to provide comment to the auditor's Draft Report.

Sincerely,

Marc Gelbtuch CPA
Roth & Co. LLP

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State Comptroller's Comments

1. It is our standard practice to use the name of an affiliated/related entity in our SED preschool special education audit reports.
2. Although Omni officials stated the employee discontinued her work for the affiliate after December 31, 2012, we found her employee performance review (dated November 2, 2014) that was prepared by the affiliate.
3. We disagree. Omni officials did not provide us with any supporting documentation.
4. Omni officials did not provide sufficient documentation to support that the employee provided administrative services for Omni.
5. The time studies provided by Omni officials for this employee included only one week per quarter instead of the two weeks per quarter as required by the CFR Manual.
6. We stand by our findings. The time studies provided for this employee indicated that he worked 50% of the time for Omni and 50% of the time for the affiliate; however, his compensation was not allocated to the affiliate. We determined that $37,000 in compensation was allocated to a federal grant and the remaining amount ($4,250) was allocated only to Omni.
7. We did not erroneously disallow 30% of an entire year. As stated on page 9 of our report, the Executive Director was reported as a 1.0 full-time equivalent (FTE); however, she only spent 67% of her time working for Omni.
8. We did not make an error in reviewing documentation or calculating the FTE. We re-examined the Assistant Executive Director's (AED) time studies after Omni responded to the preliminary findings. Omni officials provided time studies for one month for the summer program and three months for the school year program. Omni suggested using a four-month average to determine the AED's FTEs. However, since the AED worked for the preschool cost-based program for the entire year, we used a 12-month average to determine the recommended disallowance.
9. As stated on page 9 of our report, Omni officials did not provide documentation, such as time studies and evidence of work product, to show that the employee provided services to the SEIT preschool cost-based program in the capacity of an administrator or IEP coordinator.
10. Omni is mistaken. We did not recommend a disallowance for any compensation related to the performance of SEIT teacher duties. Refer to Comment 9.
11. We disagree. We did not determine the recommended disallowances based on whether employees performed their duties consecutively or simultaneously. Information provided by Omni officials indicated these employees worked for Omni's Evaluations program. The Evaluations program is a fee-based program, and its costs are required to be charged to a distinct program code (9190); therefore, any charges related to the Evaluations program are ineligible for reimbursement through the SEIT preschool cost-based program.
12. Refer to Comment 11.
13. We stand by our findings. All factors Omni provided were taken into account in the determination of the recommended disallowance – including Omni's response to our preliminary findings.

14. We disagree. We provided officials with information on disproportionate benefits in a preliminary report regarding ineligible non-mandated fringe benefits. Based on their response to the preliminary findings, as well as subsequent communications, we adjusted the recommended disallowance from $231,222 in the preliminary findings to $43,405 in the draft report. This was also communicated to Omni officials at the closing conference.

15. As stated on page 11 of our report, agency administration costs include all the administrative costs that are not directly related to specific programs/sites but are attributable to the overall operation of the agency. Further, all attempts should be made to directly charge an expense to the appropriate cost center. The legal costs in question were directly related to a specific program; therefore, the costs should have been charged to that specific program and not agency administration.

16. Our report clearly states that legal costs resulting from lawsuits against a cost-based program are reimbursable under certain circumstances. However, the costs should not have been allocated to the SEIT preschool cost-based program because they were directly related to another program. Refer to Comment 15.

17. Omni is mistaken. We did not recommend a disallowance for this specific legal settlement expense.

18. Omni's statement is misleading. Our calculations only included the third floor because, as stated on page 12 of our report, Omni officials could not support that they provided SEIT preschool cost-based program services on the first floor. Further, SED never approved Omni to use space on the second floor to provide instructional SEIT services. Moreover, Omni officials provided us with a written statement that stated, "The first floor was never charged to SEIT preschool cost-based program on the CFR."

19. Refer to Comment 18.

20. We disagree. Omni officials did not provide documentation showing that the expenses were exclusively for the SEIT preschool cost-based program; therefore, our calculations included costs that should have been allocated to the affiliate. Moreover, some of the invoices indicated the expenses were related to the affiliate. In these instances, we recommended 100% disallowance.

21. We reviewed Omni's methodology for allocating property-related expenses, and determined it did not properly calculate the costs allocated to the SEIT preschool cost-based program because it did not include the shared space related to the affiliate in its square footage calculations.

22. We stand by our findings. The RCM explicitly states that record-keeping requirements for consultants (e.g., accountants, lawyers) include, but are not limited to, the consultant's résumé, a written contract that includes the nature of the services to be provided, the charge per day, and service dates. Further, 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. Omni officials did not maintain such documentation.

23. Omni officials told us that they provided Internet service reimbursement as a “convenience” to employees so they would not have to go to the office to complete paperwork (e.g., session notes). However, during our audit, Omni officials advised us that the computer terminal stations were being used by SEIT teachers.

24. Refer to Comment 23.

25. After reviewing additional information, we revised our report and reduced the recommended disallowance from $9,107 to $3,710.

26. Refer to Comment 22.

27. We stand by our findings. All previously submitted documents were considered in the determination of the recommended disallowance.

Contributors to Report

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