New York State Comptroller
THOMAS P. DiNAPOLI

Little Meadows Early Childhood Center, Inc.: Compliance With the Reimbursable Cost Manual

State Education Department

Report 2021-S-4 | **July 2022**

Spotlight on Education

Audit Highlights

Objective

To determine whether the costs reported by Little Meadows Early Childhood Center, Inc. (Little Meadows) on its Consolidated Fiscal Reports (CFRs) were reasonable, necessary, directly related to the special education programs, 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 Little Meadows' CFR for the fiscal year ended June 30, 2018 and certain expenses claimed on its CFRs for the 2 fiscal years ended June 30, 2017.

About the Program

Little Meadows is a New York City-based proprietary organization authorized by the State Education Department (SED) to provide full-day Special Class, half-day Special Class, Integrated Preschool, and half-day Integrated Preschool Special Education services to children with disabilities who are between the ages of 3 and 5 years. For the purposes of this report, these programs are collectively referred to as the SED preschool cost-based programs. Little Meadows also operated three other SED-approved preschool special education programs – Evaluations, Related Services, and 1:1 Aides – and a Department of Health Early Intervention program. However, payments for services under these programs are based on fixed fees. During the 2017-18 school year, Little Meadows served approximately 178 students.

The New York City Department of Education (DOE) refers students to Little Meadows and pays for its services using rates established by SED. The rates are based on the financial information Little Meadows reports to SED on its annual CFRs. For the 3 fiscal years ended June 30, 2018, Little Meadows reported approximately $10.2 million in reimbursable costs for the SED preschool cost-based programs.

Key Findings

For the 3 fiscal years ended June 30, 2018, we identified $395,644 in reported costs that did not comply with the requirements in the RCM and the CFR Manual, as follows:

- $192,089 in excessive allocation/compensation expenses related to an independent contractor ($95,864), employees of Little Meadows ($88,045), and an independent contractor who later became an employee of Little Meadows ($8,180).
- $60,466 in accounting fees and services that were not in compliance with the RCM's requirements;
- $57,834 in expenses that were reported in the incorrect reporting period, including $47,873 in other than personal services and $9,961 in personal services;
- $30,857 in non-reimbursable 1:1 Aides program expenses that should have been reported under a separate program code;
- $25,380 in expenses where an independent contractor did not work the required number of hours per month;

- $13,795 in non-reimbursable expenses, including $12,626 in fringe benefits and $1,169 in home office expenses;
- $6,985 in advertising expenses that did not meet the requirements of the RCM;
- $4,810 in unallowable expenses (e.g., employee perquisites, violations and fines, staff/parent food); and
- $3,428 in consulting and legal fees that did not meet reimbursement requirements.

Key Recommendations

To SED:

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

To Little Meadows:

- 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

July 7, 2022

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

Linda Silver
Executive Director
Little Meadows Early Childhood Center, Inc.
67-25 188th Street
Fresh Meadows, NY 11365

Dear Dr. Rosa and Ms. Silver:

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 the Little Meadows Early 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*
Little Meadows	Little Meadows Early Childhood Center, Inc.	*Service Provider*
OTPS	Other than personal service	*Key Term*
RCM	Reimbursable Cost Manual	*Policy*
SED	State Education Department	*Auditee*

Background

Little Meadows Early Childhood Center, Inc. (Little Meadows) is a New York City-based proprietary organization approved by the State Education Department (SED) to provide full-day Special Class, half-day Special Class, Integrated Preschool, and half-day Integrated Preschool Special Education services to children with disabilities who are between the ages of 3 and 5 years. For the purpose of this report, these programs are collectively referred to as the SED preschool cost-based programs. During the fiscal year ended June 30, 2018, Little Meadows served approximately 178 students with disabilities.

In addition to the SED preschool cost-based programs, Little Meadows operated three other SED-approved programs – Evaluations, 1:1 Aides, and Related Services – 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).

The New York City Department of Education (DOE) refers students to Little Meadows based on clinical evaluations and pays for Little Meadows' services using rates established by SED. The rates are based on the financial information that Little Meadows reports to SED on its annual CFRs. To qualify for reimbursement, Little Meadows' 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 DOE 59.5% of the statutory rate, which DOE pays Little Meadows.

For the 3 fiscal years ended June 30, 2018, Little Meadows reported approximately $10.2 million in reimbursable costs for the SED preschool cost-based programs. This audit focused primarily on expenses that Little Meadows claimed on its CFR for the fiscal year ended June 30, 2018 and also included certain expenses that Little Meadows claimed on its CFRs for the 2 fiscal years ended June 30, 2017.

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 3 fiscal years ended June 30, 2018, we identified $395,644 in reported costs that did not comply with SED's requirements for reimbursement. These ineligible costs included $142,658 in personal service costs and $252,986 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 Little Meadows' internal controls over its compliance with SED's guidelines.

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 3 fiscal years ended June 30, 2018, Little Meadows reported approximately $7.4 million in personal service costs for the SED preschool cost-based programs. We identified $142,658 in personal service costs that did not comply with the RCM's requirements for reimbursement.

Excessive Allocation/Compensation – Employees

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. The CFR Manual states that agency administration costs include all administrative costs that are not directly related to specific programs/sites but are attributable to the overall operations of the agency. Further, all attempts should be made to directly charge an expense to the appropriate cost center (agency administration or program/site and program administration). Service providers should note that agency administration costs do not include program/site specific costs or program administration costs. The RCM also states that compensation to all individuals who have a financial interest in the program, including shareholders, trustees, board members, officers, family members, or others, and who are also program employees must be commensurate to actual services provided as appropriately qualified program employees or consultants. Compensation shall not exceed the average regional levels paid by similar private providers to comparably qualified and appropriately certified personnel for similar work and hours of employment. Any compensation determined to be excessive will not be reimbursed in the tuition rate. We identified $88,045 ($57,840 + $28,399 + $1,806) in compensation that was not in compliance with the RCM's requirements.

Administrative Assistant

During fiscal years 2015-16 and 2016-17, Little Meadows incorrectly allocated the compensation of an administrative assistant to the SED preschool cost-based programs. According to the administrative assistant's employment letter, job description, and other employment information (e.g., payroll office information, employee performance review), she was hired and functioned as an Early Intervention Administrative Assistant, Early Intervention Human Resources Personnel Assistant, and Assistant Early Intervention Compliance Officer. As such, her compensation should have been charged entirely to the Early Intervention program. However, her compensation was reported under agency administration (Schedule CFR-3) and allocated to the SED preschool cost-based programs. Consequently, $57,840 of the administrative assistant's compensation ($50,822 in salary and $7,018 in fringe benefits) was incorrectly allocated to the SED preschool cost-based programs.

Little Meadows officials disagreed and stated that the employee's responsibilities included activities for the benefit of cost centers other than Early Intervention, as necessitated by staffing shortages. While the stated employee may have performed incidental work activities related to other programs, it was not reasonable to allocate 64.06% and 70.24% of her compensation in fiscal years 2015-16 and 2016-17, respectively, to the SED preschool cost-based programs.

We recommend that SED disallow $57,840 in compensation that was not in compliance with the RCM's requirements.

Early Intervention Coordinator

In January 2017, Little Meadows contracted with a family member to serve as an Early Intervention Coordinator/DOE Data Specialist. The family member was related to the co-owners of Little Meadows. In October 2017, the family member became an employee, functioning in the same position. As a full-time employee, he was reported in Schedule CFR-3 under Position Title Code 690 - Other Agency Administration Staff. We reviewed his monthly activity sheets (which detailed his daily tasks) for fiscal year 2017-18 and noted that 52.63% of his tasks were related to the Early Intervention program; therefore, 52.63% of his compensation should have been directly charged to the Early Intervention program. We determined that $30,496 of his compensation was overallocated to the SED preschool cost-based programs. We also determined that his total compensation exceeded the average regional limit for an employee in Position Title Code 690 by $8,795. Of the $8,795 in excess compensation, Little Meadows allocated $6,083 to the SED preschool cost-based programs.

The recommended disallowance of $36,579 ($30,496 + $6,083) is related to both personal services and OTPS as follows:

- Personal services: $28,399. This is the amount of excessive allocation/compensation attributed to the Early Intervention Coordinator's time as an employee of Little Meadows. This amount is included in this section ("Personal Services") of our report.
- OTPS: $8,180. This is the amount of excessive allocation/compensation attributed to the Early Intervention Coordinator's time as an independent contractor. This amount is included in the "Other Than Personal Services" section of our report.

Early Intervention Director

During fiscal year 2016-17, Little Meadows overallocated the compensation of the Early Intervention Director to the SED preschool cost-based programs. Although Little Meadows reported her on the fiscal year 2015-16 and 2016-17 CFRs as a social worker, a review of her personnel documentation, including her payroll information and work product, indicated her work was largely that of Early Intervention Director. Little Meadows did not maintain any documentation based upon actual hours of service or time studies; therefore, we allocated her compensation based on the ratio-value method. We determined that $1,806 in compensation was overallocated to the SED preschool cost-based programs.

We recommend that SED disallow $1,806 in compensation that was not in compliance with the RCM's requirements.

Expenses for 1:1 Aides

The CFR Manual requires that expenses for approved 1:1 teacher aides (preschool and school age) must be reported as a separate column (Program Code 9230). All 1:1 aide costs (salaries, fringe benefits, and allocated direct and indirect costs) should be reported in one separate cost center on the provider's financial reports. We identified $30,857 in costs that were not in compliance with the RCM.

For the 3 fiscal years ending June 30, 2018, Little Meadows officials charged $30,857 in compensation for 1:1 aides to the SED preschool cost-based programs; however, the costs for 1:1 aides should have been reported on the provider's CFRs under the fixed-fee 1:1 aides distinct program code 9230.

We recommend that SED disallow $30,857 in expenses that were not in compliance with the RCM's requirements.

Ineligible Fringe Benefits

According to the RCM, fringe benefits may include paid time off, such as vacation leave, sick leave, military leave, holidays, training, and educational costs, provided the benefit is established by written school policy. Little Meadows' Personnel Policies and Procedures Manual provided for payment to staff for unused sick pay at year end; however, there was no policy regarding payment for unused vacation days during our audit period. We identified $12,626 in costs that were not in compliance with the RCM.

For the 3 fiscal years ended June 30, 2018, Little Meadows reported $12,626 in payments to staff for unused vacation days. However, this benefit was not formally established by Little Meadows until fiscal year 2018-19.

We recommend that SED disallow $12,626 in non-reimbursable expenses related to unused vacation days.

Incorrect Reporting Period Costs

According to the RCM, entities operating approved programs must use the accrual basis of accounting. According to the CFR Manual, only expenses and revenues for the proper CFR reporting period should be included on the CFR. CFRs submitted with expenses and revenues for a different reporting period will not be accepted. We identified $9,961 in personal service costs that were charged to the incorrect CFR reporting period.

During fiscal year 2017-18, the first biweekly payroll covered the time period of June 26, 2017 through July 10, 2017. Since the payroll costs for June 26 through June 30 (five days) were related to fiscal year 2016-17, they should have been removed from the reported payroll costs for fiscal year 2017-18. However, we found that only four days were reversed, resulting in an overclaim of $9,860 for one additional day. Additionally, we identified another $101 in non-mandated fringe benefits that were reported in the incorrect reporting period.

We recommend that SED disallow $9,961 ($9,860 + $101) in expenses that were not reported in the correct CFR reporting period.

Unallowable Home Office Expenses

According to the RCM, 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 $1,169 in costs that were not in compliance with the RCM.

In October 2017, Little Meadows compensated an employee $2,000 for “home office rental/expenses as additional income” due to the lack of office space at the school as well as the expectation that the employee would work at home. Of this amount, $1,169 was allocated to the SED preschool cost-based programs.

We recommend that SED disallow $1,169 in personal expenses that were not in compliance with the RCM.

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 3 fiscal years ended June 30, 2018, Little Meadows reported approximately $2.8 million in OTPS expenses for its SED preschool cost-based programs. To determine whether these expenses complied with SED's requirements for reimbursement, we judgmentally selected a sample totaling approximately $491,193 in OTPS expenses. We identified $252,986 of these expenses, including the $8,180 that was recommended for disallowance in the "Personal Services" section of this report, that did not comply with SED's reimbursement requirements.

Excessive Allocation/Compensation – Independent Contractor

The RCM states that compensation to all individuals who have a financial interest in the program, including shareholders, trustees, board members, officers, family members, or others, and who are also program employees must be commensurate to actual services provided as appropriately qualified program employees or consultants. Compensation shall not exceed the average regional levels paid by similar private providers to comparably qualified and appropriately certified personnel for similar work and hours of employment. Any compensation determined to be excessive will not be reimbursed in the tuition rate. We identified $95,864 in independent contractor costs that were not in compliance with the RCM

For the 3 fiscal years ended June 30, 2018, Little Meadows reported $211,533 in compensation for a family member who was contracted to serve as its controller. The family member was related to the co-owners of Little Meadows. Although the independent contractor's yearly agreements stated that her position was that of a controller, she confirmed that she functioned as a bookkeeper. We noted that she performed the duties of both an Early Intervention Fiscal/Financial Director and Billing Director/Bookkeeper and that a significant portion of her tasks were directly related to the Early Intervention program. We reviewed her monthly activity sheets (which detailed her daily tasks) for the 3 fiscal years ending June 30, 2018, and determined that $82,816 of her compensation was overallocated to the SED preschool cost-based programs. We also determined that her total compensation exceeded the average regional limit for an employee in Position Title Code 605 (Office Worker) by $19,235. Of the $19,235 in excess compensation, Little Meadows allocated $13,048 to the SED preschool cost-based programs.

We recommend that SED disallow $95,864 ($82,816 + $13,048) in compensation that was not in compliance with the RCM's requirements.

Insufficiently Documented and Non-Allowable Accounting Fees

According to the RCM, costs will not be reimbursable on field audit without appropriate written documentation. 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 3 fiscal years ending June 30, 2018, we identified $60,466 in reported accounting costs that did not comply with the RCM requirements, as follows:

- $54,069 in insufficiently documented accounting fees. The invoices provided did not align with the actual dates of services;
- $5,203 for non-audit services (tax services) performed by the accounting firm during the same 365-day period of the CFR and financial statement audit; and
- $1,194 in an undetected double-billed invoice on the part of an accounting consultant.

Consequently, we recommend that SED disallow $60,466 in accounting fees that were not in compliance with the RCM.

Little Meadows officials disagreed with our findings and contended that invoices under fixed-fee arrangements often do not include the detailed reports maintained by firms, as reflective of industry standards. They stated that while the invoices were submitted at regular intervals, payment of the invoice on the agreed-upon payment schedule will not necessarily align with the dates of actual services. Little Meadows also stated that detailed reports were never intended as a crosswalk to the individual invoices charged; instead, they were to show that Little Meadows received services in excess of what was paid. We disagree. 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. We were not able to tie in detailed reports with the claimed invoices.

Incorrect Reporting Period Costs – OTPS

According to the RCM, entities operating approved programs must use the accrual basis of accounting. According to the CFR Manual, only expenses and revenues for the proper CFR reporting period should be included on the CFR. CFRs submitted with expenses and revenues for a different reporting period will not be accepted. For the 3 fiscal years ending June 30, 2018, we identified $47,873 in OTPS costs that were charged to the incorrect CFR reporting period, as follows:

- $20,597 in accounting fees;
- $12,107 in insurance and legal expenses;
- $5,692 in supplies and accounting system expenses;
- $3,486 in student food purchases;
- $3,364 in utilities and repair and maintenance expenses; and
- $2,627 in other expenses, including $1,168 in petty cash expenses, $1,153 in advertising and government procurement expenses, and $306 in other miscellaneous expenses.

Little Meadows officials acknowledged that they use cash basis accounting at times because the expenses were recurring or they were not material. Regardless, the RCM requires that accrual basis accounting be followed.

We recommend that SED disallow $47,873 in expenses that were not reported in the correct CFR reporting period.

Insufficient Hours Worked

The RCM states that costs will be considered for reimbursement provided such costs are reasonable, necessary, directly related to the special education program, and sufficiently documented. According to the agreement between Little Meadows and its Chief Financial Officer (CFO), the CFO was required to work an average minimum monthly total of 128 hours. We identified $25,380 in expenses that were not in compliance with the agreement.

For the 3 fiscal years ended June 30, 2018, Little Meadows contracted with a family member to serve as the CFO. Our review of the CFO's monthly activity sheets (which detailed her daily tasks) determined that the CFO did not work the contract's required average minimum monthly total work hours for 29 of the 36 months during the audit period. We determined the CFO worked, on average, approximately 117 hours per month in fiscal year 2015-16, 114 hours per month in fiscal year 2016-17, and 104 hours per month in fiscal year 2017-18. The insufficient hours represented an overclaim of $37,144. Of this amount, $25,380 was allocated to the SED preschool cost-based programs.

We recommend that SED disallow $25,380 in compensation costs that did not meet the agreement's requirements.

Non-Reimbursable Advertising Expenses

According to the RCM, costs will be considered for reimbursement provided they are reasonable, necessary, directly related to the special education programs, and sufficiently documented. In addition, the RCM states that advertising costs for the purpose of recruiting students into programs are not reimbursable. We identified $6,985 in reported advertising expenses that did not comply with the RCM requirements.

For the 3 fiscal years ending June 30, 2018, Little Meadows reported $7,754 in advertising expenses. We determined that $6,914 in advertising expenses were insufficiently documented. In addition, we also determined that $71 in advertising costs were ineligible because they were for the recruitment of students.

Little Meadows officials disagreed with our findings and provided us with a series of documents they claimed indicated the positions sought (special education teachers) were clearly related to the SED preschool cost-based programs. While we agree that the SED preschool cost-based programs employ special education teachers, we determined that Little Meadows' fee-based programs also reported special education teachers on their CFR. Moreover, Little Meadows officials were unable to provide us with actual copies of the advertisements. Without the actual advertisements, we were not able to confirm that they were directly related to the SED preschool cost-based programs.

We recommend that SED disallow $6,985 in advertising expenses that were not in compliance with the RCM's guidelines.

Unallowable Costs

The RCM states that costs must be reasonable, necessary, directly related to the special education program, and sufficiently documented. The RCM also states that certain costs, such as all personal expenses, late fees, and costs of food provided to staff, are not reimbursable. Expenses of a personal nature known as perquisites (or perks) are not reimbursable. Fines and penalties resulting from violations of or failure by the entity to comply with federal, State, and/or local laws and regulations are not reimbursable. We identified $4,810 in costs that were ineligible for reimbursement because they did not comply with RCM's guidelines, as follows:

- $1,958 in employee perquisites ($1,365) and unallowable travel expenses ($593);
- $836 in violations and fine expenses;
- $629 for fingerprinting costs for employees not related to the SED preschool cost-based programs, costs that were overallocated, and costs subsequently reimbursed by staff members;
- $474 in food expenses for staff and parents;
- $377 in insufficiently supported and non-reimbursable staff development expenses;
- $299 in insufficiently documented depreciation costs;

- $179 for a portion of membership dues related to the Early Intervention program; and
- $58 in other miscellaneous ineligible petty cash expenses.

We recommend that SED disallow $4,810 in OTPS expenses that did not meet the requirements of the RCM.

Insufficiently Documented/Non-Reimbursable Consulting and Legal Fees

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. 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. The RCM also states that fines and penalties resulting from violations of or failure by the entity to comply with federal, State, and/or local laws and regulations are not reimbursable. We identified $3,428 in consulting and legal fees that did not comply with the RCM requirements, as follows:

- $3,044 in consultant fees where the invoices did not comply with the requirements of the RCM (e.g., specific dates of service, charge per day); and
- $384 in legal service fees that were related to violations imposed on Little Meadows by the Office of Trials and Administrative Hearings on behalf of the New York City Department of Health and Mental Hygiene.

We recommend that SED disallow $3,428 in consulting and legal fees that were not in compliance with the requirements of the RCM.

Recommendations

To SED:

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

To Little Meadows:

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 Little Meadows 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 Little Meadows' CFR for the fiscal year ended June 30, 2018 and certain expenses claimed on its CFRs for the 2 fiscal years ended June 30, 2017.

To accomplish our objective, we reviewed the RCM, the CFR Manual, the Regulations of the Commissioner of Education, Little Meadows' 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 Little Meadows officials and staff to obtain an understanding of Little Meadows' 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 Little Meadows' compliance with the RCM.

Reporting Requirements

We provided draft copies of this report to SED and Little Meadows 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, Little Meadows officials generally disagreed with most of our conclusions. Our responses to certain Little Meadows 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 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

Little Meadows Early Childhood Center, Inc.
Summary of Reported and Disallowed Program Costs
for the 2015-16, 2016-17, and 2017-18 Fiscal Years

Program Costs	Amount Reported on CFR	Amount Disallowed	Amount Remaining	Notes to Exhibit
Personal Services				
Direct Care	$6,700,673	$49,571	$6,651,102	A, B, D-G, J, K, N-S
Agency Administration	740,768	93,087	647,681	
Total Personal Services	**$7,441,441**	**$142,658**	**$7,298,783**	
Other Than Personal Service				
Direct Care	$2,090,720	$22,696	$2,068,024	A-E, G-N
Agency Administration	708,769	230,290	478,479	
Total Other Than Personal Services	**$2,799,489**	**$252,986**	**$2,546,503**	
Total Program Costs	**$10,240,930**	**$395,644**	**$9,845,286**	

Notes to 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 Little Meadows' officials during the course of our audit.

A. RCM Section I.3.B – Entities operating approved programs must use the accrual basis of accounting and maintain accounting books of original entry including asset, liability, and fund balance or equity accounts, as well as expenditure and revenue accounts.

B. 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.

C. RCM Section II.3.A – Advertising costs for the purpose of recruiting students into programs are not reimbursable.

D. RCM Section II.13.A.5 – Compensation to all individuals who have a financial interest in the program, including shareholders, trustees, board members, officers, family members, or others, and who are also program employees must be commensurate to actual services provided as appropriately qualified program employees or consultants and shall not include any distribution of earnings in excess of reimbursable compensation. Compensation shall not exceed the average regional levels paid by similar private providers to comparably qualified and appropriately certified personnel for similar work and hours of employment. Any compensation determined to be excessive will not be reimbursed in the tuition rate.

E. RCM Section II.13.A.6 – Expenses of a personal nature known as perquisites (or perks) are not reimbursable.

F. RCM Section II.13.B.1 – Fringe benefits may include paid time off, such as vacation leave, sick leave, military leave, holidays, training, and educational costs, provided the benefit is established by written school policy.

G. RCM Section II.20.B – All personal expenses, such as personal travel expenses, laundry charges, beverage charges, gift certificates to staff and vendors, flowers or parties for staff, holiday parties, repairs on a personal vehicle, and rental expenses for personal apartments, are not reimbursable unless specified otherwise in this RCM.

H. RCM Section II.21 – Fines and penalties resulting from violations of or failure by the entity to comply with federal, State, and/or local laws and regulations are not reimbursable

I. RCM Section II.22.C – Costs of food provided to any staff are not reimbursable.

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

K. 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.

L. 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, 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. 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.

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

N. CFR Manual (page 3.2) – Only expenses and revenues for the proper CFR reporting period should be included in the CFR. CFRs submitted with expenses and revenues for a different reporting period will not be accepted.

O. CFR Manual (page 8.5) – Expenses, revenues, and full-time equivalent enrollment for approved 1:1 teacher aides (preschool and school age) must be reported as a separate column (Program Code 9230).

P. 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 such as costs for the overall direction of the organization, costs for general record keeping, budget and fiscal management, costs for governing board activities, costs for public relations (excluding fund raising and special events), and costs for parent agency expenses. Agency administration costs do not include program/site specific costs or program administration costs.

Q. 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).

R. 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 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, and so on) based upon the ratio of agency administration costs to the service provider's total operating costs.

S. CFR Manual Appendix R (Page 51.1) – Entities are to select the position and title code that reflects functions performed by the employee.

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

June 1, 2022

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, 2021-S-4, *Little Meadows Early Childhood Center, Inc. (Little Meadows) - Compliance with the Reimbursable Cost Manual.*

Recommendation 1:

"Review the recommended disallowances identified by our audit and make the necessary adjustments to the costs reported on Little Meadows' CFR and to Little Meadows' 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 fees, consultant fees and salary cost recommendations to determine if the adjustments are appropriate.

Recommendation 2:

"Remind Little Meadows 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 Little Meadows 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, Regulations, and the Reimbursable Cost Manual (RCM). Furthermore, SED will alert Little Meadows 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 Nell Brady, Director of the Rate Setting Unit, at (518) 474-1298.

Sincerely,

Sharon Cates-Williams

Sharon Cates-Williams

c: Phyllis Morris
Christopher Suriano
Suzanne Bolling
James Kampf
Jerry Nestleroad
Jeanne Day
Nell Brady

Agency Comments - Little Meadows

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June 9, 2022

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

Re: State Education Department
Compliance with the Reimbursable Cost Manual
Little Meadows Early Childhood Center
Audit Report 2021-S-004
Draft Report

Dear Mr. Sifontes:

We have reviewed the above-referenced Draft Report of the Office's audit of costs reported by Little Meadows Early Childhood Center, Inc. (Little Meadows) on its Consolidated Fiscal Reports (CFR's) to determine whether such costs were reasonable, necessary, directly related to the special education programs, and sufficiently documented pursuant to the State Education Department's (SED's) Reimbursable Cost Manual (RCM) and the Consolidated Fiscal Reporting and Claiming Manual (CFR Manual), the focus of which was primarily on expenses claimed for the fiscal year ending June 30th, 2018 and certain expenses claimed on the CFR for the two fiscal years ending June 30th, 2017. We appreciate the opportunity to provide comment on the Draft Report for thoughtful consideration in the development of the Final Report.

Personal Service Costs

Excessive Allocation/Compensation – Employees

General Comments

We respectfully challenge the auditors' strict construction of the Reimbursable Cost Manual's provisions governing excessive compensation for certain employees. We challenge the presumption that "average regional levels (of salary) paid by similar private providers to comparably qualified and appropriately certified personnel for similar work and hours of employment" is readily determined or easily discernible, in current time. We challenge the auditors' expectation that preschool special education programs could possess more than the most general of salary information and suggest that the disallowance of compensation measured against an illusionary benchmark of level to be, itself, excessive.

Comment 1

Comment 2

Kenrick Sifontes
Office of the State Comptroller
Page 2

Accordingly, we are constrained to challenge the auditors' finding of excessive compensation as the finding is based upon the false premise that comparable salary data was easily discernable at the point of compensation.

Comment 2

Administrative Assistant

We must respectfully challenge the OSC auditors' finding that $57,840 in compensation was overallocated to the SED program during the 2015-16 and 2016-17 years. During that period, the "administrative staff" employee's job responsibilities included activities for the benefit of costs centers other than EI. While the employee's job description was Assistant EI Compliance officer, during the 2015-16 and 2016-17 audit years, this individual performed functions across several programs and cost centers, not EI exclusively, as necessitated by staffing shortages. For example, the employee attended compliance meetings relating to classroom students– clearly a 4410 function.

Comment 3

In compliance with the CFR and RCM directives for proper allocation, since the employee did not complete a time study for those years, the employee was charged to agency administration as her role spanned across all programs.

Comment 4

Beginning in FY 2017-18, the agency worked to define the Compliance Officer's role by program. The agency hired a head compliance officer and compartmentalized the roles of the compliance officers. The employee worked strictly with EI Compliance. Since the employee's role was direct EI for FY 2017-18, the employee was charged accordingly direct to Program 9300.

The "administrative staff" identified by the auditors assumed varied roles and responsibilities due to agency staffing and need. These activities were not "incidental" to other programs, but, in fact, spanned several costs centers which necessitated the allocation of costs as agency administration – a reasonable allocation directed by the RCM and CFR. Accordingly, we challenge the auditor's reclassification of 2015-16 and 2016-17 allocations based on a job function change that occurred in 2017-18 as inappropriate and unsupported by documentation provided to the auditors.

Comment 5

Early Intervention Coordinator

Overallocation

While we appreciate the auditors' thoughtful consideration of documentation provided in support of the reported allocation, we must challenge the auditors' final determination that "52.63% of (the EI Coordinator's) tasks were related to the EI program."

We have offered compelling documentation which identifies the tasks performed according to the cost center which derived the benefit, to illustrate that our allocation methodology is well supported. Even by conservative estimates, tasks performed by the EI Coordinator lent themselves best to allocation by ratio value, as contrasted with the auditors' indiscriminate assignment of tasks to the EI program.

Comment 6

We would also separately note that the auditors' finding relative to excessive compensation does not appear to consider the related auditors' finding that a proposed percentage of the individual's salary was "overallocated' to the SED program. We would anticipate that the amount of "excessive compensation" asserted by the auditors would be reduced proportionate to the amount of "time" asserted to have been overallocated to the same SED program and an adjustment made to that finding as well. More specifically, the proposed disallowance relating to unused vacation time should appear on a single finding, and not be "duplicated" in several findings.

Comment 7

Comment 8

Kenrick Sifontes
Office of the State Comptroller
Page 3

Early Intervention Director

We appreciate the auditors' thoughtful consideration of documentation provided and do not challenge the proposed disallowance of $1,806 in compensation which was erroneously overallocated to SED programs.

Expenses for 1:1 Aides

Little Meadows appreciates the auditors' careful consideration of documentation provided in support of expenses for approved 1:1 teacher aides, and does not challenge the proposed disallowance of $30,857 related to certain individuals who had been inadvertently miscoded as a 1:1 aide.

Ineligible Fringe Benefits

We do not challenge the auditors' claim that the Employee Handbook did not expressly provide for compensation for unused vacation days until 2018-19, although the practice was well known to employees and anticipated. We nonetheless challenge the proposed disallowance of fringe benefits costs ($12,626) associated with unused vacation days.

Comment 9

We also restate our challenge that the proposed disallowance of unused vacation time of the Early Intervention Coordinator is duplicative – appearing in two separate findings when only one proposed disallowance would be arguably appropriate.

Comment 8

Incorrect Reporting Period Costs

We challenge the auditors' finding that Little Meadows incorrectly reversed certain payroll costs. These specific costs were captured in the subsequent year.

At the end of each year, Little Meadows accrues any payroll costs incurred but not paid until the following year. For the 2016-17 school year, Little Meadows accrued four days of payroll, covering June 26, 2017 to June 29, 2017, the last day of Little Meadow's school year. No accrual occurred for June 30, 2017, as the school calendar reflected a "C" on the calendar for that day. In developing the accrual, the "C" on the calendar was erroneously interpreted to mean "closed" when in actuality the day was a conference day included within the calculation of the required number of session days. As a result, payroll was under-accrued for the year ended June 30, 2017. Little Meadows under reported salary and related fringes within its SED preschool cost-based programs for the fiscal year 2016-17.

During the 2017-18 year, the prior year accrual was reversed against expenses, which is a customary accounting practice. As a result, as the OSC auditors pointed out in their report, the payroll for the year ended June 30, 2018 included the payroll allocation for June 30, 2017. Little Meadows concedes that this amount, as clarified above, should have been included in the 2016-17 year and not the 2017-18 fiscal year.

While the expenses over the two-year period is accurate, the payroll and related fringes for the 2016-17 year is understated and the payroll for the 2017-18 year is overstated by the same amount. Accordingly, we believe the payroll reversal to have been appropriate.

Comment 10

We challenge the proposed disallowance of $9,961 as expenses not reported in the correct CFR reporting period.

Kenrick Sifontes
Office of the State Comptroller
Page 4

Unallowable Home Office Expenses

Little Meadows does not challenge the proposed disallowance related to home office expenses.

Other-Than-Personal Service Costs

Excessive Allocation/Compensation – Independent Contractor

We renew our challenge as relates to any proposed disallowance based on a comparison of reported compensation and the indeterminable "average regional limit" in current time, as set out in prior sections of this response.

Comment 1

Little Meadows also renews its challenge of the auditor's determinative that the independent contractor's monthly activity sheets did not substantiate the reported allocation of expenses to the titled Controller position, as clearly set-out in the yearly contracts/agreements. The functions and responsibilities of the agency position of Controller will necessarily include attention to all cost centers, and such an allocation of time (and expense) is anticipated. Detailed notation of those functions does not challenge the integrity of the portion or the compensation reported therefore.

Comment 11

Accordingly, we challenge the proposed disallowance of $95,864.

Insufficiently Documented and Non-Allowable Accounting Fees

Invoices

While we appreciate the auditors' consideration of documentation already provided in support of the reported accountant fees, we request reconsideration of the comprehensive packet of detailed reports provided by the accounting firm engaged by the agency which, in fact, were maintained by the firm contemporaneous with the period of engagement. As the auditors' may be aware, invoices under fixed fee arrangements often do not include the detailed reports maintained by firms, as reflective of industry standards. These reports are, however, available upon request. We challenge the auditors' assertion, then, that these detailed reports fail to comply with the intent of the RCM provision requiring detailed support for reported expenses. We shared with the auditors, the accounting firm's explanation of this industry standard practice. Importantly, while invoices were submitted by the accounting firm at regular intervals, consistent with the terms of the industry standard installment contract, payment of the invoice on the agreed upon payment schedule will not necessarily align with the dates of actual services. The detailed business records of the vendor, however, do provide the date, time, activity and rate as required by the RCM and, in point of fact, reflect service costs in excess of the contracted fee. Accordingly, while payments for services were made consistent with an agreed upon schedule, the detailed business records of the vendor support the entirety of the costs reported.

Comment 12

Double-billed Invoices

We do not challenge the auditors' finding that $1,194 in accountant costs had been inadvertently double billed by the vendor and paid. Little Meadows had requested the vendor adjust subsequent invoices to address the overpayment.

Kenrick Sifontes
Office of the State Comptroller
Page 5

Non-Audit Services

We appreciate the auditor's thoughtful consideration of provided documentation related to expenses associated with non-audit services performed by the agency accountants' firm within the same period as the CFR and other audit work was mis-reported as a reimbursable expense and renew our challenged based upon the provided accounting firm's letter of explanation.

Comment 13

Incorrect Reporting Period Costs – OTPS

We likewise challenge the auditors' finding that $20,597 in accounting fees were reported in the period in which the costs were incurred, rather than the period in which the matter occurred. Once again, we refer you to the accounting firm's explanation. In the alternative, we challenge the auditors finding of disallowance where, as here, the expenses are reoccurring.

Little Meadows treats certain recurring expenses that are consistent from year to year on the cash basis of accounting (record expense when paid instead of when incurred). This is done to limit the amount of time accounting for such transactions as they recur on an annual basis and have minimal impact from year to year. Examples of these expenses include:

Comment 14

- Software subscriptions/maintenance contracts: Annual software subscriptions such as Fund-EZ annual maintenance are virtually the same each year. Very little benefit would be derived by recording the prepaid and amortizing it to expense each month.

Comment 14

- Insurance Premiums: Annual insurance premiums come due the same time each year. Similar to software subscriptions/maintenance contracts, treating premiums paid on a cash basis rather than reflecting them as a prepaid and amortizing them to expense each month will not have a material impact year over year. For example, the premium for Rampart Insurance for D&O coverage for the period 3/9/16 to 3/9/17 (checks 30105 and 30125) was $7,553 for the year. The premium for the period 3/9/17 to 3/9/18 (check 30993) was $7,549. For these two years the OSC disallowed $3,332.76 (2016) and $2,752.67 (2017). This is a significant disallowance considering a $4 difference in premium.

Comment 14

- Utility charges: Some of the utility companies engaged by Little Meadows apply a "cut- off" date during the month rather than the end of the month (for example Con Edison). Given the minimal amount of these invoices, it is not Little Meadows policy to accrue the few days of charges from one month to the next. The utilities usage does not fluctuate dramatically from one month to the next and as such, accruing several days each would not materially change the expense in any given month or year. The cost benefit of doing the calculation, record the entry, and reverse the entry in the following month would result in unnecessary labor costs – more than the amount of cost to be accrued.

Comment 14

The OSC also proposed disallowing the portion of these expenses that was out of period. As outlined above, these expenses are recurring in nature and are consistently applied. Were the OSC to disallow the costs from one year, the corresponding expense must be "added back" from the prior/subsequent year so that there is a full-year of expense within the cost reporting period.

Comment 15

As asserted by the accountant consultant, the audit period extends over three overlapping years. For the OSC to disallow a reasonable, necessary, directly related to the special education programs, without any other criteria other than the reporting period, is inappropriate. The accountant consultants also assert that this category of findings constituted 12% of the total proposed disallowances and has the impact of three-year disallowance valid expenses when all expenses are comparative each year – which is

Comment 16

inappropriate.

In addition, we should note that Little Meadows expenses certain minor charges at the point that the bills are paid rather than when the cost is incurred. These expenditures are small and do not have a significant impact in annual operations:

- Petty Cash Charges: Little Meadows maintains a petty cash box which is replenished when the cash balance becomes low. When the fund is replenished, a journal entry is made to charge all of the underlying receipts to the appropriate expenses. If the petty cash fund crosses over a fiscal year, the expense is recorded in the year the fund is replenished. As the amount of the petty cash fund is only $500, any impact of charges carrying over from one year to the next cannot be material. As a result, management established a policy to record petty cash on the cash basis, which is consistently applied on a yearly basis. As a result, the expenditures at the beginning and end of the year should approximate themselves.

Comment 14

- Credit Card Charges: Little Meadows makes minor purchases on credit cards throughout the year. The expenses are recorded by Little Meadows at the time the credit bill is paid. As a result, at the end of each year, it is possible that charges made in one year are paid and recorded in the following year. Little Meadows does not charge significant expenses to the credit card.

Comment 14

Were the OSC to disallow costs at the end of a year that pertain to the subsequent year, then the expenses should be added back from the previous year. Furthermore, many of the supplies purchased at year-end (printer ink, paper, baby wipes, etc.) are purchased for use in the following year, where Little Meadows charged them on the CFR.

Comment 10

Insufficient Hours Worked

We do not challenge the auditors' finding that $25,380 in compensation was overallocated to the SED programs for specific contracted personnel acting as Chief Financial Officer. However, the issue was not that the employee did not work the actual time, but rather did not document the full extent of time spent.

Non-Reimbursable Advertising Expenses

We challenge the auditors' finding identifying $6,914 in reported advertising costs as non-compliant with RCM requirements governing advertising expenses. As shared with the audit team, Little Meadows, as do many human service providers, utilized the Indeed ™ web-based platform to recruit staff personnel. The Indeed ™ platform has become a global standard for recruitment of staff through many industries. We provided the auditors with a series of ads used by Little Meadows which have since expired to demonstrate detail provided. As these examples indicate, the position sought was clearly identified ("special education teacher") with the location of prospective employment also provided (Queens site / "located in a lovely residential area with easy on-street parking"). A number of ads specifically indicated "preschool" as the intended employer with the Whitestone location clearly indicated. By contrast, ads which were used to recruit early intervention personnel noted that distinction clearly.

Accordingly, the ads provided confirm that the costs incurred were specific to the preschool special education program, as distinguished from ads for early intervention personnel. As the auditors' may be aware, the Indeed™ platform allows for the revenue of ads, and often overlaps ad runs. Prospective jobs are posted through a Little Meadows account, the Indeed™ platform tracking each ad and billing Little

Kenrick Sifontes
Office of the State Comptroller
Page 7

Meadows a total cost per month as ads are started, paused, or closed. This approach, however, does not compromise the integrity of the costs reported, as the auditors suggest.

Comment 17

We do not, however, challenge the auditors' finding that $71 in advertising costs related to students had been mistakenly reported as a reimbursable expense.

Unallowable Costs

We challenge the auditors' findings that certain of the $4,810 in costs identified were mistakenly characterized as reimbursable.

In addition, we challenge the auditors' finding that a portion of certain fingerprinting expenses are ineligible for reimbursement. For example, in FY 16/17, OSC proposes disallowing a portion of fingerprinting expenses related to an employee who primarily worked in reimbursable programs but did perform some activities to the benefit of a non-reimbursable programs. However, this charge for fingerprinting was correctly charged to CFR-3 Agency Administration and was charged ratio value to reimbursable as well as non-reimbursable programs. A portion of the expense was already charged to the non-reimbursable program, thus accounting for time the employee spent in non-reimbursable programs.

Comment 18

Finally, we challenge the auditors' finding that $179 in membership expenses is ineligible for reimbursement. In each CFR, Little Meadows charges dues for a coalition and records correctly on the CFR a "non-allowable" a portion of the applicable dues. The coalition dues cover classroom tuition-based programs, as well as non-classroom programs. Each year, these expenses are charged to CFR-3 Agency Administration and allocated by the CFRS Software using Ratio Value as per the CFR Manual and RCM directives. It is inappropriate that the OSC would single out a charge and disallow the allowable costs of the dues as they were appropriately recorded and allocated by ratio value to all programs on the CFR.

Comment 19

Insufficiently Documented / Non-Reimbursable Consulting and Legal Fees

Legal Fees

We challenge the auditors' finding of disallowance relating to $384 in legal fees related to violations imposed by the Office of Trial and Administrative Hearings on behalf of NYCDOHMH. The subject room was, in fact, a 4410 classroom, and the costs incurred to defend the violation were then clearly program costs specific to that program classroom.

Comment 20

Consulting Fees

We must renew our challenge of the auditors' finding that $3,044 in consultant fees lacked the support of detailed invoices. Documentation provided set forth sufficient information for accountability, and therefore reimbursement.

Comment 21

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We, at Little Meadows, appreciate the opportunity to provide comment on the auditors' draft findings.

Very truly yours,

GREENBERG TRAURIG, LLP

PAM/maf
Enclosures
ACTIVE 65322587v4

cc: Stephen Lynch (OSC)
James Kampf (SED)
Linda Silver (LM)

State Comptroller Comments

1. We reached out to SED officials to obtain the average regional levels of compensation. Little Meadows officials could have done the same.
2. The benchmark level of comparison is neither “illusionary” nor a “false premise.” The RCM explicitly states that compensation shall not exceed the average regional levels paid by similar private providers to comparably qualified and appropriately certified personnel for similar work and hours of employment. See Comment 1.
3. As stated on page 9 of our report, the Administrative Assistant was hired and functioned as an Early Intervention Administrative Assistant, Early Intervention Human Resources Personnel Assistant, and Assistant Early Intervention Compliance Officer. This was evidenced in her employment letter, job description, and other employment information (e.g., payroll office information, employee performance review). As such, her compensation should have been charged entirely to the Early Intervention program. While the stated employee may have performed incidental work activities related to other programs (due to “staff shortages”), it is not reasonable to allocate 64.06% and 70.24% of her compensation in fiscal years 2015-2016 and 2016-17, respectively, to the SED preschool cost-based programs.
4. We disagree. The costs associated with the Administrative Assistant were program administration costs – she was hired and functioned as an Early Intervention program administrator. Program administration costs are administrative costs, which are directly attributable to a specific program/site and are to be included on the appropriate line of expense on CFR-1. Therefore, these costs should not have been charged to agency administration (CFR-3).
5. We disagree. Any activities performed by this employee due to “staff shortages” would justifiably be considered “incidental.” See Comment 3.
6. We strongly disagree. Our determination was not an “indiscriminate assignment of tasks”. According to the CFR Manual, all attempts should be made by the service providers to directly charge an expense to the appropriate cost center. We reviewed each activity listed on the Early Intervention Coordinator’s monthly activity sheets as well as Little Meadows’ determinations provided in its response to the preliminary findings. After the review, each activity was allocated to the appropriate program.
7. We did not make an error. Our disallowance calculation reflected an adjustment for the overallocated time of the Early Intervention Coordinator.
8. We revised our report accordingly.
9. We disagree. It is appropriate to include associated fringe benefits costs to recommended payroll disallowances.
10. We agree the payroll reversal is appropriate; however, our finding is that the payroll allocation for June 30, 2017 was incorrectly reported in fiscal year 2017-18. In fact, Little Meadows conceded that the payroll allocation for June 30, 2017 should have been included in fiscal year 2016-17 and not in fiscal year 2017-18.

11. We stand by our findings. The monthly activity sheets clearly indicated, in detail, the independent contractor’s work activities. According to the CFR Manual, all attempts should be made by the service providers to directly charge an expense to the appropriate cost center. While the independent contractor’s position might have entailed work on various cost centers, a significant amount of the activities performed were related to the Early Intervention program, as readily discerned from the contractor’s detailed activity sheets.

12. As stated on pages 12 and 13 of our report, 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 provided and, for each service, the date(s), number of hours provided, fee per hour, and total amount charged. Although Little Meadows officials provided us with documentation, we were not able to tie in the detailed reports with the claimed invoices.

13. We stand by our findings. According to the RCM, 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.

14. We disagree. According to the RCM, entities operating approved programs must use the accrual basis of accounting. According to the CFR Manual, only expenses and revenues for the proper CFR reporting period should be included on the CFR. CFRs submitted with expenses and revenues for a different reporting period will not be accepted. Little Meadows officials acknowledged they use cash basis accounting at times because the expenses were recurring or immaterial. Regardless, the RCM requires that accrual basis accounting be followed. We also question Little Meadows’ determination that certain expenses were “minimal,” “minor,” “do not have a material impact year over year,” or “do not have a significant impact in annual operations.” We found that some items totaled thousands of dollars over the fiscal year.

15. We audit each fiscal year separately. It is not OSC’s practice to “add back” expenses to the correct reporting period.

16. We agree the incorrect reported period disallowances represent a significant dollar amount. Regardless, the RCM requires that accrual basis accounting be followed.

17. Although Little Meadows provided us with documentation for placed advertisements, we were not able to tie-in the advertisements with the specific invoices. Additionally, Little Meadows operated both SED cost-based programs and fee-based programs; therefore, we could not confirm that the claimed advertising expenses were related to the SED cost-based programs.

18. We stand by our findings. We recommended disallowing the costs for those employees not related to the SED preschool cost-based programs and for costs that were reimbursed by staff members. However, we revised our report to clarify that we also recommended disallowing an allocated amount of the expenses for those employees who worked largely on fee-based programs. According to the CFR Manual, all attempts should be made by the service providers to directly charge an expense to the appropriate cost center.

19. We disagree. According to the CFR Manual, all attempts should be made by the service providers to directly charge an expense to the appropriate cost center. The invoices provided as supporting documentation for the annual membership dues clearly indicated the portion of the charges related to the fee-based Early Intervention program.

20. We stand by our findings. As per the RCM, fines and penalties resulting from violations of or failure by the entity to comply with federal, State, and/or local laws and regulations are not reimbursable.

21. We disagree. The documentation provided for the consultant fees did not set forth sufficient information for accountability. According to the RCM, 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, the fee per hour, and the total amount charged. The supporting documentation for the claimed consultant fees did not include the required detail.

Contributors to Report

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