



New York State Office of the State Comptroller
Thomas P. DiNapoli

Division of State Government Accountability

Compliance With the Reimbursable Cost Manual

State Education Department Words 'N Motion Special Education Programs



Executive Summary

Purpose

To determine whether the costs reported by Words 'N Motion Special Education Programs (Words 'N Motion) on its Consolidated Fiscal Reports (CFRs) were properly documented, program-related, and allowable pursuant to the State Education Department's (SED) Reimbursable Cost Manual (Manual). The audit included all expenses claimed on Words 'N Motion's CFR for the fiscal year ended June 30, 2013 and certain expenses claimed on Words 'N Motion's CFRs for the two fiscal years ended June 30, 2012.

Background

Words 'N Motion is a Staten Island, New York-based for-profit organization that is authorized by SED to operate, among other SED-approved programs, a preschool Special Education Itinerant Teacher (SEIT) program for disabled children between the ages of three and five years. During the 2012-13 fiscal year, Words 'N Motion served 63 students. The New York City Department of Education (DoE) refers students to Words 'N Motion based on clinical evaluations and pays for its services using rates established by SED. The rates are based on the financial information that Words 'N Motion reports to SED on its annual CFRs. SED reimburses the DoE for a portion of its payments to Words 'N Motion based on the SED-established rates. For the three fiscal years ended June 30, 2013, Words 'N Motion reported approximately \$4.6 million in reimbursable costs for the audited programs.

Key Findings

For the three fiscal years ended June 30, 2013, we identified \$135,174 in reported costs that did not comply with the Manual's requirements, and we recommend such costs be disallowed. The ineligible costs included \$64,790 in personal service costs and \$70,384 in other than personal service (OTPS) costs, as follows:

- \$62,895 in salaries and related fringe benefits for six Preschool Evaluations program staff who were incorrectly charged to the SEIT program;
- \$32,770 in over-allocated rent-related expenses;
- \$19,827 in fees, corporate taxes, advertising costs, and other miscellaneous expenses that were ineligible, insufficiently documented, and/or not program-related;
- \$17,787 in staff development costs that were unsupported and/or ineligible;
- \$1,010 in bonus payments that exceeded the limits stated in the Manual; and
- \$885 in undocumented payroll accruals and salary expenses.

Key Recommendations

To SED:

- Review the recommended disallowances resulting from our audit and make the appropriate adjustments to Words 'N Motion's CFRs and reimbursement rates.
- Work with Words 'N Motion officials to help ensure their compliance with Manual provisions.

To Words 'N Motion:

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

Other Related Audits/Reports of Interest

[Whitestone School for Child Development: Compliance With the Reimbursable Cost Manual \(2014-S-38\)](#)

[Institutes of Applied Human Dynamics: Compliance With the Reimbursable Cost Manual \(2014-S-39\)](#)

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

Division of State Government Accountability

December 30, 2015

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

Dr. Selina Cali
Executive Director
Words 'N Motion Special Education Programs
905 Annadale Road
Staten Island, NY 10312

Dear Ms. Elia and Dr. Cali:

The Office of the State Comptroller is committed to helping State agencies, public authorities, and local government agencies manage government resources efficiently and effectively and, by so doing, providing accountability for 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 Words 'N Motion Special Education Programs to the State Education Department for the purposes of establishing preschool special education tuition reimbursement rates. This audit was performed pursuant to the State Comptroller's authority as set forth in Article V, Section 1 of the State Constitution; Article II, Section 8 of the State Finance Law; and Section 4410-c of the State Education Law.

This audit's results and recommendations are resources for you to use in effectively managing your operations and in meeting the expectations of taxpayers. If you have any questions about this draft report, please feel free to contact us.

Respectfully submitted,

*Office of the State Comptroller
Division of State Government Accountability*

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

Background

Words 'N Motion Special Education Programs (Words 'N Motion) is a for-profit organization that is authorized by the State Education Department (SED) to provide, among other programs, a preschool Special Education Itinerant Teacher (SEIT) program to disabled children ages three through five years. Based in Staten Island, New York, Words 'N Motion provides these SED Programs to children throughout the five boroughs of New York City. During the 2012-13 fiscal year, Words 'N Motion served 63 students.

The New York City Department of Education (DoE) refers students to Words 'N Motion based on clinical evaluations and pays for Words 'N Motion's services using rates established by SED. The rates are based on the financial information that Words 'N Motion reports to SED on its annual Consolidated Fiscal Reports (CFRs). To qualify for reimbursement, Words 'N Motion's expenses must comply with the criteria set forth in SED's Reimbursable Cost Manual (Manual), which provides guidance to special education providers on the eligibility of reimbursable costs, the documentation necessary to support these costs, and cost allocation requirements for expenses relating to multiple programs. Reimbursable costs must be reasonable, program-related, and properly documented. The State reimburses the DoE 59.5 percent of the statutory rate it pays to Words 'N Motion.

Chapter 545 of the Laws of 2013 mandates the State Comptroller to audit the expenses reported to SED by special education service providers for preschool children with disabilities. For the three fiscal years ended June 30, 2013, Words 'N Motion reported approximately \$4.6 million in reimbursable costs for its SED Programs. Our audit scope period focused primarily on the 2012-13 fiscal year, and we included certain items claimed on the CFRs for the 2010-11 and 2011-12 fiscal years.

Audit Findings and Recommendations

For the three fiscal years ended June 30, 2013, we identified \$135,174 in reported costs that did not comply with the Manual's requirements for reimbursement. The ineligible costs included \$64,790 in personal service costs and \$70,384 in other than personal service (OTPS) costs (see Exhibit on page 13 of this report). We note that SED had previously disallowed some of these costs.

Personal Service Costs

According to the Manual, personal service costs, which include all taxable and non-taxable salaries and fringe benefits paid or accrued to employees on the agency's payroll, must be reported on the provider's CFR as either direct care costs (e.g., teachers' salaries) or non-direct care costs (e.g., administrators' salaries). All claimed costs must comply with the applicable provisions of the Manual. For the three fiscal years ended June 30, 2013, Words 'N Motion reported about \$4.3 million in personal service costs. We identified \$64,790 in personal service costs that did not comply with the Manual's guidelines for reimbursement, as follows:

Ineligible Costs

The Manual states that costs will be considered for reimbursement provided such costs are reasonable, necessary, directly related to the special education program, and sufficiently documented.

During our audit period, we identified costs totaling \$63,780 that were not related to the SEIT program or that were not documented based on the guidelines in the Manual. The ineligible costs included:

- \$62,895 in salaries and related fringe benefits (\$53,653 and \$9,242, respectively) for six Preschool Evaluations program staff who were incorrectly charged to the SEIT program; and
- \$885 in reported salary expenses that were not documented.

Therefore, we recommend that SED disallow the \$63,780 because these costs did not comply with the Manual's guidelines.

Bonus Payments

According to the Manual, a merit award (or bonus compensation) shall mean a non-recurring and non-accumulating (e.g., not included in base salary of subsequent years) lump sum payment in excess of regularly scheduled salary, which is not directly related to hours worked. A bonus may be reimbursed if it is based on merit, as measured and supported by employee performance evaluations. The July 2012 Manual specifically states that bonuses granted to direct care employees cannot exceed 3.5 percent of their base salary. For the three fiscal years ended June

30, 2013, Words 'N Motion claimed \$136,741 in bonuses for 42 employees who worked for its SEIT program.

We determined that \$1,010 in bonus payments made to 14 direct care employees in fiscal year 2012-13 did not comply with the Manual's guidelines, as the payments exceeded the 3.5 percent base salary limit. We recommend that SED disallow the \$1,010 in bonus payments. Words 'N Motion officials agree with this disallowance.

Other Than Personal Service Costs

According to the Manual, costs must be reasonable, necessary, program-related, and sufficiently documented. During fiscal years 2010-11 through 2012-13, Words 'N Motion charged \$276,317 in various OTPS expenses to the SEIT program. We identified \$70,384 of those expenses that did not comply with SED reimbursement requirements, as follows.

Rent Expenses

According to the Consolidated Fiscal Reporting and Claiming Manual (CFR Manual), 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, and leases or mortgage interest. The CFR Manual also states that square footage is the approved method for calculating costs when agency administrative offices and program offices are located in the same building. Also, according to the Manual, approved tuition rates shall be computed after revenues (such as certain cash receipts that reduce the cost of an item) have been applied.

In addition to a SEIT program, Words 'N Motion operates two other SED-approved programs, Related Services and Evaluations, at its one location. For the three years ended June 30, 2013, Words 'N Motion reported \$64,836 in rent-related expenses (e.g., rent, repairs, and utilities) to the SEIT program. To determine if the rent expenses allocated to the SEIT program were fair and reasonable, auditors measured the location's square footage and discussed space use with Words 'N Motion officials. The officials advised us that there was no program-exclusive space at the location. Rather, all space was "shared" by the three programs. The shared space includes a gymnasium and a small conference room, but does not include administrative and common space (e.g., hallways). Also, Words 'N Motion officials advised us that they had not performed a formal analysis of shared space use.

Given these circumstances, we contacted SED program officials, and they advised us that only 50 percent of the small conference room space (for SEIT Administration) and 20 percent of the gymnasium space (for SEIT Group meetings) should be allocated to the SEIT program. We also found that Words 'N Motion did not include \$17,037 in rent revenue (which offsets rent costs) when reporting rent expenses on the 2010-11 CFR. After properly accounting for the shared space and the offsetting revenue, we determined that Words 'N Motion should have reported

only \$32,066 in rent expense for the audit period. Therefore, we recommend that SED recover \$32,770, (\$64,836 - \$32,066) in rent-related costs that were over-allocated to the SEIT program. Also, SED had already disallowed some of these costs.

Staff Development

The Manual states that costs will be considered for reimbursement provided such costs are reasonable, necessary, directly related to the special education program, and sufficiently documented. On its CFRs for the three fiscal years ended June 30, 2013, Words 'N Motion claimed \$30,351 in staff development expenses. We identified \$17,787 in staff development expenses that were ineligible and/or insufficiently documented, as follows.

According to the Manual, conferences (training) must be directly related to the education program or the administration of the program in order to be reimbursable. Upon audit, entities are required to provide brochures, an agenda, or other literature to verify attendance and to document the purpose of the conference or meeting. Furthermore, documentation to support the cost of conferences and meetings must include the names and job titles of staff who attended and the program(s) served by each staff person. Costs for food, beverages, entertainment, and other related costs for conferences and meetings, including Board meetings, are not reimbursable. We determined that Words 'N Motion claimed the following ineligible conference/training expenses:

- \$9,512 in unsupported costs, including \$3,263 to a restaurant and catering company, and three checks totaling \$1,050. The checks were made payable to cash;
- \$6,570 in training costs (e.g., speaker presentation fees, venue rentals, and equipment fees) that lacked detailed information about the training (agenda/topics and/or which employees attended the events); and
- \$1,705 in food and beverage expenses, including the costs of alcoholic beverages served to employees and their families at a training event. The costs of food and beverages are not reimbursable.

We recommend that SED disallow the \$17,787 in staff development expenses because they did not comply with the Manual.

Corporate Taxes

As a for-profit entity, Words 'N Motion is required to pay certain State and federal corporate taxes. However, such taxes are not eligible for reimbursement per the Manual. Nevertheless, Words 'N Motion reported \$11,897 in corporate taxes during the audit period. We recommend that the \$11,897 in corporate taxes be disallowed. We note that SED had previously disallowed some of these costs.

Advertising

According to the Manual, costs must be reasonable, necessary, and sufficiently documented.

Moreover, advertisements should not include information that would mislead parents to believe their child can receive services at no cost to the parent, unless the advertisement indicates that funding for such services is provided through local taxes and State funds. During the three fiscal years ended June 30, 2013, Words 'N Motion reported \$5,295 in advertising expenses. Words 'N Motion officials provided us with samples of advertisements that reportedly ran in various publications.

We reviewed the advertisements and noted that, except for one, the advertisement did not comply with the Manual's guidelines. Although the advertisements stated that the special education services would be provided at "no cost to the parent," they did not mention that funding would be provided through local taxes and State funds. Moreover, Words 'N Motion officials were unable to provide copies of the publications that carried the advertisements. Absent copies of the publications, there was insufficient assurance that the advertisements were actually published. Thus, we recommend that SED disallow the \$5,295 in advertising expenses that were not in compliance with the Manual. We noted that SED had previously disallowed some of the advertising costs.

Other Ineligible Costs

We identified certain other expenses totaling \$2,635 that, according to the Manual, are not eligible for reimbursement, as follows:

- \$1,439 in staff food expenses, which are not reimbursable;
- \$932 in personal expenses, including charges to Tiffany & Company and Coach;
- \$177 for tax preparation costs not related to the SEIT program; and
- \$87 in international calling plan expenses.

Recommendations

To SED:

1. Review the recommended disallowances resulting from our audit and make the appropriate adjustments to Words 'N Motion's CFRs and reimbursement rates.
2. Work with Words 'N Motion officials to help ensure their compliance with Manual provisions.

To Words 'N Motion:

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

Audit Scope and Methodology

We audited the costs reported on Words ‘N Motion’s CFRs to determine whether they were properly documented, program-related, and allowable pursuant to SED’s Manual. The audit included all claimed expenses for the fiscal year ended June 30, 2013, and certain expenses claimed on the CFRs for the two fiscal years ended June 30, 2012.

To accomplish our objective, we reviewed the Manual and the CFR Manual, Words ‘N Motion’s CFRs, and relevant financial records for the audit period. We also interviewed Words ‘N Motion officials, staff, and independent auditors to obtain an understanding of their financial and business practices. In addition, we assessed samples of reported costs to determine whether they were reasonable, necessary, sufficiently documented, and program-related. Our review of Words ‘N Motion’s internal controls focused on the controls over Words ‘N Motion’s CFR preparation process.

We conducted our performance audit in accordance with generally accepted government auditing standards. These standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained during our audit provides a reasonable basis for our findings and conclusions based on our audit objectives.

In addition to being the State Auditor, the Comptroller performs certain other constitutionally and statutorily mandated duties as the chief fiscal officer of New York State. These include operating the State’s accounting system; preparing the State’s financial statements; and approving State contracts, refunds, and other payments. In addition, the Comptroller appoints members to certain boards, commissions, and public authorities, some of whom have minority voting rights. These duties may be considered management functions for purposes of evaluating organizational independence under generally accepted government auditing standards. In our opinion, these management functions do not affect our ability to conduct independent audits of program performance.

Authority

The audit was performed pursuant to the State Comptroller’s authority as set forth in Article V, Section 1 of the State Constitution; Article II, Section 8 of the State Finance Law; and Section 4410-c of the State Education Law.

Reporting Requirements

We provided a draft copy of this report to SED and Words ‘N Motion officials for their review and formal comment. We considered their comments in preparing this final report and attached the comments to it. In responding to the draft report, SED officials agreed with our recommendations. In their response, Words ‘N Motion officials accepted some of our conclusions, but disagreed

with other proposed disallowances. Our rejoinders to certain Words 'N Motion comments are included in the report's State Comptroller's Comments.

Within 90 days of the final release of this report, as required by Section 170 of the Executive Law, the Commissioner of Education shall report to the Governor, the State Comptroller, and the leaders of the Legislature and fiscal committees, advising what steps were taken to implement the recommendations contained herein, and if the recommendations were not implemented, the reasons why.

Contributors to This Report

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Vision

A team of accountability experts respected for providing information that decision makers value.

Mission

To improve government operations by conducting independent audits, reviews and evaluations of New York State and New York City taxpayer financed programs.

Exhibit

**Words 'N Motion Special Education Programs
Schedule of Submitted and Disallowed Program Costs
For the 2010-11, 2011-12, and 2012-13 Fiscal Years**

Program Costs	Amount Per CFR	Amount Disallowed	Amount Remaining	Notes to Exhibit
Personal Services				
Direct	\$3,346,215	\$64,790	\$3,281,425	
Agency Administration	984,455	0	984,455	
Total Personal Services	\$4,330,670	\$64,790	\$4,265,880	A, C
Other Than Personal Services				
Direct	\$197,611	\$70,197	\$127,414	
Agency Administration	78,706	187	78,519	
Total Other Than Personal Services	\$276,317	\$70,384	\$205,933	B, D - K
Total Program Costs	\$4,606,987	\$135,174	\$4,471,813	

Notes to Exhibit

The following Notes refer to specific sections of SED's Reimbursable Cost 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 Words 'N Motion officials during the course of our audit.

- A. Section II - Costs will be considered for reimbursement provided such costs are reasonable, necessary, directly related to the education program, and sufficiently documented.
- B. Section II.3 [D] - Advertisements should not include information that would mislead parents to believe their child can receive at no cost to them day care services or any and all services the agency has to offer.
- C. Section II.14.A. (10) - A merit award (or bonus compensation) shall mean a non-recurring and non-accumulating (i.e., not included in base salary of subsequent years) lump sum payment in excess of regularly scheduled salary, which is not directly related to hours worked. A merit award may be reimbursed if it is based on merit, as measured and supported by employee performance evaluations and does not exceed 3.5 percent of the base salary of the direct care employee who is receiving the merit award.
- D. Section II.20.B - All personal expenses, such as gift certificates to staff and vendors, flowers, or parties for staff are not reimbursable unless specified otherwise in this Manual.
- E. Section II.22.C - Costs of food provided to any staff including lunchroom monitors are not reimbursable.
- F. Section 11.30 - Programs shall be required upon audit to provide brochures, agenda, or other literature that verify attendance and document the purpose of the conference or meeting.
- G. Section II.30.C - Costs for food, beverages, entertainment, and other related costs for meetings, including Board meetings, are not reimbursable.
- H. Section 11.30.F - Documentation to support the cost of meetings and conferences must include the names and job titles of staff that attended and the program(s) served by each staff person.
- I. Section II.41.B.4 - The share of rental expense allocated to programs funded pursuant to Article 81 and/or Article 89 is based on documented and reasonable criteria, such as square footage utilization, when more than one program is operated in a rented facility.
- J. Section II.44.A - Any cash receipts that reduce the cost of an item will be applied against the item, except gifts, donations, and earned interest from other-than-public funds.
- K. Section II.54.B - Payments for federal, State and local income taxes or any related penalties and interest are not reimbursable.

Agency Comments – State Education Department



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

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December 2, 2015

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

Dear Mr. Patone:

The following is the New York State Education Department's (SED) response to the draft audit report, 2014-S-72, Compliance with the Reimbursable Cost Manual: Words N Motion Special Education Programs.

In addition to the actions that will be taken in response to the specific recommendations described below, the Department will closely examine the circumstances that led to the findings described in the audit report. This examination will include an assessment of the programmatic oversight and fiscal management employed at Words N Motion Special Education Programs (Words N Motion), and will be a factor in the consideration of the continued approval of this provider and the corrective action or enforcement actions that may be warranted.

Recommendation 1:

Review the recommended disallowances resulting from our audit and make the appropriate adjustments to Words N Motion's CFRs and reimbursement rates.

We agree with this recommendation. The Department will review the recommended disallowances as noted in the report and make adjustments to the reported costs to recover any overpayments, as appropriate, by recalculating tuition rates.

Recommendation 2:

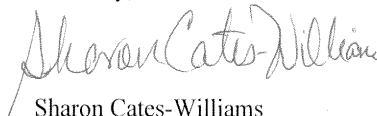
Work with Words N Motion officials to help ensure their compliance with Manual provisions.

We agree with this recommendation. SED will continue to provide technical assistance whenever requested and will strongly recommend the Words N Motion officials take advantage of our availability to help them better understand the standards for reimbursement as presented in

Regulation and the Reimbursable Cost Manual (RCM). Furthermore, Consolidated Fiscal Report (CFR) training is available both in person, at one of the six locations it is offered across the State, and online on the Department's webpage. The Department recommends that all individuals signing the CFR certification statements, namely Executive Directors and Certified Public Accountants, complete this training. At the direction of the Board of Regents, the Department intends to require that this training be mandatory and will require individuals to verify that they have completed the training.

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

Sincerely,



Sharon Cates-Williams

c: James P. DeLorenzo
Suzanne Bolling

Agency Comments – Words ‘N Motion

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December 10, 2015

**BY EMAIL (SLYNCH@osc.state.ny.us)
AND FEDERAL EXPRESS**

Steven Lynch, Audit Manager
Office of the State Comptroller
123 William Street, 21st Floor
New York, NY 10038

Re: Words ‘N Motion Special Education Programs

Dear Mr. Lynch:

We are counsel for Words ‘N Motion Special Education Programs (“Words ‘N Motion” or the “Company”). This letter is submitted on behalf of Words ‘N Motion in response to the draft report, issued on November 3, 2015, of the audit of the Company by the Office of the State Comptroller (“OSC”).

At the outset, we re-iterate that Words ‘N Motion does not agree that OSC has authority to conduct the audit at issue under the New York State Constitution, as interpreted by the New York Court of Appeals in *Blue Cross & Blue Shield of Cent. N.Y. v McCall*, 89 N.Y.2d 160 (1996), *New York Charter Schools v. DiNapoli*, 13 N.Y.3d 120 (2009) and *Handler v. DiNapoli*, 23 N.Y.3d 239 (2014). Words ‘N Motion’s cooperation with the audit, its prior responses to OSC’s preliminary reports and this response do not waive any of its rights to challenge your office’s authority to conduct this audit or any decision to act upon it, and Words ‘N Motion expressly reserves all rights to do so.

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Comment
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We further note that OSC’s draft report contains numerous factual errors that were corrected in Words ‘N Motions’ detailed 22-page response to OSC’s preliminary reports sent to OSC on June 29, 2015. Few of those factual errors have been corrected in the draft report, although what Words ‘N Motion said about them in its prior response is not addressed or mentioned at all in the draft report. Indeed, it is hard to discern from the draft report whether OSC even read large portions of Words ‘N Motion’s prior detailed responses or took account of anything that was said

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Comment
2

*See State Comptroller’s Comments, page 40.

SHEBITZ BERMAN COHEN & DELFORTE, P.C.
ATTORNEYS-AT-LAW

Steven Lynch
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at the exit conference. We believe that it would be improper audit procedure and a violation of Generally Accepted Government Auditing Standards (“GAGAS”) for OSC to incorporate such inaccuracies into its final report at all, much less with no explanation addressing what Words ‘N Motion said. This violates provisions of GAGAS requiring accuracy in government audits, requiring that reasons be stated for each audit conclusion, and requiring that there be meaningful communications with the audited agency before conclusions are reached.

We also further note at the outset that many of the disallowances OSC proposes in fact already were made by the New York State Education Department (“SED”) in its own thorough prior annual reviews of Words ‘N Motion’s financial reports, and therefore those expenses already were excluded in the determination of the Company’s tuition rates. Items that SED already has disallowed should be excluded from OSC’s report, as it serves no purpose for OSC to “recommend” to SED that it disallow what SED already excluded when it set the Company’s tuition rates. We can only assume that by including these items in its draft report, OSC is deliberately misleading the public, and impugning Words ‘N Motion’s reputation in the process, by conveying the false impressions that OSC “found” much more than it did and that Words ‘N Motion has been overpaid amounts that it has not been paid, because the expenses at issue were excluded from its tuition rate. Moreover, for one of the expenses, Words ‘N Motion itself self-reported to SED an erroneously charged expense before OSC said anything about that expense. The draft report does not mention that either, and it should.

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Comment
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We will now address OSC’s specific conclusions in the draft report.

1. “Ineligible” Costs Relating To Pre-School Evaluation Staff

Words ‘N Motion does not dispute the proposed disallowance for salary and fringe benefits for six Preschool Evaluation program staff that were mistakenly charged to the SEIT program. However, as we advised OSC previously, this was not “found” by OSC. Words ‘N Motion itself discovered this error and self-reported it to SED before OSC raised any issue regarding these employees. The correspondence by which Words ‘N Motion reported this error to SED was provided to the SED auditors. To be accurate the audit report should state that Words ‘N Motion self-reported this error to SED before OSC raised any issue regarding this compensation.

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Comment
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2. “Ineligible” Costs Relating To “Undocumented” Payroll Accruals

Words ‘N Motion disagrees with OSC’s proposed disallowance for two reasons, and it should be removed before a report is published.

First, there was no “documentation” for these salaries required by the Reimbursable Cost Manual (“RCM”) that was not provided. The draft report omits the relevant factual context. The salaries at issue were the salaries of two owner-officers of the Company, the Executive Director and the Division Director. Both of these salaries were set by the officers and were a matter of

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Comment
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SHEBITZ BERMAN COHEN & DELFORTE, P.C.
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Steven Lynch
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written record; they were kept level with these officers' past salaries in the 2010-11 and 2011-12 years, and in 2012-13 they were reduced by \$16,500 for the Executive Director and by \$11,500 for the Division Director.

Accruals were necessary because the Company was unable to pay the officers' full salaries during the audited years because of cash flow difficulties Words 'N Motion encountered. The cash flow difficulties were caused by rate recoupments of \$78,000 from the 2010-11 year and \$32,719 for the 2011-12 year, which also had a current year disallowance of \$61,758, for a total of \$172,477 in disallowances in those two years of expenses the Company already had paid and could not recover back. As a result, the Company did not have sufficient cash to pay the full amount of officers' salaries comfortably, and to aid the Company in meeting its other financial obligations more comfortably, the officers decided to defer payment of a portion of their own salaries until cash flowed allowed payment of the balance. The unpaid balance was accrued on the books.

The regulations and the RCM both require that accrual accounting consistent with GAAP be used. Cash basis accounting for salary or any other expense is neither required nor permitted. This was a proper accrual under GAAP. The salaries were fixed liabilities of the Company. The officers did not agree to forego the payment of the unpaid portion of their full salaries; they only agreed to defer receipt of their salaries until cash flow would allow the Company to pay the balance more comfortably. The auditors were shown documents demonstrating that the Company has since paid them \$80,000 of the balance due by payments on 9/30/13, 2/27/15, 3/31/15 and 4/20/15. Additional amounts have been paid since then.

Neither the draft report nor OSC's prior preliminary report identifies what "documentation" other than the accrual on the Company's books purportedly was "required". No such documentation was required. The only RCM section the draft report cites as purportedly pertaining to this point, Section II stating that costs must be "sufficiently documented," does not say anything about what documentation is "sufficient" to support an accrual. The draft report does not cite any RCM section or principle of GAAP accounting that requires any specific documentation beyond an accrual entry to support the accrual, because there is no such provision. What GAAP does require is that it must be "probable" that the Company will pay the obligation. OSC does not and cannot dispute that the Company is obligated to, and the very least "probably" will pay this fixed salary obligation. There is no basis under GAAP for the proposed disallowance, by which OSC is seeking to punish the Company on account of its officers' decisions to help the Company meet its obligations to others by paying staff and other obligations first and waiting to pay the full amount of their own salaries until cash flow would allow the Company to do that more comfortably. The Company should be praised, not punished, for this.

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Comment
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A second reason OSC's proposed disallowance is incorrect is that SED already has made disallowances of the Division Director's salary and fringe benefits in amounts greater than OSC's proposed disallowances. SED's disallowances were on account of the RCM provisions limiting certain officers' salaries the amount of "comparable" public school officers. The Company is required to report the officers' full salaries, as Words 'N Motion did, and SED makes those adjustments. SED's adjustments to the Division Director's compensation for rate-setting purposes were \$65,452 in 2010-11, \$23,396 in 2011-12 and \$29,396 in 2012-13. The SED adjustments and the OSC's proposed disallowances are mutually exclusive, as making one would cause a corresponding reduction in the other, even if OSC's proposed disallowances of the Division Director's compensation otherwise were correct, which they are not. The draft report improperly fails to note this.

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3. Bonus Payments

Words 'N Motion does not dispute that OSC's proposed disallowance of the \$1,010 by which its 2012-13 bonus payments exceeded the 3.5 percent of base salary limit in the RCM is appropriate, however *de minimus* it may be.

4. Rent Expenses

Words 'N Motion disagrees with OSC's proposed disallowance of rent, and it should not be included in the published report.

The draft report is not clear as to how OSC calculated that only \$32,066 in rent expense should have been allocated to SEIT over the three audited years. To the extent OSC is disallowing \$17,087 in 2010-11 rental costs because it was offset by rental revenue, SED already made that adjustment as part of its own review in setting the tuition rate. Specifically, SED disallowed \$15,396 of rent allocated to SEIT and \$1,925 of rent allocated to agency administration, for a total of \$17,321, and \$23,164 of rental income was reported on CFR-2, line 10, under "Other". Thus, there is no reason for OSC to mention this at all in the draft report and to recommend that SED disallow an expense that it already has disallowed. We are not clear how the current numbers in the draft report are calculated, as they differ from the calculations presented in the preliminary report and OSC has not provided any explanation. We request that OSC provide detail of its revised calculations.

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With respect to the other two years, OSC ignored all the relevant information pertaining to the rent allocation that was presented to OSC and corrected its erroneous calculations of space. In addition to the June 29, 2015 response to OSC's preliminary reports, at the exit conference on July 1, 2015, OSC was again presented with the corrected calculations. We will summarize this once again.

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Words 'N Motion's June 29, 2015 Response to OSC's Preliminary Reports: "Upon review of your calculations, we found errors described in Step 1 below...We could not match up descriptions of the rooms in your preliminary report with the square footages...Words 'N Motion performed the following five steps to evaluate your contentions and perform an accurate calculation..

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Step 1: Utilizing the dimensions submitted by OSC we corrected several room classifications that were incorrect:

- 1) Correction: OSC Common Space: OSC misclassified the desk and work area for one of our employees.
- 2) Correction: OSC Exclusive (program) Space: OSC included the incorrect space that is shared by all programs as indicated and attached and detailed on the preliminary report. We also noted that OSC spent approximately 5 months on site and should be aware of the tight confines."

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Words 'N Motion then performed four more steps:

- Step 2: It separated out the various spaces after the above corrections were made.
Step 3: It performed a Total Shared Space Calculation in accordance with CFR Appendix J.
Step 4: It reallocated Agency Administration Space.
Step 5: It presented to OSC the Final Product.

Results: Year 11/12: Words 'N Motion underreported allowable rent costs by \$353
Results: Year 12/13: Words 'N Motion underreported allowable rent costs by \$1,665

Words 'N Motion presented a more detailed explanation of how OSC was incorrect and used inaccurate information, and why Words 'N Motion's methodology and calculations were correct. A copy of Words 'N Motion's prior detailed explanation is included as Attachment 1 to this response.

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In addition, after discussions at the exit conference, at OSC's request, Words 'N Motion provided pictures of the spaces at issue and written explanations as to how the space was used. Words 'N Motion also invited the auditors to come back to re-measure the space, since the Company could not correlate the dimensions used in the preliminary report to the spaces referred to in the preliminary report, and to see for themselves who was sitting in the space OSC had incorrectly designated as common space, rather than agency administration space. OSC chose not to do so.

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The draft report completely ignores Words 'N Motion's methodology and explanations. There is not a word of explanation in the report as to what OSC purportedly thinks is wrong with Words 'N Motion's analysis and explanation, much less any explanation as to why. The draft

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report ignores what Words 'N Motion said altogether. There is no basis to do so, and the resulting calculation by OSC improperly is based on inaccurate facts as to how the space was used, and no stated methodology at all, which is a violation of GAGAS. When an agency submits detailed information and corrections to OSC conclusions, OSC has an obligation under GAGAS to review, confirm and correct its information and to state its conclusions and reasons for the same in light of the information presented by the agency. OSC has not done so.

The "explanation" for this in the draft report is that Words 'N Motion purportedly "advised us that they had not performed a formal analysis of the shared space use." We do not know what OSC means by this or why it thinks it is relevant; there is nothing the RCM or CFR Manual that requires a "formal study" beyond what Words 'N Motion did. Again, the draft report offers no explanation at all as to what purportedly was wrong with Words 'N Motion's detailed analysis set forth in Attachment 1.

The draft report goes on to say that OSC based its calculation on advice from SED "that only 50 percent of the small conference room space (for SEIT administration) and 20 percent of the gymnasium space (for SEIT group meetings) should be allocated to the SEIT program." This is improper for several reasons. First, SED did not visit the space and has no knowledge of how it was used. Second, there are no stated reasons for SED's purported conclusions. They are completely arbitrary. Moreover, again there is no explanation from SED as to what purportedly was wrong with Words 'N Motion's analysis or why, there is just a statement from OSC that SED reached a different conclusion for no explained reason. Third, Words 'N Motion was not included in any discussions of this issue with SED. While an SED representative was present at the exit conference by telephone, SED did not say a word at the exit conference about this or any other issue. Thus, Words 'N Motion improperly was not allowed any input into the discussions between OSC and SED of this issue and of SED's conclusions on which OSC is relying. We also note that if OSC is going to rely on SED conclusions on points of fact, as OSC does in the draft report, there is no point in doing an audit at all. The whole point of an audit is to confirm the facts reported. SED already reviewed Words 'N Motion's space allocation as part of its own review in setting the tuition rate.

For all these reasons, OSC's proposed disallowances of rent are incorrect and should not be included in the published report.

5. Staff Development

Words 'N Motion disagrees with OSC's proposed disallowances of staff development expenses. None of them should be included in the final report.

The proposed disallowance of \$10,037 of tuition for an office worker to reimburse her for tuition for psychology courses is incorrect for two reasons. First, as we advised OSC previously, this staff member did not work for the SEIT program; she worked for the evaluations program,

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and the \$10,037 was charged to the evaluations program (9190), not to the SEIT program. Accordingly, this expense was outside the scope of OSC's audit, as the Company never claimed this expense as a reimbursable expense, and it had no effect on any State-funded tuition rate. Accordingly, it should not be mentioned at all in the report.

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Second, the two reasons the draft report gives for the disallowance both are incorrect factually, even if this expense were an expense for which Words 'N Motion was reimbursed in its tuition rate (which it is not). The expense was related to the employee's position because the courses were in psychology and psychology evaluations were part of the evaluation process and testing that this employee was responsible for coordinating. The statement in the report that Words 'N Motion "could not provide documented evidence to show that the employee completed the courses and received passing grade" is untrue. Words 'N Motion provided the auditors with a copy of the transcript reflecting that the employee received passing grades. A copy of the transcript will be provided again under separate cover.

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The remaining disallowances all are based on statements in the draft audit report that are inaccurate. Words 'N Motion provided a detailed explanation of all of these items in its response to the preliminary reports. A copy of that portion of the Company's response to the preliminary reports is included as Attachment 2 to this response. Suffice it to say, contrary to what the draft report says, those explanations and the supporting documentation provided to the auditors contained detailed information supporting the amounts paid for each event, including invoices detailing what was provided and attestations of the same and of payment. Moreover, the Company was told by the restaurant provider that the auditors went to the restaurant after the exit conference to verify the expenses billed by the restaurant, and the expenses were confirmed by the provider. Once again, the draft report does not address at all what Words 'N Motion said in its response to the preliminary reports. The draft report does not state what purportedly was wrong with the information provided with Words 'N Motion's response that made the expenses not "sufficiently documented;" it does not even mention the documentation and information provided by Words 'N Motion's response to the preliminary reports. Again, GAGAS requires a government audit report to be accurate and to state reasons for the conclusions; OSC's draft report is not accurate and does not state any reasons why the documentation provided with Words 'N Motion's prior response was not sufficient.

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Moreover, Words 'N Motion provided all information requested about the agendas for each presentation. Again, the draft report does not address the information provided at all, much less explain why it purportedly was not sufficient. Similarly, Words 'N Motion provided information as to who attended each conference. It did not provide sign-in sheets for all conferences, but the RCM does not require sign-in sheets.

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For all these reasons, the proposed disallowances are incorrect and should not be included in the final report.

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6. Corporate Taxes

The proposed disallowance of corporate taxes should not be included in the report because SED already adjusted for this during its own review in setting the tuition rates. Accordingly, there is no reason to recommend that SED disallow an expense it already has disallowed in setting the tuition rate. As a matter of fact, SED's disallowance (\$13,960) was larger than what OSC proposes. If OSC is correct, the additional \$2,063 taken out by SED should be restored.

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7. Consulting Fees

Words 'N Motion disagrees with the proposed disallowance of consultant's fees, and this proposed disallowance should not be included in the final report. The statements contained in the draft report are incorrect and inaccurate. The draft report proposes to disallow the entire Consultant's fees for the above three years in the total amount of \$12,240, or \$10,563 for the SEIT program. It appears that OSC did not review all of the documentation given to them at the time of audit, as the furnished invoices meet all the RCM standards.

All of the invoices, which includes the detail described below as a part of the invoice, were furnished to the auditors at the time of audit request. The consultant and the Company's officers also were available to the auditors during the audit to answer any questions about what was done. At the exit conference the invoices were furnished again and passed out to OSC participants and read out loud for the benefit of those participating on the phone. It was highlighted where in the invoices each element of information required by the RCM was included. OSC was asked if there were further clarifications or questions or needed information. OSC asked if they needed additional information, could it be furnished within 24 hours. The Company's answer was yes. However, no further documentation was requested by OSC.

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The furnished invoices provide the information the RCM requires, which is:

Date of Service
Numbers of Hours
Rate Charged
Specific Service provided by date

Those are all the RCM requirements. The invoices include these elements and therefore are in accordance with the RCM. OSC claims that the documentation indicated the "nature" of services but not the "specific services" provided. That is incorrect. OSC is splitting hairs. The RCM does not dictate or provide examples or guidance as to what constitutes a "specific" service or the level of detail required. OSC cannot properly base a disallowance of expenses for work that was indisputably performed and paid for on its interpretation of a vague standard that would require a level of detail that is not specified in the RCM. The level of detail provided by the consultant's invoices is consistent with industry norms.

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Although the documentation previously provided to the auditors meets the requirements of the RCM, Words 'N Motion is providing under separate cover an additional more detailed description of the work performed. The RCM does not require this, and the auditors never asked for it, but we nevertheless are providing it to satisfy OSC's objections to the degree of detail, even though OSC's objections are completely unjustified.

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For all these reasons, OSC's proposed disallowances of consulting fees are incorrect and should not be included in the published report. OSC also has not performed its due diligence, as required by GAGAS, in not obtaining the information offered at the exit conference and reviewing it before recommending a disallowance, which also is incorrect.

8. Advertising

Words 'N Motion disagrees with the proposed disallowances of advertising expenses, and they should not be included in the report.

Words 'N Motion's advertising was not misleading to the public in any way. The RCM Cost Principles, Section II, Advertising 3(B) expressly states that an ad saying that services may be provided "at no direct cost to the parents" is appropriate. While Words 'N Motion's ads did not have additional recommended language that funding is provided through county taxes and state funds for special education purposes, that omission did not render the ads misleading and does not constitute a basis for disallowing the expense.

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OSC also previously contended that a brochure for an advertisement during the year ending 6/30/11 was not provided. The brochure had been provided and was provided again with Words 'N Motion's response to the preliminary reports. In light of that, the Company does not understand what the draft report is referring to when it says that Words 'N Motion "was unable to provide copies of the publications that carried the advertisements," as the preliminary reports did not identify any other purportedly "missing" publication document. In any event, the RCM does not require that a copy of the publication carrying the advertisement be maintained as supporting documentation. Once again, OSC is making up a purported "requirement" that does not exist in the RCM. Moreover, the statement in the draft report that absent the Company's providing a copy of the publication, "there was insufficient assurance that the advertisements were actually published," is completely illogical. The Company would have no conceivable reason to pay for advertisements that were not published, as that would not benefit the Company in any way.

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While the draft report notes that SED "previously disallowed some of the advertising costs," it does not mention the amount. The report should state that SED previously disallowed \$1,886 of the advertising costs. Moreover, SED's disallowance clearly reflects that SED already actually

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looked at the facts relating to those expenses and reached a conclusion contrary to OSC's, that is, that only \$1,886 should be disallowed.

9. Telephone Costs

Words 'N Motion disagrees with the proposed disallowances of \$2,272 in cell phone costs "for a cell phone issued to a non-employee," and they should not be included in the published report. The statement in the draft report that the cell phone was not an employee's phone is incorrect. For some of the cell phone expenses reported, the accounts with the cell phone service provider were maintained by the employees and paid for by the Company. The phone line at issue was maintained in an account in the name of the employee's husband, because both spouses had phones on that account and they had set up the account in the husband's name. However, each of the spouses had their own phone on the account, and the phone at issue was the employee's phone used solely by the employee, and not by her spouse. As a matter of fact, during the audit, the auditors physically inspected each cell phone to verify serial numbers and line numbers. The employee physically took the cell phone in question out of her purse and gave it to the auditors for that purpose. Obviously, she could not have done that if it was her husband's phone. Accordingly, it was an appropriate reimbursable expense and should not be disallowed.

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Conclusion

We trust that OSC will carefully consider this response and will remove the incorrect proposed disallowances and the disallowances already made by SED, and also will remove the many inaccurate statements, before publishing a final report.

Very truly yours,



Frederick J. Berman

FJB:jp
Enclosures

ATTACHMENT 1

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Rent Year 11-12

We do not agree with your findings and the resulting proposed disallowance of \$14,756.

First, we want to mention that your findings are inconsistent with RSU's prior findings. RSU examined the space allocations made by Words 'N Motion and initially proposed a disallowance for the SEIT program. Words 'N Motion provided RSU floor plans, which also were provided to your office to justify the allocation. In addition, Words 'N Motion explained its use of the space to RSU as follows:

"As we previously submitted the SEIT program has the greatest number of employees and therefore utilizes the most space. In addition to the clerical, we also provide supervision and coordination which is necessary in the program. As you can note we are 100% W2 SEIT workers in the program. The teachers, as they are employees, come to our office for notes, meetings and conferences. ...The amount reported on the CFR is reasonable and therefore should be reimbursed in full."

RSU reinstated its proposed reduction in the rent. This is significant, because RSU accepted Words 'N Motion's reporting and calculations. On review, we see that Words 'N Motion did not submit all common space to RSU, which is corrected in Words 'N Motion's present calculation.

Second, upon review of your calculations, we found errors described in Step 1 below. We also do not agree with your use of the "square footage" allocation methodology for reasons explained in Step 3 below.

We also note that Words 'N Motion could not match up the descriptions of the rooms in your preliminary report with the square footages. Words 'N Motion nevertheless has used your calculation sheets, including your square footages, corrected to reflect the actual usage of the rooms.

In receiving your calculations, Words 'N Motion performed the following five steps to evaluate your contentions and perform an accurate allocation.

Step 1: Utilizing the dimensions submitted by OSC we corrected several room classifications which were incorrect.

- 1) Correction: OSC Common Space: OSC included the listing below. This is actually the desk and work area for one of our employees coded to CFR 3 PTC 605 for 11/12 as

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indicated and detailed on Attachment 11. Therefore, it should be classified as agency administration space.

Hallway Area 16' 8" X 4' 5" 73.61

- 2) Correction: OSC Exclusive (Program) Space: OSC included the listing below. This this space is shared by all programs as indicated and detailed on Attachment 11.

REL SVC/ GYM / SEIT/EVALS 16'10 X 16'9 281.96

Words 'N Motion is operating in a very small space, and there is no space used exclusively by one program. Since your team spent approximately five months in the offices, we assume you are aware of the very tight confines.

Step 2: Separate out the various spaces after the above corrections as follows:

		Corrected Per WnM	OSC Incorrect Calculation
Total Space		1,024	1024.83
Total Common Space		277.70	351.31
Total Shared Space		496.24	214.28
Total Program Exclusive Space		0	281.96
Total Agency Administration Space		250.89	177.28

Step 3: Total Shared Space Calculation: Shared space was allocated based upon staff and contracted hours (FTE's). This was based upon guidance from the 11/12 CFR Manual, Section 43, which provides in relevant part:

"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 or 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. One reason why the square footage method might not accurately reflect the cost to be allocated to a State Agency/Program would occur when a program uses a significant amount of space, but not much space exclusively. In that case, units of service or staff FTEs might be a better choice as the basis for the allocation. In a case where the shared space is used at different times by different programs (daytime vs.

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evening, different days) the hours of use might better reflect the benefit to the program and the allocation of the costs."

This clearly is a situation where each program uses a significant amount of space but "not much space" – actually no space – exclusively, so that allocation by square footage would not accurately reflect the cost, and staff and contracted hours is a better choice as the basis for the allocation. Staff hours were calculated for Program 9135, Program 9190 and Program 9200. Please note that for the Program 9135 PTC 218, we used 20% for the teachers for time needed in the Company's offices. In your report OSC also used 20% (1/5).

Step 4: Total Agency Administration: Keeping with your directives, Words 'N Motion carved out the corrected agency administration space of 250.89 square feet, which it had not previously done.

Step 5: The Final Product: The results are summarized in Attachment 11. The final percentage and cost amount for rent for 11/12 as follows:

Program	% of Total	Total Correct Cost
9135	48.72%	11,789
9190	10.28%	2,488
9200	7.41%	1,793
CFR 3 AA	33.58%	8,125
Total	100%	24,196

The end result is that Words 'N Motion underreported allowable rent costs by \$353. Therefore, no disallowance is warranted.

Attachment 9 provides the details of the calculation. Offsite storage costs are included.

Rent year 12/13:

We also disagree with your findings for the rent year 12/13 for the same reasons discussed above for the 11/12 year. Words 'N Motion has performed the same 5-step calculation and has concluded that the correct final rent amounts and allocations are as follows:

Program	% of Total	Total Correct Cost
9135	51.15%	12,730
9190	10.17%	2,530
9200	5.10%	1,270
CFR 3 AA	33.58%	8,358
Total	100%	24,889

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The end result is that Words 'N Motion underreported allowable rent costs by \$1,665.
Therefore, no disallowance is warranted.

Attachment 10 provides the details of the calculation. Offsite storage costs are included.

ATTACHMENT 10

	According to WNM's 2012-13 General Ledger, WNM incurred	\$24,869	In total rent expense.
Unsupported (no current lease) nonprogram related storage fees totaling leaving the rent expense amount of	(\$3,285) were included in the	\$21,600	total rent expense on the GL.
			was supported and program-related.
On CFR-1-WNM agency reported, for all 3 programs		\$22,815	In program-related rent expense for FY12-13.
Of this amount,		\$16,353	was allocated to SEIT (\$135).
On January 5, 2015, the OSC audit staff received WNMA floor plan via email from WNMA Executive Director.			
Upon reviewing the floor plan, OSC auditors compared it to their direct observations and discussed it with agency officials.			
Room A was multi purpose space for Evaluations (9190), Related Services (9200), and SEIT (9135) teacher meetings (pm)			
Room B was "mixed together", with some as common use and some as agency administration space.			
Room C was a common use hallway, lavatory, and kitchen; no program activity.			
Room D was exclusive space for Related Services (9200) and placed under its as 'the gym'			
Room E was agency administration space (Executive Director's Office); no program activity.			
On March 12, 2015, the OSC audit staff conducted observations/interior measurements of WNM site at 905 Amadelle Rd, Staten Island, NY 10312.			
During the observations, the auditors determined that no space was exclusively dedicated to Program 9135 (SEIT).			
Upon reviewing all data, OSC calculated the following square footages:			
Total WNM Square Footage - 905 Amadelle Road:	OSC	Corrected	Per Words in Motion
Total Common Space	1,024.83		1,024.83
Total Agency Administration Space	351.31	(73.61)	277.70
Total Exclusive Program Space	177.26	73.61	250.89
Total Shared Program Space	261.96	(261.96)	0.00
	214.20	261.96	496.24
Per the CFR Claiming Manual, Appendix J, Section 43.3 (Allocating Expenses for Shared Program/Site) and per the CFR Claiming Manual, Appendix I, Section 42.2 (Property Costs Relating to Agency Administrative Offices):			
Per OSC	OSC		Per Words in Motion
Step 1			
Evaluations (9190) Exclusive Square Footage	0.00		0.00
Related Service (9200) Exclusive Square Footage	261.96		0.00
Preschool SEIT (9135) Exclusive Square Footage	0.00		0.00
Shared Program Square Footage (Eval/SEIT programs)	214.20		496.24
Agency Administration Exclusive Square Footage	177.26		250.89
Common Square Footage	351.31		277.70
Total Site Square Footage	1,024.83		1,024.83
Step 2			
Agency Admin Allocation Ratio [177.26 / (1,024.83 - 351.31)]			\$24,869
Program 9200 = [261.96 / (1,024.83 - 351.31)]			8,358
(4 days/Mo - Evaluations) Programs 9190 = [(9/5) * (214.26 / (1,024.83 - 351.31))]			0.0510 See below
(1 day/Mo - SEIT use) Program 9135 = [(1/5) * (214.26 / (1,024.83 - 351.31))]			0.1017 See below
Rent expense * Program 9135 Alloc. Ratio			0.0636
			12,730
			(Including Storage)
			6,885
FEB 1			

ATTACHMENT 2

C. Staff Development.

We do not agree with your findings disallowing staff development expenses. We call your attention to the RCM Criteria guidance for each of the audit years:

RCM 10/11: 48. Staff Development

A. The costs of in-service training provided for employee development, including training materials, salaries and related costs of instructors are reimbursable.

RCM 11/12: 50. Staff Development

A. The costs of in-service training provided for employee development, including training materials, salaries and related costs of instructors are reimbursable.

RCM 12/13: 49. Staff Development

A. The costs of in-service training provided for employee development, including training materials, salaries and related costs of instructors are reimbursable.

We disagree with your findings on the following items.

1. Staff Development Year 10/11:

We first have a question relating to your calculation. We are not clear on the total disallowance proposed for \$13,876 and the resultant details. Of the total amount \$10,037 was indicated as disallowed, but it should be noted that this amount was charged 100% to the

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evaluation program 9190. The total staff development was \$27,888 leaving a balance of \$17,851 for the SEIT Program 9135. The total amount "approved" in green totals \$6,209.40. The SEIT program charged \$17,851. If the "approved amount" is deducted that would leave \$11,641.60 being disallowed, not \$13,876 as indicated. Please check your calculations or explain your calculation to us.

Words 'N Motion held four staff training in this year.

Training 1: Held 7/23/10 at Nansen Lodge, Staten Island, NY.

The following presentations were made for SEIT teachers, and invoices were supplied to you:

- 1) Michelle Mamaradlo: Bilingual L.M.S.W. Cost \$250
- 2) Erin Reilly: Art & The Preschool Child, Enhancing Classroom Instruction Cost \$100.

Your stated reasons for disallowance were "*missing sign in sheet*" and "*same day as picnic.*"

The RCM does not require a sign-in sheet. Therefore, there is no basis for disallowances on account of there not being one. Again, your office does not have authority to make up requirements that are not in the RCM. The fact that Words 'N Motion did maintain sign-in sheets for some staff development events does not mean that it was required to do so for all such events. While the event was called a "picnic" because it included food, it was a staff training event. It was not the "same day" as the picnic; it was the same event. A revised copy of the Taste of Honey contract which breaks out the cost as between the reimbursable charges for space (\$534.75) and the non-reimbursable charges for food and beverage is Attachment 1.

Training 2: Held 10/1/10 at Words 'N Motion

The following presentation was made for SEIT teachers, and invoices were supplied to you:

- 1) Constance J. Salhany , PhD, ACT. Cost \$500

Your stated reasons for disallowance were: "*missing sign-in sheet, topic not mentioned on invoice*". Again, there is no RCM requirement that Words 'N Motion have a sign in sheet. A copy of documents describing the topic of the presentation is Attachment 2.

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Training 3: Held 12/1/10 at Nucci's South, Staten Island, NY.

The following presentation was made for SEIT teachers, and invoices were supplied to you:

- 1) Denise Carannante: Topic Storytelling: Ask and Answer Pre-K Expectations Cost \$300

OSC indicated *"this vendor's invoice date differs from Nucci's invoice date; see Nucci's holiday event in Dec 2010"*. This is not accurate.

The training was held at Nucci's South, and we supplied an invoice with detail charges. The bill was directly from Nucci's. The date of the event referenced in the Ms. Carranante's invoice, 12/1/10, is the same as the date of the Nucci's South invoice. Your contention to the contrary is incorrect. No food or beverages are included in bill. Total Charges are \$1,452.15. Copies of the speaker's invoice, the Nucci's South invoice reflecting that there was no food or beverages in the charges and a sign-in sheet for the event are Attachment 3.

OSC indicated *"holiday party; handwritten unsigned agreement for 12/1/2010, sign-in sheet for 'Denise Presentation'."* This is not accurate or a basis for a disallowance. This was not a holiday party. There is no RCM requirement that the agency must have a signed agreement. An attestation from Nucci's South further confirming that there was an agreement and detailing what it provided is Attachment 4.

Training 4: Held 3/7/11 at Words 'N Motion.

OSC indicated: *"insufficient support; handwritten, unsigned agreement for 3/7/2011."* The invoice obtained from Nucci's South proving that the bill is a valid charge for indicated charges, rental of audio/visual equipment for this presentation, is included in Attachment 3. There is no RCM requirement that Company must have a signed agreement for these kinds of expenses. Again, your office has no authority to make up requirements beyond what the RCM requires. Attachment 4 also attests that these rental equipment services were provided to the Company pursuant to agreement of the parties.

2. Staff Development Year 11/12:

Words 'N Motion held two staff trainings in this year.

Training 1: Held 11/8/11 at Nucci's South, Staten Island, NY.

The invoice given to OSC was for room rental, chairs, tables, linen and A/V equipment (and no food) totaling \$739. A copy is included in Attachment 3. Nucci's South's attestation (Attachment 4) also covers this invoice and further breaks down the expense item by item.

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OSC did not indicate any reason for its proposed disallowance, and there is no reason to disallow it.

Training 2: Held 12/7/11 at Nucci's South, Staten Island, NY.

The invoice given to OSC was for room rental, chairs, tables and sundries (and no food) totaling \$1,239. A copy is attached as part of Attachment 3. The attestation (Attachment 4) covers this invoice and further breaks down the expenses item by item.

OSC did not indicate any reason for its proposed disallowance, and there is none. All of the expenses are reimbursable.

3. Staff Development Year 12/13:

Words 'N Motion held two staff trainings in this year.

Training 1: Held 12/13/12 at Nucci's South, Staten Island, NY.

The bill given to OSC was for room rental, chairs, tables (and no food) totaling \$1,617. A copy of the invoice is attached as part of Attachment 3. Again, the attestation (Attachment 4) covers this invoice and provides an item by item breakdown of the invoice.

OSC did not indicate any reason for its proposed disallowance, and there is none. All of the expenses are reimbursable.

Training 2: Held 6/6/13 at Words 'N Motion.

- 1) Andrea Sabian, Esq. Cost \$550
- 2) Randie Thomas Cost \$550
- 3) Checho Patrick Chin, RN Cost \$550

Attachment 5 is copies of the descriptions of the presentation topics for these speakers. Words 'N Motion also provided the auditors a sign-in list for this development day.

OSC has not indicated the reason for disallowance of the entire of the entire cost for this event, and there is no basis for any such disallowance.

State Comptroller's Comments

1. The State Comptroller's legal authority to audit the costs submitted by Words 'N Motion on the CFRs it submits to the State Education Department is expressly cited on pages 3 and 11 of the report.
2. We maintain that our report is both factually and legally correct. The regulatory references for our findings, as prescribed by the Reimbursable Cost Manual (Manual), are detailed in the report's Notes to Exhibit. Further, we reviewed and considered all evidence and information provided by Words 'N Motion. As such, we maintain that the evidence obtained during the audit provides a reasonable basis for our findings and conclusions. We also maintain that our report fully complies with Generally Accepted Government Auditing Standards (GAGAS).
3. We acknowledge some of the adjustments that SED makes to CFR-reported data based on its review. We revised our report to include a statement that SED had already disallowed certain costs, where applicable. Further, our audit is independent of any actions that SED may have previously taken on certain costs, and our findings are based on the examination of records and information that SED staff generally does not have in the course of their reviews. Also, see Comment No. 4.
4. As part of our audit review, we identified ineligible charges for employees assigned to the Evaluations program. After we brought this matter to the attention of Words 'N Motion officials, they advised us that they reported it to SED. Nonetheless, Words 'N Motion officials should have been aware that costs for Evaluations program employees should not have been claimed under the SEIT program.
5. Based on information provided by Words 'N Motion, we revised our report and reduced the disallowances in question by \$58,377.
6. Our audit is independent of any adjustments that SED made to certain CFR-reported costs prior to our audit. Further, we provided SED with the details of all our recommended disallowances to ensure that any additional CFR adjustments are correct and to preclude the double counting of amounts disallowed. Also, contrary to Words 'N Motion's assertion, we clearly noted on page 6 of the report that SED had previously disallowed some of the ineligible costs that we identified.
7. Words 'N Motion's assertion is inaccurate. In fact, we recommended that \$17,037 (not \$17,087) be disallowed. Also, we acknowledge some of the adjustments that SED makes to CFR-reported data based on its review, and we revised our report accordingly. We provided our calculations of the disallowances to Words 'N Motion officials.
8. We did not ignore any evidence or information provided by Words 'N Motion. As such, we maintain that the evidence obtained during the audit provides a reasonable basis for our findings and conclusions. We also maintain that our report fully complies with GAGAS.
9. Our square footage calculations are accurate, and the square footage calculations that Words 'N Motion provided to SED were incorrect. Further, we discussed and confirmed our calculations with Words 'N Motion officials during the audit. As stated in the report, we did not agree with Words 'N Motion's categorization of certain "shared" space.
10. Our report includes the corrected classification of the desk and work area in question.
11. OSC and Words 'N Motion disagree on the classification of the "shared" space. Also see

Comment No. 15.

12. See Comments No. 10 and 11.
13. Words 'N Motion is incorrect. There was no need to re-measure the space after the exit conference because we had already agreed to reassign the desk and workspace to agency administration.
14. Words 'N Motion's assertion is incorrect. The auditors did not ignore any evidence or information provided by Words 'N Motion. As such, we maintain that the evidence obtained during the audit provides a reasonable basis for our findings and conclusions. We also maintain that our report fully complies with GAGAS.
15. Words 'N Motion's use of the number of FTE staff by program did not result in a fair allocation of the space use and related costs in question, as otherwise required. In general, students did not receive SEIT services at Words 'N Motion's location, as such services are usually provided at the students' homes and/or preschools. Conversely, students assigned to Words 'N Motion's Related Services and Evaluations programs generally received their services on-site at Words 'N Motion. Specifically, students with developmental delays or disabilities received Related Services (such as speech therapy, occupational therapy, physical therapy, or counseling) in the gymnasium and conference room at Words 'N Motion. Also, students receiving Evaluations services generally received these services in a private room (i.e., conference room) at Words 'N Motion. Consequently, we maintain that we have sufficient basis for our finding.
16. Our report does not state or imply that a "formal study" was required. However, the basis for all costs must be adequately documented and consistent with the applicable provisions of the Manual. The costs in question were not adequately supported.
17. As stated in Comment No. 15, we determined that Words 'N Motion's use of staff FTE to allocate the costs in question was not appropriate. Further, Words 'N Motion did not perform an appropriate analysis of the shared space. To properly address this matter, we sought and obtained technical assistance from SED to ensure our application of the Manual was correct. Words 'N Motion officials could have sought similar assistance from SED and verified that they had complied with the Manual. However, they did not.
18. We revised our report to allow the \$10,037 in staff development costs and deleted the corresponding disallowance.
19. We maintain that our report is factually correct. Further, we reviewed and considered all evidence and information provided by Words 'N Motion.
20. Words 'N Motion's assertion is incorrect. In fact, our report did not state that "sign-in sheets" were required. Our report stated that entities, such as Words 'N Motion, must be able to provide documentation to support staff attendance, including the names and job titles of the pertinent employees. Further, contrary to its assertion, Words 'N Motion sometimes did not provide the names and job titles of staff who attended the conferences.
21. We acknowledged in the report that SED made adjustments to Word 'N Motion's CFR-reported data based on its review. Further, we revised our report to include a statement that SED had already disallowed the corporate taxes in question. In addition, we maintain that our proposed disallowance is accurate and properly based on ratio-value.
22. During the audit field work, we advised Words 'N Motion that the consultant's invoices did not meet the Manual's requirements. The Manual clearly indicates that invoices must detail the specific services that were provided. The invoices that Words 'N Motion

originally submitted did not detail the specific services; instead, they only indicated the general nature of the service. Words 'N Motion subsequently provided us with additional information that further detailed the costs in question. As a result, we revised our report to allow the consultant costs and reduced the total disallowance by \$10,563.

23. The Manual clearly indicates that an advertisement must include a statement that funding is provided through county taxes and State funds when such advertisement indicates that special education services are at no direct cost to the parent.
24. As stated on page 9 of the report, absent copies of the publications, there was insufficient assurance that the advertisements were actually published.
25. We revised our report to allow telephone costs of \$2,272 and reduced the disallowance accordingly.