



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
Lois Bronz Children's Center, Inc.**



Executive Summary

Purpose

To determine whether the costs reported by Lois Bronz Children's Center, Inc. (Center) on its Consolidated Fiscal Reports (CFRs) were properly calculated, adequately documented, and allowable under the State Education Department's (SED) guidelines, including the Reimbursable Cost Manual (RCM). The audit covered expenses reported on the Center's CFR for the fiscal year ended June 30, 2014, and certain expenses reported on the Center's CFR for the fiscal year ended June 30, 2013.

Background

The Center, formerly known as Union Child Day Care Center, is an SED-approved, not-for-profit special education provider located in Westchester County, New York. The Center provides preschool special education services to children with disabilities who are between three and five years of age. The Center is reimbursed for preschool special education services through rates set by SED. The reimbursement rates are based on financial information, including costs that the Center reports to SED on its annual CFR. To be eligible for reimbursement, reported costs must comply with the requirements of the RCM as well as the Consolidated Fiscal Reporting and Claiming Manual. For the two fiscal years ended June 30, 2014, the Center reported \$2.5 million in reimbursable costs on its CFRs for the rate-based preschool special education programs (Programs) it operated.

Key Findings

For the two years ended June 30, 2014, we identified \$177,786 in ineligible costs that the Center reported on its CFRs for the Programs. The ineligible costs included:

- \$172,460 in personal service costs, which consisted of \$164,502 of offsetting revenue that was not included in the calculation of the tuition rate of the integrated program and \$7,958 in ineligible bonuses; and
- \$5,326 in other than personal service costs, which consisted of \$3,358 in ineligible food expenses, \$697 in non-reimbursable interest expenses, and \$1,271 in other non-reimbursable expenses that included travel costs, holiday gifts for students, gift cards for staff, and late fees.

We also identified \$132,713 in questionable costs that the Center reported for the Programs from a contract that the Center could not prove was competitively bid. While Center officials maintain that several potential vendors were considered, and a review and analysis of each proposal was conducted prior to making its selection, the Center was unable to provide any documentation to support this.

Key Recommendations

To SED:

- Review the disallowances and questionable costs identified by our audit and, if warranted, make the necessary adjustments to the costs reported on the Center's CFRs and to the Center's tuition reimbursement rates.

- Remind Center officials of the pertinent SED requirements that relate to the deficiencies we identified.

To the Center:

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

Other Related Audits/Reports of Interest

[North Country Kids, Inc.: Compliance With the Reimbursable Cost Manual \(2016-S-53\)](#)

[ACDS, Inc.: Compliance With the Reimbursable Cost Manual \(2016-S-76\)](#)

State of New York
Office of the State Comptroller

Division of State Government Accountability

September 13, 2017

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

Ms. Sonja Washington-Fitzgerald
Executive Director
Lois Bronz Children's Center, Inc.
30 Manhattan Avenue
White Plains, NY 10607

Dear Ms. Elia and Ms. Washington-Fitzgerald:

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 of our audit of the costs submitted by Lois Bronz Children's 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, entitled *Compliance With the Reimbursable Cost Manual*. The audit was performed pursuant to the State Comptroller's authority as set forth in Article V, Section 1 of the State Constitution; Article II, Section 8 of the State Finance Law; and Section 4410-c of the State Education Law.

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

Respectfully submitted,

Office of the State Comptroller
Division of State Government Accountability

Table of Contents

Background	5
Audit Findings and Recommendations	6
Personal Service Costs	6
Other Than Personal Service Costs	7
Questionable Costs	8
Recommendations	8
Audit Scope, Objective, and Methodology	9
Authority	9
Reporting Requirements	10
Contributors to This Report	11
Exhibit	12
Notes to Exhibit	13
Agency Comments - State Education Department	14
Agency Comments - Lois Bronz Children's Center, Inc.	16
State Comptroller's Comment	19

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

Background

Lois Bronz Children's Center, Inc. (Center), formerly known as Union Child Day Care Center, is a not-for-profit organization located in White Plains, New York. The Center is authorized by the State Education Department (SED) to provide preschool special education services to children with disabilities who are between three and five years of age. During the audit period, the Center provided the following rate-based preschool education programs to 32 children: Preschool Special Class – over 2.5 hours per day; Preschool Special Class – 2.5 hours per day; and Preschool Integrated Special Class – over 2.5 hours per day (collectively referred to as the Programs).

Westchester County pays tuition to the Center using reimbursement rates set by SED. The State, in turn, reimburses Westchester County 59.5 percent of the special education tuition paid. SED sets the preschool special education tuition rates based on financial information, including costs, reported by the Center on its annual Consolidated Fiscal Report (CFR) that it submits to SED. Costs reported on the CFR must comply fully with the provisions of SED's Reimbursable Cost Manual (RCM) regarding the eligibility of costs and documentation requirements. Reported costs must also comply with the reporting requirements prescribed in the Consolidated Fiscal Reporting and Claiming Manual (CFR Manual). For the two years ended June 30, 2014, the Center reported \$2,522,822 in reimbursable costs on its CFRs for the Programs.

Audit Findings and Recommendations

According to the RCM, costs reported on the CFR are considered for reimbursement if they are reasonable, necessary, directly related to the special education program, and adequately documented. For the two fiscal years ended June 30, 2014, we identified \$177,786 in costs that the Center reported on its CFRs that did not comply with the RCM's requirements for reimbursement. The ineligible costs included \$172,460 in personal service costs and \$5,326 in other than personal service (OTPS) costs. In certain instances, some of the ineligible costs were previously identified by SED, which we note in the report. We also identified questionable OTPS costs in the amount of \$132,713.

Personal Service Costs

Personal service costs are program-related or administrative expenses for employee salaries, bonuses, and fringe benefits. For the two years ended June 30, 2014, we identified reporting issues in the amount of \$172,460. This includes \$164,502 of offsetting revenue that was not included in the calculation of the tuition rate of the integrated program as well as ineligible bonuses claimed in the amount of \$7,958.

Unreported Revenue and Eligible Costs

According to the CFR Manual, providers operating approved special education classes in integrated settings should report both costs related to preschool students with disabilities (disabled) and costs related to preschool students without disabilities (non-disabled) under the SED program. Additionally, salaries for teachers and teacher aides of non-disabled preschool students may be included as well. However, revenues related to the non-disabled students must also be included under the program.

We found the Center claimed non-disabled salaries under its integrated program, totaling \$144,586, but did not report non-disabled offsetting revenues. According to the Center, the amount of non-disabled offsetting revenues totaled \$222,437. Further, the Center identified additional allowable non-disabled expenses, totaling \$57,935, that were not claimed. When the additional allowable expenses are offset against the unreported revenue, the net disallowance is \$164,502 (\$222,437 - \$57,935) for the pertinent CFR costs and revenues reported for the integrated program. Therefore, tuition rates set by SED for the integrated program need to be adjusted accordingly.

In response to our preliminary finding, Center officials indicated their CFR preparer was instructed by an SED representative to report the integrated classroom salaries as they did; however, the Center did not have documentation to support the purported SED guidance. Additionally, the Center was not consistent when claiming integrated classroom expenses and revenues, not having claimed such expenses under the integrated program for the two years prior to the 2013-14 year. Regardless, the Center's reported revenues and expenses for the integrated program were not in compliance with the CFR Manual for the 2013-14 year.

Bonuses

According to the RCM, bonus compensation is restricted to direct care employees and may only be reimbursed if it is based on merit and supported by employee performance evaluations. The Center reported \$7,958 in non-reimbursable bonuses on its CFRs. Center officials stated that the bonuses were not merit-based, and thus had no supporting performance evaluations. Consequently, the bonuses in question were not eligible for reimbursement.

Other Than Personal Service Costs

For the two years ended June 30, 2014, we identified \$5,326 in OTPS costs that were not eligible for reimbursement. The ineligible costs included: \$3,358 in ineligible food costs; \$697 in non-reimbursable interest expenses; and \$1,271 in other non-reimbursable expenses (including travel costs, holiday gifts for students, gift cards for staff, and late fees).

Food for Staff

According to the RCM, costs for food provided to any staff and costs for food and beverages for meetings, including board meetings, are not reimbursable. For the two fiscal years ended June 30, 2014, we identified \$3,358 in costs for food for staff, holiday parties, and staff appreciation. We recommend SED disallow the \$3,358.

Working Capital Interest

The CFR Manual requires providers to submit CFRs no later than 120 days after the end of the reporting period, or no later than 150 days after the end of the reporting period with a pre-approved 30-day extension request. For July-June filers, such as the Center, the due date is November 1, and the extended due date is December 1. According to the RCM, interest expense on working capital loans is not reimbursable if the related CFR is not submitted within 90 days after the appropriate due date.

The Center submitted its 2013-14 CFR on May 27, 2015, which is 207 days after the November 1 due date. Consequently, we determined \$697 in working capital interest was ineligible for reimbursement. SED also previously identified this cost as ineligible for reimbursement.

Other Ineligible Costs

According to the RCM, costs associated with program-related staff travel are reimbursable as long as travel is documented in travel logs, including date, time of travel, destination, mileage, purpose of travel, and the name of the traveler. As previously noted, costs are reimbursable provided they are reasonable, necessary, directly related to the special education program, and adequately documented. Also, gifts of any kind, including gift certificates to staff and gifts to students (e.g., birthday, holiday, graduation), are not reimbursable. We identified \$1,271 in non-reimbursable costs that the Center reported on its CFRs that were not in compliance with the RCM. Specifically, these costs include:

- \$595 in undocumented staff travel;
- \$544 in holiday gifts for students;
- \$88 in gift cards for staff; and
- \$44 in late fees resulting from late payments.

Questionable Costs

The RCM requires that professional service vendors be selected through a competitive procurement process. Additionally, schools must maintain documentation to support the regional prevailing rate at the time such costs are incurred.

The Center contracts with M-Group for both business office and human resource services. While the Center maintains that its Board of Directors interviewed several potential vendors and conducted an appropriate review and analysis of each proposal prior to making its selection, officials were unable to provide any documentation to support this.

For the two years ended June 30, 2014, the Center's regular contract payments to M-Group totaled \$272,350: \$221,910 for business office services and \$50,440 for human resource services. Of that total amount, \$132,713 was charged to the Programs. While we are not recommending a disallowance in this instance, SED should confirm that the Center paid a reasonable price for these services.

Recommendations

To SED:

1. Review the disallowances and questionable costs identified by our audit and, if warranted, make the necessary adjustments to the costs reported on the Center's CFRs and to the Center's tuition reimbursement rates.
2. Remind Center officials of the pertinent SED requirements that relate to the deficiencies we identified.
3. Assess the propriety of the costs claimed for contracted business office and human resource services payments. Remind Center officials of the requirements for the competitive procurement of such professional service costs.

To the Center:

4. Ensure that costs reported on annual CFRs fully comply with SED's requirements, and communicate with SED to obtain clarification as needed.
5. Ensure that contracted professional services, resulting in CFR-claimed costs, are obtained through a competitive procurement process.

Audit Scope, Objective, and Methodology

We audited the costs that the Center reported on its CFR for the year ended June 30, 2014, and certain costs reported on its CFR for the fiscal year ended June 30, 2013. The objective of our audit was to determine whether the reported costs were allowable, properly calculated, and adequately documented in accordance with applicable SED requirements.

To accomplish our objective and assess internal controls related to our objective, we reviewed the RCM that applied to the years we examined as well as the CFR Manual and its related appendices. We became familiar with the Center's internal controls as they related to costs it reported on the CFRs. We also interviewed Center personnel to obtain an understanding of the practices for reporting costs on the CFR. We reviewed the Center's CFR for the fiscal year ended June 30, 2014 and relevant financial records for the audit period. We obtained accounting records and supporting information to assess whether a judgmental sample of costs claimed by the Center on the CFR that were considered high risk and reimbursable in limited circumstances, such as food for staff and bonuses, were allowable, properly calculated, and adequately documented. Based on exceptions found in our initial review, we expanded our review to include certain costs reported for the fiscal year ended June 30, 2013.

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. 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 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 Center officials for their review and formal comment. We considered their comments in preparing this report and have included them in their entirety at the end of the report. In their response, SED officials agreed with the audit recommendations and indicated the actions they will take to address them. In their response, Center officials generally indicated they do not challenge our findings regarding bonuses and other than personal services. However, while they acknowledge limited documentation to support a competitive process for procuring administrative services, they argue associated costs are reasonable. Center officials also reiterated their position regarding unreported revenues. Our rejoinder to those comments is included in the report's State Comptroller's Comment.

Within 90 days after final release of this report, as required by Section 170 of the Executive Law, the Commissioner of the State Education Department 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 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

Lois Bronz Children's Center, Inc.
Schedule of Submitted and Disallowed Program Costs
for the Two Years Ended June 30, 2014

Program Costs	Amount per CFR	Amount Disallowed	Amount Remaining	Notes to Exhibit
Personal Services	\$2,090,393	\$172,460	\$1,917,933	A, B
Other Than Personal Services	432,429	5,326	427,103	C-F
Total Program Costs	\$2,522,822	\$177,786	\$2,345,036	

Notes to Exhibit

The following Notes refer to specific sections of the RCM and CFR Manual that we used as the basis for 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 Center officials during the course of the audit.

- A. CFR Manual Section 8, Page 8.6: For service providers operating special classes in integrated settings, data related to preschool students with disabilities and preschool students without disabilities should be reported as a single column. For all integrated programs, non-disabled revenues must be reported as either "Participant Fee" revenue on Schedule CFR-1, Section C, line 69, or, if Universal Pre-K revenue, on CFR-1, Section C, line 94.
- B. RCM Section II.13.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.
- C. RCM Section II.22.C: Costs of food provided to any staff, including lunchroom monitors, are not reimbursable.
- D. RCM Section II.28.D.(3): Working capital interest will be reimbursed on a prorated basis if submitted within 90 days of the respective CFR due date. Otherwise, it is non-reimbursable.
- E. RCM Section III.1.E: Logs must be kept by each employee indicating dates of travel, destination, purpose, mileage, and related costs such as tolls, parking and gasoline and approved by supervisor to be reimbursable.
- F. RCM Section II: Costs are considered for reimbursement if they are reasonable, necessary, directly related to the special education program, and adequately documented.

Agency Comments - State Education Department



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

DEPUTY COMMISSIONER
Office of Performance Improvement and Management Services
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August 14, 2017

Steve Goss
Audit Director
Office of the State Comptroller
Division of State Government Accountability
110 State Street – 11th Floor
Albany, NY 12236

Dear Mr. Goss:

The following is the New York State Education Department's (Department) response to the draft audit report, 2016-S-86, Compliance with the Reimbursable Cost Manual: Lois Bronz Children's Center, Inc. (Center).

Recommendation 1: Review the disallowances and questionable costs identified by our audit and, if warranted, make the necessary adjustments to the costs reported on the Center's CFRs and to the Center's tuition reimbursement rates.

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

Recommendation 2: Remind Center 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 the Center 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 online on SED's webpage. SED recommends that all individuals signing the CFR certification statements, namely Executive Directors and Certified Public Accountants, complete this training. 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.

Recommendation 3: Assess the propriety of the costs claimed for contracted business office and human resource services payments. Remind Center officials of the requirements for the competitive procurement of such professional service costs.

We agree with this recommendation. SED will direct Center officials to demonstrate compliance with the RCM's bidding and prevailing rate requirements and assess whether the contracted services claimed were procured at a reasonable cost.

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

Sincerely,

A handwritten signature in dark ink, reading "Sharon Cates-Williams". The signature is fluid and cursive, with the first name "Sharon" being the most prominent.

Sharon Cates-Williams

c: Christopher Suriano
Suzanne Bolling
bc: Commissioner

Agency Comments - Lois Bronz Children's Center, Inc.



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August 21, 2017

VIA ELECTRONIC EMAIL

Steve Goss
Audit Director
Office of the State Comptroller
Division of State Government Accountability
110 State Street, 11th Floor
Albany, New York 12236

**RE: State Education Department
Compliance with the Reimbursable Cost Manual
Lois Bronz Children's Center, Inc. (formerly Union Child Day Care Center, Inc.)
Report 2016-S-86
Draft Report**

Dear Mr. Goss:

We have reviewed the aforementioned Draft Report concerning the expenses submitted by the Lois Bronz Children's Center, Inc. (LBCC) (formerly known as the Union Child Day Care Center, Inc.) on its Consolidated Fiscal Reports (CFR's) for the two fiscal years ending June 30, 2014 and offer the following comments in challenge of select findings contained in the Report.

Personal Service Costs

Reported Revenue and Eligible Costs

As set out in our response to the preliminary report concerning this finding, LBCC had contacted the accountant consultant who was engaged to provide CFR preparation services during the audit years for clarification and explanation of the CFR entry and had been advised that the consultant had been instructed by a representative of NYSED RSU to report costs and expenses associated with the integrated classroom program, including salaries, exactly as reflected on the CFR¹.

LBCC relied exclusively on the expertise of the accountant consultant and the technical assistance provided to the consultant by NYSED RSU.

¹"We were instructed by Roger (RSU) and SED that the salary for the integrated rooms could go toward the SED program and that all other expenses should go to 9800. During this time (RSU representative R) was putting through the changes manually based on telephone conversations he had with (LBCC Special Education Director)."

Steve Goss
August 21, 2017
Page | 2

We believe it is wholly inappropriate for the auditors to disallow costs which had been reported exactly as directed by NYSED RSU. The fact that the accountant consultant did not retain documentation of the communication between the NYSED rate setting unit representative and herself should not be determinative. Clearly, the consultant prepared the CFR consistent with the NYSED technical assistance provided as borne out by the fact that NYSED made no adjustments during the rate setting process. To propose that the reported costs be disallowed undermines the integrity of NYSED's technical assistance and guidance and compromises provider confidence in that process and the assistance provided.

*
Comment
1

Bonuses

LBCC does not challenge the auditors' finding that we are unable to provide documentation in support of the identified bonus which had been based upon a performance evaluation. We also challenge as inaccurate the auditors' representation that "Center officials stated that the bonuses were not merit-based". As set out in our response to the preliminary report, LBCC was unable to provide a copy of the performance evaluation upon which the bonus was awarded, only. The requisite evaluation was, in fact, conducted.

Other Than Personal Service

Food

LBCC does not challenge the auditors' finding that a nominal amount of expenses associated with the purchase of food and beverage for staff meetings and related employee activities, including lunch period tasks, was inadvertently reported as classroom expenses. LBCC has refined its fiscal management practices to assure that such expenses are clearly identified as non-reimbursable at the point the cost is incurred to prevent future misclassifications or reportings.

Working Capital Interest

LBCC does not challenge the auditors' finding that certain ineligible working capital interest costs were reported on the CFRs for the audit years and appreciate the auditors' acknowledgement that "SED (had) previously identified this cost as ineligible for reimbursement during the rate setting process".

Other Ineligible Costs

While LBCC does not challenge the auditors' finding that LBCC failed to maintain required travel logs in support of certain travel costs (\$595), we do note that the costs were appropriately reported as staff travel Program expenses.

We do not challenge the auditors' finding that certain late fees (\$44) had been inadvertently included within the calculation of reported costs, nor that minimal amounts of funds were used to purchase holiday gifts for students (\$544) and appreciation gift cards for deserving staff (\$88). LBCC has strengthened its internal fiscal controls to prevent such reporting errors.

Steve Goss
August 21, 2017
Page | 3

Questionable Costs

Management Service Contract

As with most “small-sized” programs, LBCC struggled in prior years to maintain incurred costs within the established 70/30 direct/non-direct care cost parameter. Simply stated, the cost of agency administration often “pierced” the parameter screen, leaving some measure of management costs “stranded” without reimbursement. In response to these persistent disallowances, LBCC sought to better align its direct/nondirect costs through procurement of certain administrative/management service components. The Board of Directors interviewed several potential vendors and conducted an appropriate review and analysis of each proposal prior to making its selection. Unfortunately, only the Board minutes of those activities were retained in support of the bid process.

While limited documentation may remain of the solicited and considered bids, clearly, we would argue, the cost of the purchased administrative services is “reasonable” and competitive, aligning well within the required 70/30 cost parameter.

We appreciate the auditors’ thoughtful review of these facts, as we have presented them, and the decision not to recommend a disallowance in this instance.

• • • • •

We appreciate the opportunity to provide these comments and the auditors’ thoughtful consideration of additional documentation provided in support of certain challenges advanced in our response to the preliminary reports.

Very truly yours,

GREENBERG TRAURIG, LLP

Pamela A. Madeiros

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State Comptroller's Comment

1. Center officials assert that they were instructed by SED to report costs associated with the integrated classroom as they did. We are not disputing reported costs. As we indicated in our report, the Center failed to report non-disabled offsetting revenues under the integrated classroom, as required by the CFR Manual, and therefore the costs were not eligible for reimbursement for the 2013-14 fiscal year.