



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
Institutes of Applied Human Dynamics**



Executive Summary

Purpose

To determine whether the costs reported on the Consolidated Fiscal Reports (CFRs) of the Institutes of Applied Human Dynamics were calculated properly, documented adequately, program related, and allowable pursuant to the State Education Department's (SED) Reimbursable Cost Manual (Manual). The audit included all expenses claimed for the fiscal year 2012-13 and certain expenses for the two fiscal years ended June 30, 2012.

Background

The Institutes of Applied Human Dynamics, Inc. (Institutes) is a not-for-profit organization that provides full-day preschool special education programs and half-day preschool special education programs, collectively referred to as SED Programs, to disabled children between the ages of three and five years. Institutes, based in Tarrytown, New York, provides preschool services at its St. Mary's facility located in the Bronx, New York. During the 2012-13 school year, Institutes served 80 students. For the fiscal year ended June 30, 2013, Institutes reported about \$2.3 million in reimbursable costs on its CFR.

Key Findings

For the three fiscal years ended June 30, 2013, we identified \$456,292 in reported costs that did not comply with Manual requirements; we recommend such costs be disallowed. These ineligible costs included \$386,469 in personal service costs and \$69,823 in other than personal service costs. Among the disallowances we identified were:

- \$228,479 in salaries and fringe benefits, for 30 employees, that were improperly allocated to the SED Programs. Institutes did not maintain time studies or other acceptable records to support the allocations of employees' compensation costs. Further, Institutes did not maintain records to show the actual amount of time each of these employees devoted to the preschool special education programs;
- \$113,088 in unapproved program costs; and
- \$57,146 in rent, utility, repair, and tax expenses that were improperly allocated to the SED Programs.

Key Recommendations

To SED:

- Review the recommended disallowances resulting from this audit and make the appropriate adjustments to the Institutes' CFRs and reimbursement rates.
- Work with Institutes officials to help ensure their proper reporting of reimbursable costs.

To Institutes:

- Ensure that costs reported on annual CFRs comply with Manual requirements.

Other Related Audits/Reports of Interest

[Bilingual SEIT & Preschool, Inc: Compliance with the Reimbursable Cost Manual \(2011-S-13\)](#)

[IncludED Educational Services, Inc. Compliance with the Reimbursable Cost Manual \(2010-S-59\)](#)

State of New York
Office of the State Comptroller

Division of State Government Accountability

December 31, 2014

Dr. John B. King Jr.
Commissioner
State Education Department
State Education Building - Room 125
89 Washington Avenue
Albany, NY 12234

Mr. Stanley Silverstein
Executive Director
The Institutes of Applied Human Dynamics
32 Warren Avenue
Tarrytown, NY 10591

Dear Dr. King and Mr. Silverstein:

The Office of the State Comptroller is committed to providing accountability for tax dollars spent to support government-funded services and 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 expenses submitted by the Institutes of Applied Human Dynamics to the State Education Department for the purposes of establishing the tuition reimbursement rates entitled *Compliance With the Reimbursable Cost Manual: Institutes of Applied Human Dynamics*. The audit was performed pursuant to the State Comptroller's authority as set forth in Article V, Section 1 of the State Constitution and Article II, Section 8 of the State Finance 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

The Institutes of Applied Human Dynamics, Inc. (Institutes) is a not-for-profit organization that provides full-day preschool special education programs and half-day preschool special education programs, collectively referred to as SED Programs, to disabled children between the ages of three and five years. Institutes, based in Tarrytown, New York, provides preschool services at its St. Mary's facility located in the Bronx, New York.

The New York City Department of Education (DoE) refers students to the Institutes and pays for these services using rates established by the New York State Education Department (SED). SED develops these rates using the financial information reported on Institutes' annual Consolidated Fiscal Reports (CFRs). To qualify for reimbursement, Institutes' costs must comply with 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-appropriate, and properly documented. SED reimburses the DoE for a portion of its payments to Institutes based on statutory rates.

For the fiscal year ended June 30, 2013, Institutes reported approximately \$2.3 million in reimbursable costs for the SED Programs. Our audit scope period was fiscal year 2012-13. However, we expanded our review to include certain items claimed on Institutes' CFRs for fiscal years 2010-11 and 2011-12. For the three fiscal years ended June 30, 2013, Institutes reported about \$6.9 million in reimbursable costs on its CFRs.

In addition to its preschool programs, Institutes also provides Evaluation Services and Early Intervention programs at its St. Mary's facility. Further, Institutes provides residential, day habilitation, and other services to adults at its other facilities.

Audit Findings and Recommendations

For the three fiscal years ending June 30, 2013, we identified \$456,292 in reported costs that did not comply with the Manual's requirements for reimbursement. The ineligible costs included \$386,469 in personal service costs and \$69,823 in other than personal service costs. (See Exhibit on page 12 of this report.)

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). We identified \$386,469 in personal service costs that do not comply with the Manual's guidelines for reimbursement, as follows:

Excessive Allocation of Personal Service Expenses

According to the Manual, the compensation of employees who work on multiple programs must be allocated based on their actual work effort or other allocation methods that are fair and reasonable, as determined by SED's fiscal representative. Such allocation methods, as well as the statistical basis used to calculate allocation percentages, must be documented and retained for a minimum of seven years.

We identified 30 Institutes employees whose salaries and benefits, totaling \$429,713, were allocated to the SED Programs. We determined that Institutes did not maintain time studies or other acceptable alternatives to support the percentages, which ranged from 10 percent to 45 percent, used to allocate the compensation for these employees. Moreover, Institutes did not maintain records to show the actual amount of time each of these employees devoted to the preschool programs.

We used the ratio value method to calculate a fair and reasonable allocation for the 30 employees. This method compares the total expenses of the preschool programs to the total expenses of all Institutes programs. As a result, we determined that \$201,234, rather than the \$429,713 reported by Institutes, should have been allocated to the preschool programs. We recommend that the difference of \$228,479 be disallowed.

Unapproved Program Costs

The Manual states that costs will be considered for reimbursement provided such costs are reasonable, necessary, and directly related to the education program. We identified \$113,088 in salaries and fringe benefits claimed by Institutes for two health care professionals. One of these individuals was employed as the Director of Health Services; the other was employed as a registered nurse. SED officials advised us that Institutes' SED Programs were not approved to provide nursing services.

When we asked Institutes officials why nurses were charged to the SED Programs, they acknowledged they had not received SED's approval, but advised that nurses were needed to administer medicines to the children. We recommend that the \$113,088 be disallowed.

Excessive Executive Compensation

The Manual states that compensation (salaries and fringe benefits) paid to a provider's Executive Director (ED) and its Associate Executive Director (AED) should not exceed the regional median compensation paid to comparable personnel in public schools for similar work and hours of employment. Based on these limits, we recommend that \$35,831 of their compensation, allocated to the SED Programs, be disallowed, as follows:

- For the three-year period ended June 30, 2013, Institutes reported \$381,519, \$421,430, and \$498,497, respectively, as the compensation for its ED. The regional median compensation for an ED during this three-year period was \$258,154, \$257,250, and \$263,806, respectively. The difference amounts to \$522,236 over the three-year period. We recommend a disallowance of \$27,886 - the amount of the difference allocated to the SED Programs.
- Similarly, the reported compensation paid to Institutes' AED for the three fiscal years ended June 30, 2013, was \$240,710, \$272,942, and \$303,587, respectively, while the regional median compensation was \$220,981, \$220,207, and \$225,820, respectively, amounting to a difference of \$150,231 over the three-year period. We recommend a disallowance of \$7,945 - the amount of the difference allocated to the SED Programs.

(Note: SED has already made certain adjustments to the reported compensation of the ED and AED.)

Unsupported and Ineligible Expenses

According to the Manual, costs will be considered for reimbursement provided such costs are reasonable, necessary, directly related to the education program, and sufficiently documented. We recommend \$9,071 in reported costs be disallowed because they were not in compliance with the Manual, as follows:

- \$5,467 in insufficiently documented payroll expenses;
- \$3,081 in insufficiently documented vehicle expenses; and
- \$523 in fundraising salaries and fringe benefits. Fundraising costs (e.g., to raise capital, obtain contributions) are not reimbursable.

Other Than Personal Service Costs

For the three fiscal years ended June 30, 2013, Institutes reported a total of \$1.4 million in other than personal service (OTPS) costs on its CFRs charged to the SED Programs. We recommend that \$69,823 in OTPS costs that did not comply with SED guidelines be disallowed.

Excessive Allocation of Buildings' Expenses

According to SED's 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/agencies utilizing those resources. These costs include such expenses as utilities, repairs and maintenance, depreciation, leases, and mortgage interest. We recommend \$57,146 in disallowances because Institutes did not comply with the CFR Manual's guidelines, as discussed next.

The square footage methodology, which is recommended by the CFR Manual, is the most common methodology for the allocation of space. However, Institutes allocated the expenses of its St. Mary's School to the SED Programs using students' full-time equivalent (FTE) hours. When we evaluated Institutes' allocation method, we determined that it did not represent the actual space used by Institutes for the delivery of program services (resulting in direct care costs claimed on the CFR). For example, Institutes' methodology did not include in its basis the space and expenses incurred by the Evaluation and Universal Pre-K programs. As such, Institutes reported \$0 in rent, utilities, and related expenses for these other programs. We calculated the cost of shared space allocations using the CFR Manual guidance and determined that \$33,598 in rent, utilities, real estate taxes, and repairs and maintenance expenses, for the three fiscal years ended June 30, 2013, were inappropriately allocated to the SED Programs. We recommend that the \$33,598 be disallowed.

Similarly, the CFR Manual requires that facility expenses (for utilities, repairs and maintenance, depreciation, leases or mortgage interest) related to administrative offices be allocated according to the proportion of square footage used for the programs. Institutes' administrative offices in Tarrytown, New York, are located in the same building as one of its adult habilitation programs. Institutes did not follow the CFR Manual's guidelines in allocating costs related to this shared space as well. In addition, Institutes included the cost of space it used for non-reimbursable fundraising and miscellaneous special events in the expenses allocated to the special education programs. As a result, for the three fiscal years ended June 30, 2013, we recommend a disallowance of \$23,548 pertaining to rent and utility expenses (i.e., administrative or indirect care costs) that were over-allocated to the SED Programs.

Non-Program-Related Expenses

The Manual requires that expenses be reasonable, necessary, and directly related to the program for which reimbursement is requested. We identified \$12,677 in reported expenses that were not related to the SED Programs:

- \$3,685 in staff development expenses that were funded through an Individuals with Disabilities Education Act (IDEA) grant; and
- \$8,992 in contracted personal services that were not related to the SED Programs.

Questionable Procurement of Janitorial Supplies

The Manual requires the use of competitive procurement practices, as prescribed by the School Business Management Handbook (Handbook), for any item or group of items costing \$20,000 or more in any fiscal year. For such procurements, bids or quotations should be obtained and the related documentation should be retained on file.

According to its Federal Form 990s and certified financial statements for the three fiscal years ended June 30, 2013, Institutes paid \$689,963 for janitorial supplies to a company partially owned by Institutes' Board Treasurer. Consequently, this appears to have been a less-than-arm's-length business arrangement. At the outset of our fieldwork, Institutes officials told us that the supplies were procured through a competitive sealed-bid process. However, there was no written contract between the janitorial supply company and Institutes. Subsequently, officials informed us that the procurements of janitorial supplies were not competitively bid, as otherwise required by the Manual.

Without the use of competitive procurement, Institutes officials had insufficient assurance that they received the best prices for janitorial supplies. This is of particular concern given the less-than-arm's-length nature of the procurement. Although we do not propose disallowance of these costs, we do question their propriety. Hence, we recommend that SED further review this matter and determine if additional adjustments to Institutes' CFRs are warranted.

Institutes officials informed us that future janitorial supplies will be procured through a group purchasing organization. They added that this could result in reduced prices for certain commodities.

Recommendations

To SED:

1. Review the recommended disallowances resulting from our audit and make the appropriate adjustments to Institutes' CFRs. Adjust Institutes' reimbursement rates, as appropriate.
2. Assess the claimed costs of \$689,963 pertaining to the questionable procurement of janitorial supplies through a less-than-arm's-length arrangement and determine if further adjustments to the CFRs are warranted.
3. Work with Institutes officials to help them comply with Manual provisions.

To Institutes:

4. Ensure that costs reported on the annual CFRs comply with the requirements of the Manual.

Audit Scope and Methodology

We audited the propriety of, and support for, the expenses reported by Institutes on its CFRs for the fiscal year ended June 30, 2013, and for certain charges during the two fiscal years ended June 30, 2012. The objectives of our audit were to determine whether the costs reported by Institutes were program appropriate, adequately documented, and eligible for reimbursement pursuant to SED's Manual.

To accomplish our objectives, we reviewed the SED Manual, Institutes' CFRs, and relevant financial records for the audit period. We also interviewed Institutes officials, staff, and independent auditors to obtain an understanding of their financial and business practices. In addition, we assessed a sample of reported costs to determine whether they were supported, program appropriate, and reimbursable. Our review of Institutes' internal controls focused on payroll and the procurement of other than personal services.

We conducted our 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 and Article II, Section 8 of the State Finance Law.

Reporting Requirements

A draft copy of our report was provided to SED and Institutes officials for their review and comment. Their comments were considered in preparing this final report and are attached in their entirety at the end of the report. In their response to our draft report, SED officials agreed with our recommendations. In their response, Institutes officials agreed with some of our disallowances, but disagreed with others. Our rejoinder to certain Institutes comments is included in the report's

State Comptroller's Comment.

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

**Institutes of Applied Human Dynamics
Schedule of Submitted, Disallowed, and Allowed Program Costs
for Fiscal Years 2010-2011, 2011-2012, and 2012-2013**

Program Costs	Amount per CFR (1)	Amount Disallowed	Amount Allowed	Notes to Exhibit
Personal Services				
Direct Care	\$4,994,736	\$347,867	\$4,646,869	
Agency Administration	\$ 485,914	\$ 38,602	\$ 447,312	
Total Personal Services	\$5,480,650	\$386,469	\$5,094,181	A - E
Other Than Personal Services				
Direct Care	\$1,113,608	\$ 37,282	\$1,076,326	
Agency Administration	\$ 262,519	\$ 32,541	\$ 229,978	
Total Other Than Personal Services	\$1,376,127	\$ 69,823	\$1,306,304	A, E, F
Total Program Costs	\$6,856,777	\$456,292	\$6,400,485	

(1) Includes all Personal Service and Other Than Personal Service costs reported for the three years ended June 30, 2013.

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 Institutes officials during the course of our audit.

- A. Section II - Costs must be reasonable, necessary, program related and sufficiently documented.
- B. Section II.14.A.4 - The Manual states that compensation (salaries and fringe benefits) for the Executive Director and the Assistant Executive Director should be directly compared to the regional median compensation for comparable administration job titles. (Section II.13.A.4 for fiscal year 2012-13)
- C. Section II.13 - Compensation for personal services includes all salaries and wages, as well as fringe benefits and pension plan costs. Accrued vacation/sick leave is not reimbursable.
- D. Section III.1.J.2 - Vehicle use must be documented with individual vehicle logs that include at a minimum: the date and time of travel, to and from destinations, mileage between each destination, purpose of travel, and name of traveler.
- E. Section III.1.M.2 - Entities operating programs must use allocation methods that are fair and reasonable, as determined by the Commissioner's fiscal representatives.
- F. Section II.23 - Costs of organized fundraising (i.e., financial campaigns, endowment drives, or solicitation of gifts and bequests) to raise capital or to obtain contributions 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 31, 2014

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-39), Compliance with the Reimbursable Cost Manual: Institutes of Applied Human Dynamics (Institutes').

Recommendation 1: Review the recommended disallowances resulting from our audit and make the appropriate adjustments to Institutes' CFRs. Adjust Institutes' reimbursement rates, as appropriate.

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

Recommendation 2: Assess the claimed costs of \$689,963 pertaining to the questionable procurement of janitorial supplies through a less-than-arm's-length arrangement and determine if further adjustments to the CFRs are warranted.

We agree with this recommendation. We will assess the claimed costs and determine whether adjustments to reported costs are warranted.

Recommendation 3: Work with Institutes' officials to help them comply with Manual provisions.

The Department will continue to provide technical assistance whenever requested and strongly recommends Institutes' 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 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 be tracking and verifying that individuals have completed the training.

Please let me know if you have any questions regarding this response.

Sincerely,

A handwritten signature in black ink, appearing to read "M. C. Guzman", written in a cursive style.

Maria C. Guzman

c: Sharon Cates-Williams
James P. DeLorenzo
Suzanne Bolling

Agency Comments - The Institutes of Applied Human Dynamics



THE INSTITUTES OF APPLIED HUMAN DYNAMICS, INC.

MARY K. ST. MARK
PRESIDENT

Providing Services to People with Developmental Disabilities

STANLEY E. SILVERSTEIN
EXECUTIVE DIRECTOR

December 23, 2014

Frank Patone, CPA
Audit Director
Office of the State Comptroller
Division of State Government Accountability
123 William Street - 21st Flr.
New York, NY 10038

Re: IAHD

Dear Mr. Patone,

Thank you for the draft report sent to IAHD in reference to our Preschool program. We accept your key findings in relation to salary and fringe benefits as well as the findings related to building costs. However we disagree with your findings related to program costs. During the period under your review and to date, St. Mary's Preschool supported and continues to support several children with respiratory conditions and severe asthma. Although available at the time of your review, I do not believe we shared specific information on the medical needs of twelve (12) children with a documented diagnosis of asthma and his/her medical order(s) for Albuterol Inhaler to be given prn (as needed).

*
Comment
1

The attached DOH & MH-DOE Child & Adolescent Health Examination forms note the diagnosis of Asthma and the need for medication(s). I am also attaching a MAF form for one individual for whom the doctor recommended Albuterol to be given at school as follows: "Store medication in medical room and nurse to administer". As we stated in our previous response, the nurse administered the medication(s) as ordered by his/her pediatricians. I hope you will reconsider your finding as it relates to "Unrelated Salary Expense for Nurses" as IAHD was following the doctor's orders to ensure the good health and safety of the children we support. Thank you in advance for your consideration of our position in this matter.

Sincerely,

Stanley E. Silverstein
Executive Director

cc: Ken Sifontes, Office of State Comptroller
Ken Migut, Chief Financial Officer, IAHD

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MEMBER AGENCY OF UNITED WAY OF NEW YORK

*See State Comptroller's Comment, page 17

State Comptroller's Comment

1. Based on the SED-approved staffing levels for Institutes' preschool special education programs, the health care-related costs in question (including certain nursing services) were not eligible for reimbursement.