



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 Interdisciplinary Center for Child Development



Report 2017-S-31

April 2018

Executive Summary

Purpose

To determine whether the costs reported by the Interdisciplinary Center for Child Development (ICCD) on its Consolidated Fiscal Reports (CFRs) were reasonable, necessary, directly related to the special education program, and sufficiently documented pursuant to the State Education Department's (SED) Reimbursable Cost Manual (RCM). The audit focused primarily on expenses claimed on ICCD's CFR for the fiscal year ended June 30, 2015, and included certain expenses claimed on ICCD's CFRs for the two fiscal years ended June 30, 2014.

Background

ICCD is a New York City-based for-profit organization authorized by SED to provide preschool special education services to children with disabilities who are between the ages of three and five years. During the 2014-15 school year, ICCD served about 282 students at locations in Queens and Nassau County. The New York City Department of Education (DoE) and local school districts refer students to ICCD and pay for its services using rates established by SED. The DoE and the local school districts are reimbursed by SED for a portion of their payments to ICCD. For the three fiscal years ended June 30, 2015, ICCD reported approximately \$30.2 million in reimbursable costs for the SED preschool special education cost-based programs. In addition, ICCD operates two other SED-approved preschool special education programs: Evaluations and 1:1 Aides. However, payments for services under these other programs are based on fixed fees.

Key Findings

For the three fiscal years ended June 30, 2015, we identified \$453,670 in reported costs that did not comply with the requirements in the RCM, as follows:

- \$274,830 in a less-than-arm's-length lease transaction where the reimbursed costs exceeded the owner's actual cost;
- \$176,793 in compensation related to excess staffing of teacher aides/assistants;
- \$1,765 in over-allocated and/or excess employee compensation; and
- \$282 in non-program-related expenses.

Key Recommendations

To SED:

- Review the recommended disallowances resulting from our audit and make the appropriate adjustments to ICCD's CFRs and reimbursement rates, as warranted.
- Work with ICCD officials to ensure their compliance with the provisions in the RCM.

To ICCD:

- Ensure that costs reported on future CFRs comply with the RCM's requirements.

Other Related Audits/Reports of Interest

[Lifeline Center for Child Development, Inc.: Compliance With the Reimbursable Cost Manual \(2016-S-95\)](#)

[Kennedy Child Study Center: Compliance With the Reimbursable Cost Manual \(2017-S-7\)](#)

State of New York
Office of the State Comptroller

Division of State Government Accountability

April 5, 2018

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

Mr. David Locker
Executive Director
Interdisciplinary Center for Child Development
35-55 223rd Street
Bayside, NY 11361

Dear Ms. Elia and Mr. Locker:

The Office of the State Comptroller is committed to helping State agencies, public authorities, and local government agencies manage their resources efficiently and, by so doing, 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, entitled *Compliance With the Reimbursable Cost Manual*, of our audit of the expenses submitted by Interdisciplinary Center for Child Development to the State Education Department for the purposes of establishing tuition reimbursement rates. 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

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

Background

The Interdisciplinary Center for Child Development (ICCD) is a New York City-based for-profit organization approved by the State Education Department (SED) to provide preschool special education services to children with disabilities who are between the ages of three and five years. During our audit period, ICCD operated three SED rate-based preschool special education programs: Special Education Itinerant Teacher (SEIT), full-day Special Class (SC), and full-day Special Class in an Integrated Setting (SCIS). For purposes of this report, these programs are referred to as the SED preschool cost-based programs.

During the 2014-15 school year, ICCD served about 282 students. In addition to the SED preschool cost-based programs, ICCD operated two other SED-approved preschool programs: Evaluations and 1:1 Aides. However, payments for services under these other programs are based on fixed fees, as opposed to the cost-based rates established through financial information reported on the annual Consolidated Fiscal Reports (CFRs) ICCD files with SED.

The New York City Department of Education (DoE) and local school districts refer students to ICCD based on clinical evaluations and pay for ICCD's services using rates established by SED. These rates are based on the financial information that ICCD reports to SED on its annual CFRs. To qualify for reimbursement, ICCD's expenses must comply with the criteria set forth in SED's Reimbursable Cost Manual (RCM) and the Consolidated Fiscal Reporting and Claiming Manual (CFR Manual), which provide guidance to special education providers on the eligibility of reimbursable costs, the documentation necessary to support these costs, and cost allocation requirements for expenses related to multiple programs. Reimbursable costs must be reasonable, necessary, directly related to the special education program, and sufficiently documented. The State reimburses DoE and local school districts 59.5 percent of the statutory rate they pay to ICCD.

Section 4410-c of the Education Law authorizes 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, 2015, ICCD reported approximately \$30.2 million in reimbursable costs for the SED preschool cost-based programs. This audit focused primarily on expenses claimed on ICCD's CFR for the fiscal year ended June 30, 2015, and included certain expenses claimed on its CFRs for the two fiscal years ended June 30, 2014.

Audit Findings and Recommendations

Costs will be considered for reimbursement provided such costs are reasonable, necessary, directly related to the special education program, and sufficiently documented pursuant to the guidelines in the RCM. For the three fiscal years ended June 30, 2015, we identified \$453,670 in reported costs that did not comply with SED's requirements for reimbursement. The ineligible costs included \$178,558 in personal service costs and \$275,112 in other than personal service (OTPS) costs (see Exhibit at the end of the report). SED's desk review previously disallowed some of these costs.

Personal Service Costs

According to the RCM, personal service costs, which include 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). For the three fiscal years ended June 30, 2015, ICCD reported approximately \$24.3 million in reimbursable personal service costs. We identified \$178,558 in personal service costs that did not comply with SED's requirements for reimbursement.

Excess Staffing Ratios

Program approval letters issued by SED's Special Education Quality Assurance Office (SEQA) state the approved student-to-staff ratios under which classrooms are to operate. According to the RCM, costs for direct care personnel in excess of, or not prescribed by, such ratios are not reimbursable. For the three fiscal years ended June 30, 2015, we compared the teacher aides staffing levels reported on ICCD's CFRs to the SEQA-approved ratios and found that ICCD exceeded approved staffing levels for reimbursement during two of the three fiscal years, as follows:

- For fiscal year 2012-13, the SED-approved staffing ratio for teacher aides/assistants in the SC program was 18.69 full-time equivalents (FTEs). However, ICCD reported 20.91 FTEs on its CFR – an excess of 2.22 FTEs. For the same fiscal year, the SED-approved staffing ratio for the SCIS program was 39.87 FTEs. However, ICCD reported 42.22 FTEs on its CFR – an excess of 2.35 FTEs. The compensation associated with the excess teacher aides/assistants amounted to \$130,275 (\$104,702 in salaries and \$25,573 in fringe benefits).
- For fiscal year 2013-14, the SED-approved staffing ratio for teacher aides/assistants in the SCIS program was 36.25 FTEs. However, ICCD reported 37.81 FTEs on its CFR – an excess of 1.56 FTEs. The compensation associated with the excess teacher aides/assistants amounted to \$46,518 (\$36,425 in salaries and \$10,093 in fringe benefits).

Consequently, we recommend that SED disallow \$176,793 (\$141,127 in salaries and \$35,666 in fringe benefits) in compensation that did not comply with the requirements in the RCM. SED's desk review previously disallowed some of these costs.

Allocation of Employee Compensation

The RCM states that actual hours of services is the preferred statistical basis upon which to allocate salaries and fringe benefits for shared staff who work on multiple programs. Entities must maintain appropriate documentation reflecting the hours used in this allocation. Acceptable documentation may include payroll records or time studies. If hours of service cannot be calculated or a time study cannot be completed, then alternative methods that are equitable and conform to generally accepted accounting principles may be utilized. One such method, cited by the CFR Manual, is the ratio value method, which distributes shared costs as a percentage of an agency's total operating costs.

For fiscal year 2013-14, we identified \$1,124 in over-allocated employee compensation (\$882 in salary and \$242 in fringe benefits) for an employee whose compensation was allocated to the SC and SCIS programs. A review of the employee's job description indicated that she provides administrative services to all of ICCD's programs. ICCD officials acknowledged that this employee worked for all the ICCD programs and should have been reported as an administrative employee.

However, ICCD officials did not properly allocate this employee's compensation among all of the programs for which she worked. We reallocated the employee's compensation using an approved alternative methodology – the ratio value method. Based on our calculations, we determined that \$41,457 (rather than \$42,581) in compensation should have been allocated to the SED preschool cost-based programs. Therefore, we recommend that SED disallow the difference of \$1,124 (\$882 in salary and \$242 in fringe benefits).

Excess Employee Compensation

According to the RCM, compensation costs must be based on approved, documented payrolls. We compared the compensation for 30 employees as reported on ICCD's CFRs for the three fiscal years ending June 30, 2015 to their compensation recorded in ICCD's payroll register and found that ICCD had overstated the compensation for 2 of the 30 employees by \$445, as follows:

- For fiscal year 2014-15, we found that the compensation of one employee was overstated by \$93; and
- For fiscal year 2012-13, the compensation of the other employee was overstated by \$352.

Consequently, we recommend that SED disallow the \$641 (\$445 in salaries plus \$196 in associated fringe benefits) in excess compensation.

Other Than Personal Service Costs

According to the RCM, OTPS costs must be reasonable, necessary, directly related to the special education program, and sufficiently documented. For the three fiscal years ended June 30, 2015, ICCD reported approximately \$5.9 million in OTPS costs for the SED preschool cost-based programs. We determined that \$275,112 of these costs did not comply with SED's reimbursement requirements.

Less-Than-Arm's-Length Lease Agreement

ICCD has a lease agreement for its Bayside location, which ICCD disclosed is a less-than-arm's-length transaction. According to the RCM, costs incurred in a less-than-arm's-length lease of real property shall be reimbursed based on the owner's actual costs or fair market value, whichever is less. According to the CFR Manual, actual costs include depreciation, amortization, mortgage interest, property taxes, insurance, utilities, and repairs and maintenance. For the three fiscal years ended June 30, 2015, ICCD claimed \$995,483 (\$324,829 in 2012-13, \$338,384 in 2013-14, and \$332,270 in 2014-15) in rent expenses for its Bayside location.

In order to determine the lesser of the owner's actual costs or fair market value, we asked ICCD officials to provide us with the fair market value analyses that were used to determine the rent expenses reported on the CFRs for the three fiscal years ended June 30, 2015. ICCD officials were unable to provide the analyses. Instead, they provided us with a current fair market value analysis dated August 2017.

Absent fair market value information established for the time of our review, we calculated and used the owner's actual cost to determine the reimbursable amount for this less-than-arm's-length lease agreement. We determined the owner's actual cost for the three fiscal years ended June 30, 2015 was \$720,653 (\$252,511 in 2012-13, \$247,667 in 2013-14, and \$220,475 in 2014-15). Consequently, we recommend that SED disallow \$274,830 (\$995,483 minus \$720,653) in rent expense that was above the owner's actual cost.

Non-Program-Related Expenses

The RCM states that costs must be reasonable, necessary, directly related to the special education program, and sufficiently documented. For fiscal year 2014-15, we identified the following non-program-related expenses:

- \$221 in expenses that were applicable to ICCD's Evaluations program; and
- \$61 in food expenses for parents.

We recommend that SED disallow the \$282 because these expenses were not related to ICCD's cost-based preschool special education program.

Recommendations

To SED:

1. Review the recommended disallowances resulting from our audit and make the appropriate adjustments to ICCD's CFRs and reimbursement rates, as warranted.
2. Work with ICCD officials to ensure their compliance with the provisions in the RCM.

To ICCD:

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

Audit Scope, Objective, and Methodology

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

To accomplish our objective, we reviewed the Education Law, the RCM, the CFR Manual, ICCD's CFRs, and relevant financial and program records for the audited period. We also interviewed ICCD officials, staff, and its independent auditor to obtain an understanding of ICCD's financial and business practices. In addition, we selected and reviewed judgmental samples of reported costs to determine whether these costs were supported, program-related and reimbursable. Specifically, we reviewed costs that were considered high risk, such as less-than-arm's-length lease transactions and staffing ratios. Our samples were based on the relative materiality of the various categories of costs reported and their associated levels of risk. Our samples were not designed to be projected to the entire population of reported costs. Also, our review of ICCD's internal controls focused on the controls over the 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 objective. We believe that the evidence obtained during our audit 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 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 draft copies of this report to SED and ICCD officials for their review and formal comment. Their comments were considered in preparing this final report and are attached to it. In their response, SED officials agreed with our recommendations and indicated they will take steps to implement them. In their response, ICCD officials accepted some of our conclusions but disagreed with other proposed disallowances. Our rejoinders to certain ICCD comments are included in the report's State Comptroller's Comments. ICCD also included a set of attachments with their response. Those attachments are not included in this report. However, they have been retained at the Office of the State Comptroller.

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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Cindi Frieder, CPA, Audit Manager
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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

Interdisciplinary Center for Child Development Schedule of Submitted and Disallowed Program Costs for the 2012-13, 2013-14, and 2014-15 Fiscal Years

Program Costs	Amount per CFR	Amount Disallowed	Amount Remaining	Notes to Exhibit
Personal Services				
Direct Care	\$23,340,374	*\$178,441	\$23,161,933	A,D,E,G
Agency Administration	945,207	117	945,090	D
Total Personal Services	\$24,285,581	*\$178,558	\$24,107,023	
Other Than Personal Services				
Direct Care	\$4,776,438	\$225,832	\$4,550,606	B,C,F
Agency Administration	1,091,550	49,280	1,042,270	B,C,F
Total Other Than Personal Services	\$5,867,988	\$275,112	\$5,592,876	
Total Program Costs	\$30,153,569	*\$453,670	\$29,699,899	

*SED's desk review previously disallowed some of these costs.

Notes to Exhibit

The following Notes refer to specific sections of SED's 2014-15 (unless otherwise stated) RCM and CFR Manual used to develop our recommended disallowances. We summarized the applicable sections to explain the basis for each disallowance. We provided the details supporting our recommended disallowances to SED and ICCD officials during the course of our audit.

- A. RCM Section I.6 - Staff-to-student ratios are defined in Part 200 of the Commissioner of Education's Regulations, as well as in each program's programmatic approval letters issued by SED's Office of Special Education-Special Education Quality Assurance (SEQA). Direct care personnel in excess of, or not prescribed by, such ratios are not reimbursable unless supported by the student's Individualized Education Program (IEP) requirements and the program-generated summary data relating to those IEPs.
- B. RCM Section II - Generally, costs will be considered for reimbursement provided such costs are reasonable, necessary, directly related to the special education program, and sufficiently documented.
- C. RCM Section II.41.B(4) - Costs incurred in less-than-arm's-length lease of real property transactions shall be reimbursed based on owner's actual costs or fair market value, whichever is less. (Section II.41.B(5) in 2012-13 RCM)
- D. RCM Section III.1.A - Compensation costs must be based on approved, documented payrolls.
- E. RCM Section III.1.B - Actual hours of services are the preferred statistical basis upon which to allocate salaries and fringe benefits for shared staff who work on multiple programs. Entities must maintain appropriate documentation reflecting the hours used in this allocation. Acceptable documentation may include payroll records or time studies. If hours of service cannot be calculated or a time study cannot be completed, then alternative methods that are equitable and conform to generally accepted accounting principles may be utilized.
- F. CFR Manual Page 18.3 - The related organization's actual cost in operating the building used by the service provider may include depreciation, amortization, mortgage interest, property taxes, insurance, utilities and repairs and maintenance.
- G. CFR Manual Page 42.3 (July 2013 edition) - The ratio value method uses operating costs as the basis for allocating agency administration expenses. Agency administration expenses must be allocated to programs operated by SED based upon the ratio of agency administration costs to the service provider's total operating costs.

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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March 15, 2018

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

Dear Mr. Sifontes:

The following is the New York State Education Department's (SED) response to the draft audit report, 2017-S-31, Compliance with the Reimbursable Cost Manual: Interdisciplinary Center for Child Development (ICCD).

Recommendation 1:

Review the recommended disallowances resulting from our audit and make the appropriate adjustments to ICCD's CFRs and reimbursement rates, as warranted.

We agree with this recommendation; provided that SED will look further into OSC's application of the Reimbursable Cost Manual (RCM) standard that costs for "direct care personnel in excess of, or not prescribed by, such [student-to-staff] ratios are not reimbursable" as the RCM further states, "unless supported by the student's IEP requirements and the program generated summary data relating to those IEPs." As such, 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:

Work with ICCD officials to ensure their compliance with the provisions in the RCM.

We agree with this recommendation. SED will continue to provide technical assistance whenever requested and will strongly recommend the ICCD officials take advantage of our availability to help them better understand the standards for reimbursement as presented in Regulation and the 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. This training is a requirement for preschool special education providers upon approval and reapproval.

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

Yours truly,

A handwritten signature in cursive script that reads "Sharon Cates-Williams".

Sharon Cates-Williams
Deputy Commissioner

cc: Christopher Suriano
Belinda Johnson
Suzanne Bolling

Agency Comments - Interdisciplinary Center for Child Development



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March 5, 2018

VIA ELECTRONIC EMAIL

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

**RE: State Education Department
Compliance with the Reimbursable Cost Manual
Interdisciplinary Center for Child Development (ICCD)
Draft Report 2017-S-31**

Dear Mr. Sifontes:

We have reviewed the above-mentioned Draft Report concerning the costs and expenses reported by the Interdisciplinary Center for Child Development (ICCD) on its Consolidated Fiscal Reports (CFRs) for the fiscal years ending June 30, 2015, and certain expenses claimed by ICCD on CFRs for the two fiscal years ending 2012-13 and 2013-14, together with the auditors' determinations whether the costs reported were reasonable, necessary, directly related to the special education program, and sufficiently documented pursuant to the State Education Department's (SED's) Reimbursable Cost Manual (RCM). We provide the following comments and challenges to select findings presented in the Report.

Personal Service Costs

Staffing Ratios

Teacher Aides/Assistants

ICCD could not disagree more with the auditors' determination that ICCD exceeded approved staffing levels for reimbursement during two of the three fiscal years.

As ICCD shared with the auditors during the field review and again at the exit conference, ICCD acknowledges that a measure of costs associated with the teacher aide/assistant position title may have been miscoded and, as a result, misreported on the CFR. As a matter of fact, James Kampf with the SED Rate Setting Unit identified a concern with the

Kenrick Sifontes
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costs as reported in the 2012-13 year, and communicated this concern to ICCD during desk review in the rate setting process. Upon review of the costs as reported, supported by detail provided by ICCD, RSU directed ICCD to report the costs under a different code in subsequent fiscal years. Importantly, RSU made the necessary adjustments to the CFR information during its desk review of the 2012-2013 audit year to specifically avoid the disallowance of the expenses in that year and to assure their reimbursement. The single disallowance adjustment made by RSU was in the amount of \$573 for the 2012-13 fiscal year as clearly reflected on the attached traj sheet. (See: Attachment: traj.) Importantly, no adjustments were made in the 2013-14 fiscal year around this issue, even after exhaustive communication between RSU and ICCD signaling RSU's acceptance of the reported number. (See: Attachment: SED Correspondence; traj.)

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Comment
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We believe SED has taken the necessary steps in response to the coding error. As reflected above, RSU engaged in a full and comprehensive review and analysis of the titled/positions as reported - - an analysis no less strident and comprehensive as the auditors' analysis. Accordingly, the actions taken by RSU including reporting adjustments with a nominal disallowance, addressed the issues presented by the auditors as thoroughly as the auditors' own recommendations. There is, then, no value in restating a situation which was identified and addressed by RSU through the rate-setting process.

We must again assert, moreover, that the initial coding error and subsequent NYSED adjustment was also a function of the ambiguity created by the current title/position codes which fail to differentiate between "floating" teacher assistants and "substitute" teacher assistants - a weakness currently under review by NYSED. Clearly, NYSED recognized the "necessity and reasonability" of the staffing when it reclassified the costs under a different code, perhaps itself reflecting upon the lack of a more appropriate code.

Lastly, while ICCD appreciates the auditors' acknowledgement that "SED's desk review previously disallowed some of these costs", the auditors' failure to quantify that disallowance serves to distort the finding. As we have substantiated, RSU reviewed each single document reviewed by the auditors and made adjustments of \$573 when the auditors assert a disallowance of \$176,793.

Allocation of Employee Compensation

ICCD does not challenge the auditors' finding that an error had been made in calculating the allocation of a specific employee's salary (\$1,124).

Employee Compensation

ICCD does not challenge the auditors' finding that the salaries of two employees were incorrectly reported on the CFR submission. As the auditors are aware, ICCD had engaged a new payroll company and had modified its payroll schedule from a bimonthly basis to payroll payments every two weeks. This modification produced some accrual anomalies which resulted in some minor discrepancies between payroll records and reported salaries. ICCD had conducted a comprehensive reconciliation analysis of all employees during the auditors' field review and

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could reconcile all discrepancies to the satisfaction of the audit team, but for these select four individuals.

The overstatement of compensation, we believe, was directly attributable to the recent change in payroll vendor and ICCD had strengthened its internal protocols to guard against any such accrual anomalies in subsequent years.

Other Than Personal Services

Less Than Arm's Length Lease Agreement

ICCD acknowledges the RCM requirement that "costs incurred in less-than-arm's length lease of real property transactions shall be reimbursed based on owner's actual costs or fair market value, whichever is less", and provided the auditors with several market surveys reflecting "comparable" lease holds – each of which was significantly more in quoted value than the Premises in question. ICCD also produced documentation in support of "owner's costs" as reflected in the mortgage note and related documents which, importantly, were executed several years prior to the Executive Director's appointment. We, therefore, challenge the auditors' assertion that ICCD "did not provide....their determination of either (fair market value or owner's actual)" as both were clearly provided.

ICCD also challenges the auditors' calculation of owner's actual cost, which clearly disregards the costs reflected in the mortgage note and substitutes those actual costs with proxies of depreciation expenses, property tax expenses and mortgage interest. While such proxies may have value in certain calculations, proxies should only be employed in the absence of actual, demonstrated costs as clearly reflected in the ICCD mortgage documentation.

As importantly, ICCD must again clarify that the amounts paid under the terms of the lease agreement were significantly less than market value, and, as a result of the agreement, resulted in significant savings to the State.

Non-Program Related Expenses

ICCD does not challenge the auditors' finding that \$221 in expenses had been inadvertently reported as Program costs while more appropriately reported as Evaluation costs. Refinements in coding protocols in the general ledger have guarded against the reoccurrence of such errors.

While ICCD does not challenge the auditors' finding that \$61 in food expenses were incurred, we clarify that the expenses were associated with the students' first day of school and that the food was for the benefit of the students and their families.

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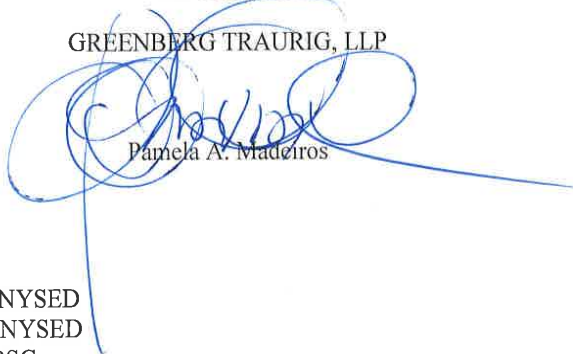
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We appreciate the opportunity to present our challenges to the auditors' findings.

Very truly yours,

GREENBERG TRAURIG, LLP



Pamela A. Madeiros

PAM/hae
ALB 2096013v1

CC: Suzanne Bolling, NYSED
Thalia Melendez, NYSED
Nicholas Angel, OSC
David Locker, ICCD

State Comptroller's Comments

1. An OSC field audit may include the review of additional information that may not have been available to SED's Rate Setting Unit during its desk review. As noted in our report, ICCD exceeded the SED-approved staffing levels for teacher aides/assistants.
2. The preliminary audit finding we shared with ICCD officials identified excess compensation paid to four employees. This finding was subsequently adjusted in our draft report to show that excess compensation was paid to only two employees. ICCD's response appears to be based on the preliminary audit findings.
3. The RCM states that costs incurred in a less-than-arm's-length lease of real property are reimbursed based on the lesser of owner's actual cost or fair market value. ICCD did not provide contemporaneous fair market values for each of the three audited fiscal years ended June 30, 2015. Rather, for the three years, ICCD provided market surveys prepared in August 2017 – a full two years after the end of the most recent audit period. In the absence of contemporaneous fair market values, we calculated owner's cost using the methodologies in the RCM and the CFR Manual.
4. We calculated owner's cost using the methodologies in the RCM and the CFR Manual.
5. The RCM states that costs incurred in a less-than-arm's-length lease of real property are reimbursed based on the lesser of owner's actual cost or fair market value. We question the claim of "significant savings to the State" as the audit found ICCD charged the State \$274,830 more than the owner's actual cost.