

THOMAS P. DINAPOLI
COMPTROLLER



110 STATE STREET
ALBANY, NEW YORK 12236

STATE OF NEW YORK
OFFICE OF THE STATE COMPTROLLER

April 12, 2017

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

Mr. Michael Smith
Executive Director
ACDS, Inc.
4 Fern Place
Plainview, NY 11803

Re: Compliance With the Reimbursable Cost
Manual
Report 2016-S-76

Dear Ms. Elia and Mr. Smith:

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, we conducted an audit of the expenses submitted by ACDS, Inc. (ACDS) to the State Education Department (SED) for purposes of establishing the preschool special education tuition reimbursement rates used to bill public funding sources that are supported by State aid payments.

Background

ACDS, a not-for-profit organization located in Plainview, New York, is an SED-approved provider of preschool special education services. ACDS offers special education services to children with disabilities from infancy to age five. For the fiscal year ended June 30, 2014, ACDS offered four SED-funded rate-based preschool special education programs: Preschool Special Class – over 2.5 hours per day; Preschool Special Class – 2.5 hours per day; Preschool Integrated Special Class – over 2.5 hours per day; and Preschool Special Education Itinerant Teacher Services (collectively referred to as the Programs). During the 2013-14 school year, ACDS provided these services to 213 children from school districts located in Nassau, Queens, and Suffolk counties.

The counties that use ACDS' preschool special education services pay tuition to ACDS using reimbursement rates set by SED. The State then reimburses the counties 59.5 percent of the special education tuition that counties pay. SED sets the preschool special education tuition rates based on financial information, including costs, reported by ACDS 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 year ended June 30, 2014, ACDS reported \$4,752,257 in reimbursable costs on its CFR for the Programs.

Results of Audit

For the fiscal year ended June 30, 2014, the personal service costs claimed by ACDS that we tested were in compliance with the RCM and CFR Manual. However, we identified \$30,104 in other than personal service costs that ACDS claimed on its CFR that did not comply with SED's prescribed requirements for reimbursement. The ineligible costs included:

- \$8,919 in insufficiently documented vehicle costs;
- \$7,343 in non-Program-related costs;
- \$6,502 in improperly allocated rental costs;
- \$6,139 in improperly allocated and ineligible administration costs; and
- \$1,201 in ineligible food costs.

Details of these ineligible charges are presented below.

According to the RCM, vehicle costs are reimbursable if they are supported by vehicle logs that document: the date, time of travel, to and from locations, mileage between each, purpose of the travel, and name of the traveler. However, ACDS did not maintain a vehicle log to support the costs of the vehicle it owned. Therefore, the \$8,919 in reported vehicle costs are not reimbursable.

According to the RCM, costs reported on the CFR are eligible for reimbursement if they are reasonable, necessary, and directly related to the education program. However, we identified \$7,343 in costs that were not in compliance with these RCM provisions. Specifically, we found the following that were either not necessary or not directly related to the Programs:

- \$3,528 in non-Program-related depreciation costs for leasehold improvements;
- \$3,334 in non-Program-related costs for contracted direct care services; and
- \$481 in non-Program-related advertising costs and certain other unnecessary fees.

According to the RCM, when more than one program is operated in a rented facility, the rental expense should be allocated to the programs based on documented and reasonable criteria, such as square footage utilization. ACDS allocated rental expense using square footage; however, ACDS did not update its allocation to reflect actual square footage used by the Programs in the 2013-14 school year. Because the square footage used by the Programs in the 2013-14 school year was less than in the prior year, ACDS overcharged \$6,502 in rental expenses to the Programs.

According to the RCM, agency administration costs are defined as expenses that are not directly related to a specific program, but rather attributable to the overall operation of the agency. ACDS improperly charged \$8,499 in working capital interest directly to the Programs. If the interest was properly allocated as administration costs (rather than charged directly to the Programs), the Programs would have been charged a lower amount (\$2,682) for that expense. As such, we recommended the disallowance of \$5,817 (\$8,499 - \$2,682) in ineligible working capital interest charges. Also, the RCM prohibits claiming administration costs for fundraising. However, ACDS inappropriately claimed \$322 in annual fundraising postage costs to the Programs.

According to the RCM, costs for food provided to any staff, as well as costs for food and beverages for meetings, including Board meetings, are not reimbursable. We identified \$1,201 in food costs that were not in compliance with this RCM provision.

Recommendations

To SED:

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

To ACDS:

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

Audit Scope, Objective, and Methodology

We audited the costs reported by ACDS on its CFR for the fiscal year ended June 30, 2014. The objective of our audit was to determine whether the costs submitted by ACDS on its CFR were properly calculated, adequately documented, and allowable under SED's guidelines, including the RCM.

To accomplish our objective and assess internal controls related to our objective, we reviewed the RCM, as well as the CFR Manual and related appendices. We interviewed SED officials to obtain an understanding of the CFR, as well as the policies and procedures contained in the RCM and the CFR Manual. We became familiar with ACDS' internal controls as they related to the costs ACDS reported on the CFR. We also interviewed ACDS personnel to obtain an understanding of their financial practices relating to the costs reported on the CFR. We reviewed ACDS' CFR and relevant financial records for the audit period and obtained accounting records and supporting information for our review of a judgmental sample of personal service and other than personal service costs that were considered high risk and reimbursable in limited circumstances, such as food and vehicles.

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.

Reporting Requirements

We provided a draft copy of this report to SED and ACDS 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 responses, SED and ACDS officials agreed with the audit recommendations and indicated the actions they will take to address them.

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 where recommendations were not implemented, the reasons why.

Major contributors to this report were David Fleming, Dan Towle, Laurie Burns, Karen Ellis, and Dylan Spring.

We would like to thank SED and ACDS management and staff for the courtesies and cooperation extended to our auditors during this review.

Sincerely,

Andrea Inman
Audit Director

cc: Suzanne Bolling, Director of Special Education Fiscal Services, SED
Thalia Melendez, Director of Audit Services, SED

Agency Comments - State Education Department



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

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April 4, 2017

Ms. Andrea Inman
Audit Director
Office of the State Comptroller
Division of State Government Accountability
110 State Street – 11th Floor
Albany, NY 12236

Dear Ms. Inman:

The following is the New York State Education Department's (Department) response to the draft audit report, 2016-S-76, Compliance with the Reimbursable Cost Manual: ACDS, Inc. (ACDS).

Recommendation 1: Review the disallowances identified by our audit and, if warranted, make the necessary adjustments to the costs reported on ACDS' CFR and to ACDS' 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 ACDS 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 ACDS 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.

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

Sincerely,


Sharon Cates-Williams

c: Christopher Suriano
Suzanne Bolling

Agency Comments - ACDS, Inc.



Pamela A. Madeiros
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madeirosp@gtlaw.com

March 17, 2017

VIA ELECTRONIC MAIL

Andrea Inman
Audit Director
Office of the State Comptroller
110 State Street
Albany, New York 12236

Re: State Education Department
Compliance with the Reimbursable Cost Manual
ACDS, Inc.
Draft Report 2016-S-76

Dear Ms. Inman:

We have reviewed the above-referenced Draft Report concerning expenses submitted by ACDS, Inc. on its Consolidated Fiscal Report (CFR) for the school year ending June 30, 2014. We appreciate the opportunity to provide comment and context to the Draft Report findings, and to assure the Office and the New York State Education Department of ACDS's renewed commitment to comply with requirements of the Reimbursable Cost Manual, supported by strengthened internal controls.

Results of Audit

On balance, we do not challenge the auditors' findings; more specifically:

- **vehicle costs:** we acknowledge that we did not maintain the required vehicle logs sufficient to support the claimed costs of the maintenance vehicles. We have refined our record keeping protocols to assure proper vehicle logs.
- **non-program related costs:**
 - ✓ *depreciation costs:* regrettably, while ACDS had properly calculated depreciation costs by square footage as required by the RCM, space associated with the agency's day care program was inadvertently included within that square footage. Refinements in our protocols will prevent such an error from reoccurring.
 - ✓ *select independent contractor direct care costs:* ACDS recognizes that a carry-over accounting error resulted in the mis-reporting of the PT service costs. The costs associated with the nutritional services had been allocated across all cost centers in prior years, and had only been exclusively

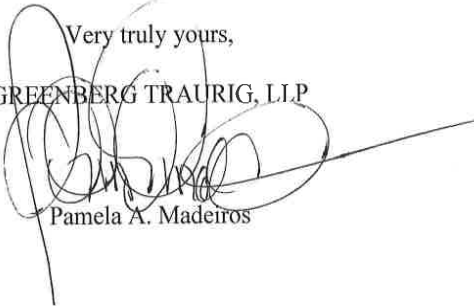
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associated with the EI program in the audited year. Unfortunately, an error occurred in allocation as a result.

- ✓ *advertisement*: ACDS acknowledges that the identified administrative costs (\$481) should have been reported as non-allowable on the CFR.
- **rental costs**: ACDS does not challenge the auditors' finding that certain rental costs had been misreported. In fact, ACDS appropriately allocated the cost by square footage, as required by the RCM. However, the usage of space had been modified in the audit year, and the reoccurring accounting entry had not been adjusted to reflect the usage change.
- **working capital interest**: ACDS has strengthened its internal controls to assure that working capital interest is allocated across all agency programs/cost centers.
- **food**: ACDS acknowledges that costs associated with certain staff meeting and professional development trainings should have been reported as non-allowable (\$1,201).
- **postage**: ACDS does not challenge that \$322 in postage costs associated with a fund raising event should have been allocated to other cost centers.

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ACDS acknowledges and appreciates the professionalism of the audit team during the review process and makes special note of the collegial cooperation extended.

Very truly yours,
GREENBERG TRAURIG, LLP

Pamela A. Madeiros

PAM/hae
ALB 2004435v1

cc: Daniel Towle, OSC (Via e-mail)
Suzanne Bolling, NYSED (Via e-mail)
Thalia Melendez, NYSED (Via e-mail)
Michael Smith, ACDS (Via e-mail)