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COMPTROLLER



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STATE OF NEW YORK  
OFFICE OF THE STATE COMPTROLLER

September 2, 2015

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

Mr. James McGuirk  
Executive Director/CEO  
Astor Services for Children & Families  
6339 Mill St.  
Rhinebeck, NY 12572

Re: Compliance With the Reimbursable Cost  
Manual: Astor Services for Children &  
Families  
Report 2014-S-66

Dear Ms. Elia and Mr. McGuirk:

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 Astor Services for Children & Families (Astor) 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**

Astor, a not-for-profit organization located in Rhinebeck, New York, is an SED-approved provider of preschool special education services. Astor offers a wide range of services and programs to children with disabilities between the ages of three and five years that include Preschool Special Class, Preschool Integrated Special Class, Preschool Evaluations, and Special Education 1:1 Aides. Astor is also an SED-approved provider of a School Age Special Class program, and provides several other programs approved and funded by the State Office of Mental Health.

The SED rate-based programs included in our audit scope were the Preschool Special Class and the Preschool Integrated Special Class (collectively referred to as the Programs). During the 2012-13 school year, Astor provided preschool special education services to about 100 children with learning disabilities from nine school districts in three counties in the Hudson Valley region and New York City area.

The counties that use Astor's preschool special education services pay tuition to Astor using reimbursement rates set by SED. The State reimburses the counties 59.5 percent of the special education tuition that counties pay. SED sets the special education tuition rates based on financial information, including costs, reported by Astor on its annual Consolidated Fiscal Reports (CFRs) filed with SED. Costs reported on the CFR must comply fully with the guidelines in SED's Reimbursable Cost Manual (RCM) regarding the eligibility of costs and documentation requirements and meet the reporting requirements prescribed in the Consolidated Fiscal Reporting and Claiming Manual (CFR Manual). For the fiscal year ended June 30, 2013, Astor reported a total of \$6.4 million in reimbursable costs on its CFR, of which \$3.3 million was for the Programs.

### **Results of Audit**

According to SED guidelines, costs reported on the CFR should be reasonable, necessary, directly related to the special education program, and properly documented. For the fiscal year ended June 30, 2013, we identified \$39,050 in costs charged to the Programs that did not comply with SED's requirements for reimbursement. The non-reimbursable costs included \$25,565 in other than personal service (OTPS) costs that were either not allowed, not properly documented, or not reasonable or necessary. In addition, we identified \$13,485 in non-reimbursable fundraising activities that were allocated to the Programs. In certain instances, costs were disallowed previously by SED, and we noted such instances in the report. We also identified two teachers and seven teacher's assistants who did not have the required certifications for their job titles.

#### ***Other Than Personal Service Costs***

We reviewed Astor's OTPS costs reported on their 2012-13 CFR and identified non-reimbursable costs totaling \$25,565. Specifically, we found the following:

- Astor reported \$43,778 in property lease/rental expenses for the Programs. According to the RCM, reported costs should be program-related and the allocation of rental expenses should be based on documented and reasonable criteria. We reviewed Astor's allocation methodology for the Programs and identified \$14,805 in rental costs that were for another program operated by Astor (Head Start). Consequently, these costs were not reimbursable.
- Astor reported \$42,312 in repairs and maintenance for the Preschool Special Class program. We reviewed all expenses claimed in this category and generally found records and costs complied with SED guidelines. However, we identified \$3,717 in expenses that were not reimbursable because either Astor did not have proper documentation (e.g., missing invoice) or the expense should have been charged to another program.
- Astor reported \$39,870 in vehicle expenses on its CFR (including loan payments, repairs

and maintenance, E-ZPass tolls, and fuel costs) for vehicles Astor provided to employees during our audit scope. For the costs to be reimbursable, the RCM requires the entity to maintain vehicle logs for each vehicle and document the nature and purpose of the travel in order to verify business versus personal usage. At a minimum the logs should include the date and time of travel, destination, mileage, purpose of travel, and the name of the traveler. However, Astor did not maintain any logs to record usage for these vehicles. Therefore, the reported vehicle costs are not reimbursable. The non-reimbursable amount allocated to the Programs was \$3,596.

- According to the RCM, agency administrative costs are those expenses that are not directly related to a specific program but are attributable to the overall operation of the agency. Astor reported a total of \$697,065 in staff travel and “other” costs under agency administration. We identified the following non-reimbursable items included in staff travel and “other” costs.
  - According to the RCM, conferences must be directly related to the education program or to the administration of the program. Programs shall be required upon audit to provide brochures, agendas, or other literature that verify attendance and document the purpose of the conference or meeting. Although Astor was generally able to provide supporting invoices and receipts for travel and a description (generated by Astor) for some of the conferences, they could not furnish any of the required documentation necessary to verify attendance (such as brochures or agendas) and purpose of the conferences. Much of the travel was out of state, and without such supporting documentation we could not verify that the out-of-state travel guidelines were met or if the travel was relevant or necessary to the Programs and related administration. We identified \$1,853 in conference-related costs allocated to the Programs that did not meet RCM guidelines.
  - According to the RCM, costs resulting from violations, food for staff, and gifts of any kind are non-reimbursable. We identified \$14,426 in non-reimbursable fines, staff food, and gifts, of which \$998 was allocated to the Programs. (Note: Prior to our audit, SED adjusted a portion of these expenses reported by Astor.)
  - According to the RCM, a cost is reasonable if it is a type generally recognized as ordinary and necessary for the operation of the approved special education program. Astor incurred expenses for a salary comparison study. However, we determined this expense to be unnecessary because median salaries and prevailing rates are readily available on SED’s website. Therefore, the \$484 allocated to the SED Programs was not allowable.
  - According to the RCM, travel costs are those incurred by employees in travel status on official school business. We identified \$112 in reported travel expenses allocated to the Programs that were not clearly related to official school business. For instance, the expenses included mileage to a retirement party and luncheons.

### ***Astor Foundation and Fundraising Activities***

The Children's Foundation of Astor (Foundation) is a non-profit organization that receives, invests, and administers private support for Astor. Astor officials stated that some administrative salaries and OTPS costs claimed on Astor's CFR were for work performed for the Foundation. In turn, the Foundation reimbursed Astor a total of \$190,711. However, Astor did not report these Foundation-related expenses as non-allowable costs in their agency administrative expenses on their CFR-3 or report them in "Other Programs" on CFR-2 as the CFR Manual instructs. According to the RCM, agency administrative costs should not include fundraising costs, special events costs, or costs of management services provided to another entity through an ongoing contract. In addition, political and charitable contributions and donations made by the program are not reimbursable. Therefore, costs related to fundraising are not reimbursable and should not have been included as reimbursable costs on Astor's CFR. Additionally, we identified costs associated with a website used to garner and accept donations, hotel stays for lobbying causes, and participation in events such as golf tournaments. In total, we identified non-reimbursable fundraising expenses of \$13,485 allocated to the Programs.

### ***Certifications***

It is important that teaching staff have the required certifications to help ensure that students obtain an adequate education. Accordingly, the 2012-2013 CFR Manual, Appendix R requires that employees hold the necessary educational certifications and qualifications for their titles. Further, New York State Education Law, Article 89, Section 4410 and SED regulations require that special education instruction be provided by individuals who are appropriately certified or licensed. We identified two teachers and seven teacher's assistants who did not have the required certifications for their job titles. Astor officials stated these individuals are funded by the federal program Head Start and therefore do not require certifications. However, we determined that the nine individuals provided over 6,000 hours of instruction to students in the Programs. Further, Astor charged salary expenses for the 6,000 hours to the Programs on their CFR. Because the individuals are partially funded by SED, the certifications are required.

### **Recommendations**

#### **To SED:**

1. Review the disallowances identified by our audit and, if warranted, make the necessary adjustments to Astor's reimbursement rates.
2. Work with Astor to implement and monitor a compliance program to ensure all SED-funded teachers are properly certified for their positions.
3. Remind Astor officials of the pertinent SED guidelines that relate to the deficiencies we identified.

**To Astor:**

4. Ensure that costs reported on annual CFRs fully comply with SED's guidelines and requirements.

**Audit Scope, Objective, and Methodology**

We audited the expenses submitted by Astor on its CFR for the year ended June 30, 2013. The objective of our audit was to determine whether the costs submitted by Astor 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 Astor's 2012-13 CFR and financial statements. We interviewed Astor officials and staff to obtain an understanding of their financial practices relating to the expenses reported on Astor's CFR. We also interviewed SED officials and obtained an understanding of the CFR, as well as the policies and procedures contained in the RCM and CFR Manual. To complete our audit work, we reviewed supporting documentation for costs submitted by Astor on their CFR and made a determination of whether the costs complied with and were allowable by the RCM and CFR Manual.

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 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 (some of whom have minority voting rights) to certain boards, commissions, and public authorities. 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 Astor officials for their review and formal comment. We considered SED's comments in preparing this report and attached SED's response in its entirety to the end of it. In their response, SED officials agreed with our recommendations and indicated the actions they would take to address them. Astor officials did not provide a written response to the draft report. However, we provided Astor officials with opportunities to comment on preliminary audit findings during the course of the audit, including a closing conference. We considered informal comments provided by Astor officials as well in preparing this report.

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, Ed Durocher, Rebecca Tuczynski, and Anthony Calabrese.

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

Sincerely,

Andrea Inman  
Audit Director

cc: Andrew Fischler, Audit Manager - Office of Audit Services, SED  
Suzanne Bolling, Director of Special Education Fiscal Services, SED

# Agency Comments



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 19, 2015

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

Dear Ms. Inman:

The following is the New York State Education Department's (Department) response to the draft audit report, 2014-S-66, Compliance with the Reimbursable Cost Manual: Astor Services for Children & Families.

**Recommendation 1: Review the disallowances identified by our audit and, if warranted, make the necessary adjustments to Astor's reimbursement rates.**

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

**Recommendation 2: Work with Astor to implement and monitor a compliance program to ensure all SED-funded teachers are properly certified for their positions.**

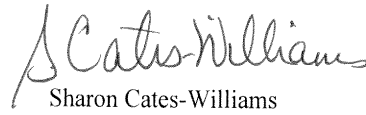
We agree with this recommendation.

**Recommendation 3: Remind Astor officials of the pertinent SED guidelines that relate to the deficiencies we identified.**

We agree with this recommendation. The Department will continue to provide technical assistance whenever requested and will strongly recommend that Astor officials take advantage of our availability to help them better understand the standards for reimbursement as presented in Regulation and the Reimbursable Cost Manual. In addition, Consolidated Fiscal Report (CFR) training is available at six locations across the State and online on Department's webpage. The training is recommended for all individuals signing CFR certification statements, namely Executive Directors and Certified Public Accountants, and is required for preschool special education providers upon approval and reapproval. Furthermore, the Department intends to require that the training be mandatory for all providers.

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

Sincerely,



Sharon Cates-Williams

c: James P. DeLorenzo  
Suzanne Bolling