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STATE OF NEW YORK
OFFICE OF THE STATE COMPTROLLER

February 17, 2011

Ms. Cathleen P. Black
Chancellor
NYC Department of Education
52 Chambers Street
New York, NY 10007

Re: Report 2010-F-38

Dear Chancellor Black:

Pursuant to the State Comptroller's authority as set forth in Article V, Section 1 of the State Constitution; and Article III, Section 33 of the General Municipal Law, we have followed up on the actions taken by officials of the New York City Department of Education (DoE) to implement the recommendations contained in our audit report, *New York City Department of Education: Monitoring of Supplemental Educational Services Providers* (Report 2007-N-22).

Background, Scope and Objective

Supplemental Educational Services (SES) are federally funded tutoring services offered to low-income students at elementary, middle and high schools where a significant portion of the student population is not meeting certain academic performance goals. The services are to be offered before or after school, or on weekends, by approved providers. In the 2009-10 school year, DoE contracted with 71 providers to conduct tutoring sessions at more than 1,200 sites. These sessions were attended by more than 50,000 students.

Our initial audit report, issued on July 14, 2009 and covering the period October 1, 2005 through October 1, 2008, examined whether DoE's monitoring of certain contracted tutoring services provides adequate assurance that the amounts billed for the services are accurate, the services are provided in accordance with contract requirements, and the individuals providing the services have been checked for criminal histories and cleared to work with children. The objective of our follow-up was to assess the extent of implementation as of December 3, 2010, of the eleven recommendations included in our initial report.

Summary Conclusions and Status of Audit Recommendations

We found that DoE officials have made significant progress in correcting the problems we identified in the initial report. Of the eleven prior audit recommendations, six recommendations have been implemented, two recommendations have been partially implemented, and three recommendations have not been implemented.

Follow-up Observations

Recommendation 1

Establish a process for verifying selected provider billings on a test basis and recover any amounts not supported by attendance sheets.

Status - Implemented

Agency Action - DoE officials provided us with a copy of the process they established for verifying provider billings. In addition, they provided documentation showing that \$294,039 in improper billings was recouped from 26 providers for the 2009-10 school year.

Recommendation 2

Address the inappropriate attendance practices identified by our audit (i.e., pre-entered sign-in and sign-out times, lack of student signatures and student IDs, lack of tutor signatures, etc.) by reminding the providers of the attendance practices required by the SES Manual, and observe selected tutoring sessions to determine whether appropriate attendance practices are being used.

Status - Implemented

Agency Action - DoE officials provided documentation to show that providers received training, in September 2009 and August 2010, on attendance and other SES program requirements. These documents also showed that DoE officials visited and observed some tutoring sessions to determine whether providers were adhering to required attendance practices.

Recommendation 3

Modify the SES Manual to describe the attendance records that should be maintained for on-line sessions.

Status - Not Implemented

Agency Action - The current SES Manual does not address how student records should be maintained for on-line sessions.

Recommendation 4

Review the deployment of the part-time monitors to ensure that providers at both off-site and on-site locations are visited as part of the efforts to monitor SES program requirements.

Status - Partially Implemented

Agency Action - DoE provided us with plans for the deployment of monitors to conduct visits at both on-site and off-site locations. These plans will be implemented in February 2011.

Recommendation 5

Develop a risk-based system to select providers for monitoring visits. Include in the assessment the results of past visits, the results from this audit and other relevant factors. Conduct monitoring visits to these high risk providers and test for compliance with attendance requirements and other matters.

Status - Implemented

Agency Action - Our review indicates DoE assessed past audits, parent and school complaints, and other relevant factors to develop a risk-based system for monitoring visits. In addition, DoE officials told us that during the 17-month period January 2009 through May 2010, they conducted 173 visits to 15 of the 20 providers on a 'watch list' developed as a result of the assessment. Our review of a judgmental sample of reports prepared after the monitors visited five providers showed that monitors tested for compliance with student attendance, staffing, and other program requirements.

Recommendation 6

Survey parents about the tutoring sessions held in students' homes.

Status - Implemented

Agency Action - DoE officials provided us with documentation showing that, during the five-month period January through May 2010, they surveyed parents of 186 students who had received SES tutoring sessions in their homes.

Recommendation 7

Take appropriate corrective action with the provider that stopped providing services in the middle of the term without giving advance notice.

Status - Not Implemented

Agency Action - DoE officials advised they will not implement this recommendation because they are unable to confirm the allegation.

Recommendation 8

Formally communicate the results of monitoring visits to the providers, follow up with the providers to ensure that any needed corrective actions have been taken, and document the follow up efforts.

Status - Implemented

Agency Action - DoE officials provided us with copies of reports sent to providers detailing the results of monitoring visits. These reports included the monitors' observations, as well as recommendations to correct areas where non-compliance with program requirements were noted. DoE officials also provided us with copies of corrective action plans submitted by the providers, as well as follow-up reports which showed the current status and/or resolution of items on those plans.

Recommendation 9

Request payroll information from SES providers at regular intervals and compare the payroll information to PETS. Follow up with the SES providers for all individuals on the providers' payroll and not listed as cleared on PETS.

Status - Not Implemented

Agency Action - DoE officials advised they will not implement this recommendation because it would be too staff intensive to manually collect and compare hardcopies of payroll records to PETS data.

Comptroller's Comment - DoE officials should reconsider their position. We believe the risk to children's safety outweighs the extent of effort needed to ensure that all staff have been properly vetted.

Recommendation 10

Determine if the 156 individuals we identified as having worked for the SES providers did, in fact, provide tutoring services. If it is determined these individuals were not cleared, recover all payments made for their services.

Status - Implemented

Agency Action - DoE officials provided us with information showing they reviewed payroll files for the 156 individuals. Officials concluded these individuals had neither provided tutoring services nor received payments from DoE.

Recommendation 11

Routinely monitor whether the providers are complying with the requirement for criminal history checks, and take prompt corrective action if instances of noncompliance are identified.

Status - Partially Implemented

Agency Action - We reviewed a judgmental sample of five checklists completed by DoE monitors and noted they did not document that criminal history checks were performed. DoE officials advised that checklists were never intended to document that criminal history checks were performed. DoE officials stated they rely on providers to self report criminal history checks in PETS, with a 'satisfactory' indicating the individual was cleared. DoE officials added that they occasionally check PETS to determine if some individuals may not have completed the criminal history process. Providers are instructed to remove these individuals from contact with students until they have been cleared. The officials stated that when they visit SES sites, they verify that providers have satisfactory clearances. Our review of PETS confirmed that uncleared providers were being flagged.

Major contributors to this report were Sheila Jones, Jeffrey Marks and Joe Giaimo.

We would appreciate your response to this report within 30 days, indicating any actions planned to address the unresolved issues discussed in this report. We also thank the management and staff of the Department of Education for the courtesies and cooperation extended to our auditors during this review.

Very truly yours,

Kenrick A. Sifontes
Audit Manager

cc: Brian Fleischer, DoE-OAG
George Davis, Mayor's Office of Operations