

THOMAS P. DINAPOLI
COMPTROLLER



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ALBANY, NEW YORK 12236

STATE OF NEW YORK
OFFICE OF THE STATE COMPTROLLER

May 13, 2016

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

Ms. Kelly Young
Executive Director
Crossroads Center for Children
1136 North Westcott Road
Schenectady, NY 12306

Re: Compliance With the Reimbursable
Cost Manual
Report 2015-S-87

Dear Ms. Elia and Ms. Young:

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 Crossroads Center for Children (Crossroads) 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

Crossroads, a not-for-profit organization located in Schenectady, New York, is an SED-approved provider of preschool special education services. Crossroads offers a range of services and programs to children with disabilities between three and five years of age. For the fiscal year ended June 30, 2014, Crossroads offered two SED-funded rate-based preschool special education programs: Preschool Integrated Special Class and Preschool Special Education Itinerant Teacher Services (collectively referred to as the Programs). During the 2013-14 school year, Crossroads provided preschool special education services to about 39 children with learning disabilities from 14 school districts located in five counties in upstate New York.

The counties that use Crossroads' preschool special education services pay tuition to Crossroads 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 Crossroads 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, 2014, Crossroads reported about \$1.27 million in reimbursable costs on its CFR 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, 2014, we identified \$14,297 in other than personal service (OTPS) costs charged to the Programs that did not comply with SED's requirements for reimbursement. Specifically, we found the following:

- \$11,111 for iPads, software, laptops, and various curriculum materials that were purchased with private grant funds received by Crossroads. According to the RCM, tuition rates are calculated after revenues, including cash receipts (the grant funds in this case), are offset against the proper expenditures. However, we determined the grant funds received by Crossroads for the iPads and software were not offset against the cost of those items. As a result, the items were erroneously reported as reimbursable costs on the CFR.
- \$2,281 for non-audit services performed by the same CPA firm Crossroads contracts with for their annual audit. The RCM states costs associated with non-audit services provided by an accounting firm within 365 days of required audit work are not reimbursable. The non-audit services included a review of Crossroads' policies and procedures, including those relating to allocations and the whistle blower policy.
- \$574 for travel costs that did not indicate a purpose for the travel on supporting documentation, as required by the RCM.
- \$331 for gifts and clothing for staff. According to the RCM, costs resulting from gifts and clothing for staff are not reimbursable.

Recommendations

To SED:

1. Review the recommended disallowances resulting from our audit and make the appropriate adjustments to the costs reported on Crossroads' CFRs and to Crossroads' tuition reimbursement rates.
2. Remind Crossroads officials of the pertinent SED guidelines that relate to the deficiencies we identified.

To Crossroads:

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 expenses submitted by Crossroads on its CFR for the year ended June 30, 2014. The objective of our audit was to determine whether the costs submitted by Crossroads 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 Crossroads' 2013-14 CFR and financial statements. We interviewed Crossroads officials and staff to obtain an understanding of their financial practices relating to the expenses reported on Crossroads' 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. We also reviewed a judgmental sample of Program costs. The sample included, but was not limited to, selected items only reimbursable under limited circumstances, such as items purchased with grant funds, travel expenses, and gifts. To complete our audit work, we reviewed accounting records and supporting documentation for costs submitted by Crossroads on its CFR and made a determination of whether the costs complied with and were allowable by the RCM and CFR Manual.

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 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 Crossroads 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 it. In their response, SED officials agreed with our audit recommendations and indicated the actions they will take to address them. In their response,

Crossroads officials disputed our proposed disallowances pertaining to purchases made with grant funds and travel costs. Our rejoinders to these matters and other statements by Crossroads are included in the report's State Comptroller's Comments.

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 Warren Fitzgerald, Brian Krawiecki, Rebecca Tuczynski, Innocentia Freeman, and Joseph Paduano.

We would like to thank SED and Crossroads' 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 - Office 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 21, 2016

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, 2015-S-87, Compliance with the Reimbursable Cost Manual: Crossroads Center for Children (Crossroads).

Recommendation 1: Review the recommended disallowances resulting from our audit and make the appropriate adjustments to the costs reported on Crossroads' CFRs and to Crossroads' tuition 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: Remind Crossroads 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 the Crossroads 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 the 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,

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

Sharon Cates-Williams

c: Pat Geary
Suzanne Bolling

Agency Comments - Crossroads Center for Children



April 21, 2016

Via E-mail to – bkrawiecki@osc.state.ny.us

Ms. Andrea Inman
Audit Director
Office of the State Comptroller
Division of State Government Accountability
110 State Street - 11th Floor
Albany, New York 12236-0001

Re: Response to Audit 2015-S-87

Dear Ms. Inman:

We are in receipt of your undated draft audit report, received on March 22, 2016. Please accept this letter as our response to the draft report on the review of expenses we submitted on our Consolidated Fiscal Report (CFR) for the fiscal year ending June 30, 2014. The draft report, as well as this response has been reviewed with our Board of Directors.

First and foremost, we wanted to take this opportunity to thank you and your staff for the diligence and professionalism exhibited during the course of the examination. Specifically, we extend our gratitude to Ms. Tuczynski who approached the process with thoroughness and tenacity, but also worked cooperatively with our employees to minimize disruptions to our day-to-day operations.¹

Our response to the draft report is as follows. It is organized in accordance with the four points which described the disallowances in the draft audit findings:

¹ We do have one concern of a procedural nature. During the audit, OSC staff insisted that they be given access to materials which we considered protected by the attorney-client privilege, notwithstanding our objections thereto. Specifically, in connection with reviewing the reimbursement of professional fees, they insisted we produce details on the specific legal inquiries we made to our school attorneys, and the specific services we received from the attorneys during the audit period. In order to allow the audit to proceed, we provided them access to that information under protest. Our Board of Directors is, however, justifiably upset that such information would be required from your Office in light of the strong protections afforded that material under State law. There is no good reason that your Office needed access to that level of information to complete its audit and we urge you to reconsider your practices in seeking such information in the future.

* Comment 1

*See State Comptroller's Comments, Page 10.

Expenses for Items Purchased with Grant Funds

The draft report calculates a disallowance of \$11,111 for non-reimbursable expenses that we reported on our CFR for items purchased with “grant funds.” We disagree with your interpretation of the RCM language which forms the basis for your calculation of the disallowance. We believe the proper characterization of the revenues we received were a restricted donation and that we properly excluded them as “offsetting” revenues. We believe the disallowance should be \$0 on this item.

*
Comment
2

Ruling References:

The 2013-14 RCM, Section II, page 40, provides the following guidance on when gifts and donations from non-public funds may be excluded from offsetting the related expenses:

44. Revenues

A. Section 4401 of Education Law states that an approved tuition rate shall be computed after the following revenues have been offset by the Department against the proper expenditures:

- (1) Any cash receipts that reduce the cost of an item will be applied against the item, except gifts, donations and earned interest from other than public funds.

Section C of the CFR Reporting Manual (beginning on page 13.15) further clarifies this sentence by using the term “Restricted Donations” as part of the description for line 83 – Gifts, Legacies, Bequests and Restricted Donations. It reads as follows:

83. Gifts, Legacies, Bequests, Restricted Donations: The revenue from gifts, legacies, bequests and restricted donations.

Section C of the CFR Reporting Manual provides further guidance on this issue by providing for the reporting of Federal Grant revenues on line 79 and State Grant revenues on line 80. Notably absent from these categories is the obligation to list funding from grants, awards and restricted donations from non-governmental agencies, or any source of revenue from “other than public funds.”

Crossroad’s Position:

Based on the language above, we believe the direction of the RCM and the CFR Reporting Manual is that, when a provider receives a restricted donation, private grant, gift, award, or donation from any private (i.e., non-governmental) entity, the revenues that support the associated program costs are properly considered not offsetting. Indeed, our approach to this issue was reviewed by Dopkins & Co., our outside auditors, who confirmed their agreement with this interpretation of the RCM and CFR Reporting Manual language, in a written assurance. In

addition, Crossroads reached out to other special education preschools and every agency that responded to us acknowledged that they interpret the RCM in the same manner that Crossroads does with respect to this reporting aspect.

It is Crossroads' position that the RCM clearly indicates that, when private individuals or organizations make gifts or donations to us, which are in turn utilized in a state-funded program, that no offset from revenue should occur. The language in RCM section **44. Revenues (1)** is specifically worded to require an offset of such costs only with revenues from public funds. An approach which deems any gift or donation as a "Cash Receipt" and, thus, treats it as offsetting revenue, ignores both the plain language of the RCM and its clear intent. The mere fact that the "gift" or "donation" results from a grant application does not change its fundamental character as a gift or donation, particularly where, as here, the donation is from a private foundation. Logic indicates that, notwithstanding the means through which a private donation is acquired, the intent of such donations are always to provide a financial benefit to the recipient agency, not allow the State to reduce its funding for core services. OSC's interpretation rests upon the false premise that the private foundation intended to provide a benefit to the State, rather than the donee. By treating these donations as offsets to the State funding process, the State is essentially capturing private donations to reduce its legal obligation to fund these critical programs, which, in our opinion, is both inappropriate and contrary to well-established policy.

As the draft report notes, the funding source for these items was "private grant funds," not public funds (governmental or otherwise). We believe the appropriate characterization of these revenues is as Restricted Donations, which typically do not require offset.

Based on the above, we feel that OSC has misinterpreted the RCM language by requiring the offsetting of revenues from a non-public, restricted donation from a private donor. We believe that these revenues from the private donations were correctly reported in of CFR on line 83 as not offsetting. As such, we believe the proposed disallowance of \$11,111 is not proper.

Non-Auditing Services

We do not dispute the \$2,281 disallowance for the costs associated with non-audit services provided by our auditors. We understand the RCM criteria in this area, but believe that there were efficiencies gained by utilizing Dopkins & Co. to evaluate other compliance-related issues.

Insufficient Documentation-Mileage Logs

Although we have sufficient documentation to substantiate all of the travel-related mileage for which you have proposed a \$574 disallowance, we recognize that our travel log form in place for the applicable audit period did not contain a specific column for "purpose." That data was maintained by Crossroads in other records, but not expressly included on the logs. Our form has now been revised so that all required information is listed on the log form without the need to consult other records.

* Comment 3

Letter to A. Inman
Re: Response to Draft Report 2015-S-87
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We believe that this was a very technical deficiency and that, because the information was maintained in other records, the minor disallowance of \$574 should be held in abeyance based on our change in procedure for future years.

Gifts and Clothing Expenses for Staff

We do not dispute the \$331 disallowance for the costs associated with the lunch bags and shirts given to staff. The cost of those items was mistakenly included on the CFR.

Thank you for the opportunity to provide this response. If you have questions about our positions or any of the information we have provided, please do not hesitate to contact me.

Sincerely,

A handwritten signature in blue ink that reads "Kelly Young". The signature is fluid and cursive, with the first name "Kelly" being more prominent than the last name "Young".

Kelly Young
Executive Director

cc: Board of Directors
Dopkins & Co.
Robert Schofield, Esq.

State Comptroller's Comments

1. The RCM states costs associated with retainers for legal services are not reimbursable unless the fee represents payment for actual documented reimbursable services rendered. Consistent with standard audit practices, we requested supporting documentation, including descriptions of the actual services provided, to determine whether the legal retainer fees reported by Crossroads were allowable per the RCM's requirements. We do not agree that private entities can claim publicly funded reimbursements for legal services and then not provide documentation supporting the fees.
2. We maintain our position that the funds Crossroads received were grants from private organizations, designated for the purchase of specific items, including iPads, software, laptops, and various curriculum materials. For these reasons, they were considered cash receipts and not donations or gifts. Further, we presented the issue to SED officials, who agreed the funds were cash receipts, which should be offset against the proper expenditures.

To make a determination on the nature of the funds Crossroads received, we researched the sources of the funding and reviewed documentation provided by Crossroads, including grant applications and award letters. Based on that work, we concluded the revenues were grants because Crossroads was required to apply specifically for the funds, meet certain criteria to be awarded the funds, and submit reports showing the funds were used for their intended purpose. Further, the organizations distributing the funds identified them repeatedly as grants on their websites, on their applications, and in their award letters. We, therefore, maintain that the \$11,111 in costs for iPads, software, laptops, and curriculum materials purchased with the private grant funds are not reimbursable.

3. The RCM requires travel costs to be supported by logs that contain certain information about the travel, including the purpose of the trip. In their response, Crossroads acknowledged that the travel logs they used during the audit period did not contain the purpose of the trip as required. During our audit testing, Crossroads officials added handwritten notes on the logs we reviewed to indicate the purpose of the travel. However, they did not provide any additional documentation to support the purposes they added. Therefore, we maintain that the travel expenses of \$574 are not reimbursable because they were not supported by adequate documentation.