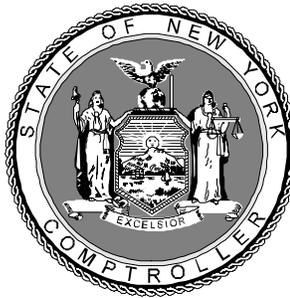


**STATE OF NEW YORK
OFFICE OF THE STATE COMPTROLLER
Office of the State Deputy Comptroller
for the City of New York**

**Rosemary Scanlon
Assistant Deputy Comptroller
for the City of New York**



**NEW YORK CITY
BOARD OF EDUCATION**

**TRANSPORTATION AID CLAIMED
IN 1991 AND 1992
FOR CONTRACT CARRIER SERVICES**

June 28, 1995

A-23-93



STATE OF NEW YORK
OFFICE OF THE STATE COMPTROLLER
270 BROADWAY
NEW YORK, NEW YORK 10007

ROSEMARY SCANLON
ASSISTANT DEPUTY COMPTROLLER
FOR THE CITY OF NEW YORK

June 28, 1995

The Honorable Ramon C. Cortines
Chancellor
New York City Board of Education
110 Livingston Street
Brooklyn, New York 11201

Re: Final Report - Transportation Aid
Claimed in 1991 and 1992 for Contract
Carrier Services, No. A-23-93

Dear Chancellor Cortines:

Pursuant to the State Comptroller's audit authority as set forth in the State Constitution, the State Finance Law and the General Municipal Law, we have examined the Transportation aid claimed in 1991 and 1992 for contract carrier services as submitted by the New York City Board of Education's Office of Budget Operations and Review (OBOR). The audit focused on verifying if claimed expenditures were incurred, were allowable, and were supported by adequate documentation maintained by the Board's Division of Operational Support Services and OBOR.

This report was prepared under the direction of Allen M. Vann, Audit Director. Major contributors to this report are listed in Appendix C.

*Office of the State Comptroller
Office of the State Deputy Comptroller
for the City of New York*

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**NEW YORK CITY BOARD OF EDUCATION
TRANSPORTATION AID CLAIMED IN 1991 AND 1992
FOR CONTRACT CARRIER SERVICES**

EXECUTIVE SUMMARY

PURPOSE

The purpose of this audit was to determine whether the expenditures claimed in years 1991 and 1992 (for school years 1989-90 and 1990-91) by the New York City Board of Education (Board or BE) for Transportation aid for contract carrier services were:

- C actually incurred, adequately documented and properly accounted for, and
- C allowable, allocable and in compliance with applicable State Education Laws and regulations and policies established by the Board.

BACKGROUND

Student eligibility for transportation is based on grade and distance criteria established by BE's Chancellor. The Office of Pupil Transportation (OPT) has primary responsibility for arranging the provision of appropriate services to students. OPT provides data to BE's Office of Budget Operations and Review to be used in the preparation of the Transportation aid claim.

For school years 1989-90 and 1990-91, over 100 private bus companies transported students, in grades from kindergarten to 12, to and from school in yellow school bus vehicles under contracts with the Board (Contract Carrier service). BE reported that it incurred contract carrier expenditures totalling \$460.08 million in these two years of which \$385.70 million was claimed as aidable.

RESULTS IN BRIEF

We found that the claims submitted by the Board for contract carrier services included expenditures that were both nonallowable and undocumented. In addition, there were differences between expenditures as claimed and the audited amount. Many of the differences came from the questionable interpretation of certain contract clauses, and from undocumented costs.

We questioned claimed expenditures of \$10.19 million. The State Education Law provides for State reimbursement of 90 percent of eligible transportation costs incurred by school districts. However, transportation aid payments for the 1990-91 school year (1992 aid year) were reduced due to subsequent legislation. Accordingly, we recommend that the State Education Department determine the actual reimbursement rate for the 1990-91 school year and recover Transportation aid overpaid based on the audit adjustments.

In addition, we found that the contracts entered into by the Board and its contract carriers do not comply with State Education Department (SED) regulations. Contrary to SED regulations, the contracts combine into one contract aidable and nonaidable services. Therefore, costs not otherwise questioned are qualified subject to further determination by the Commissioner of SED that such costs were validly incurred based upon the form of contract used. We recommend that the Board not award or renew contracts which combine transportation to and from school with transportation for other purposes.

**AGENCY RESPONSE
AND AUDITOR
COMMENTS**

We made ten recommendations to the Board and SED. Six of the recommendations require that SED take action to correct the claimed expenditures, determine the adjustment to Transportation aid paid for claim years 1991 and 1992, and review all pending claims to determine if similar errors occurred. The recommendations to the Board require it to develop and

document procedures for all units involved with the preparation of the Transportation aid claim to ensure that errors cited in this report do not recur.

BE replied that it is extremely concerned by the magnitude of the proposed disallowance and that it is at a point in time when it has experienced severe budget cuts and has tried to maintain the same level of services. It also stated that it disagrees with "disallowances based on the lack of original documentation to support the expenditures for these services, and questions the documentation provided to substantiate the claims for reimbursement. We agree that our records management should have been better during the period covered by the audit. However, practices have improved since that time and your audit will help to ensure continued improvement."

BE questioned the results of our sampling techniques, indicating a belief that the sample was not representative of the population. We believe the sampling techniques used were appropriate and provided a reasonable basis for our audit disallowance.

The Board's inability to support certain expenditures it claimed was appropriately factored into the projection of our disallowance.

SED generally agreed with our recommendations. It also indicated that technical assistance will be provided to the Board to ensure that future claims filed by the Board are accurate and in accordance with State Education Law and appropriate State regulations. In addition, SED will notify BE that it needs to rebid any contract extensions that combine transportation to and from school and transportation for other purposes.

Other excerpts from BE's and SED's responses have been included in the text of this final report along with our comments. A complete copy of their responses is available upon request.

NEW YORK CITY BOARD OF EDUCATION

TRANSPORTATION AID CLAIMED IN 1991 AND 1992 FOR CONTRACT CARRIER SERVICES

CHAPTER I. INTRODUCTION

The authority to apportion State funds to school districts is found in Section 3601 of the Education Law.¹ State Transportation aid reimburses school districts for a portion of their approved transportation expenditures ("Transportation aid"). Under Section 3602 (7)(a) of the Education Law, the amount apportioned to school districts employing eight or more teachers for pupil transportation is 90 percent of the base year's (the previous school year) approved expenditures (actual expenditures as approved by the Commissioner of the State Education Department).² The reimbursement rate is subject to change by the State Legislature.

Certain transportation expenditures may not be included in a district's approved Transportation aid claim, but may be included as part of the district's reimbursable operating expenses; certain transportation expenditures incurred by a district may not be subject to State reimbursement at all. Transportation expenditures that may be included in a district's Transportation aid claim include contract carrier services (more commonly known as "yellow school bus" vehicles, provided by private vendors), common carrier services (such as bus and subway service used by the public), district transportation-related managerial and clerical salaries, and approved consultant fees.

City school districts, such as the New York City Board of Education (BE or Board), are not legally required to provide transportation except to students with handicapping conditions. However, if they opt to provide transportation, it must be offered equally to all students in like circumstances at both public and nonpublic schools.

¹ Section 3601 of the State Education Law states "the amount annually appropriated by the legislature for the support of common schools shall be apportioned by the commissioner of education each year prior to the dates of the respective final payments provided by law and all moneys so apportioned shall be applied exclusively to school purposes authorized by law."

² Section 3602 (7)(a) of the State Education Law states "there shall be apportioned to any school district for pupil transportation, ninety per centum of its approved transportation expense for the base year." However, Transportation aid payments for the 1990-91 school year (1992 aid year) were reduced due to State deficit reduction actions required by Section 3609 (1)(h) of the State Education Law. In accordance with this Section, SED's Commissioner will have to make a final determination of the impact of the audited costs on the transportation aid paid.

The Board's Chancellor is responsible for setting transportation eligibility policy. He does so by issuing Chancellor's Regulations. The Board's Office of Pupil Transportation (OPT) is responsible for implementing and monitoring compliance with transportation policy.

Chancellor's Regulation A-801 says that a student enrolled in a public or nonpublic school is eligible for free transportation based on grade and distance from school, as follows:

<u>Grade</u>	<u>Distance</u>
Kindergarten (K)-2	½ mile or more
3-6	1 mile or more
7-12	1½ miles or more
Special Education*	No distance requirement

* Students with handicapping conditions are referred to as Special Education students by the Board.

Students in grades K-6 who are eligible for free transportation based on distance will receive contract carrier service or common carrier service. Students in grades K-12 who are not eligible for free transportation may be eligible for half-fare bus transportation (the New York City Transit Authority does not offer half-fare subway transportation). Contract carrier service is provided to Special Education students on a door-to-door basis as necessary, regardless of grade.

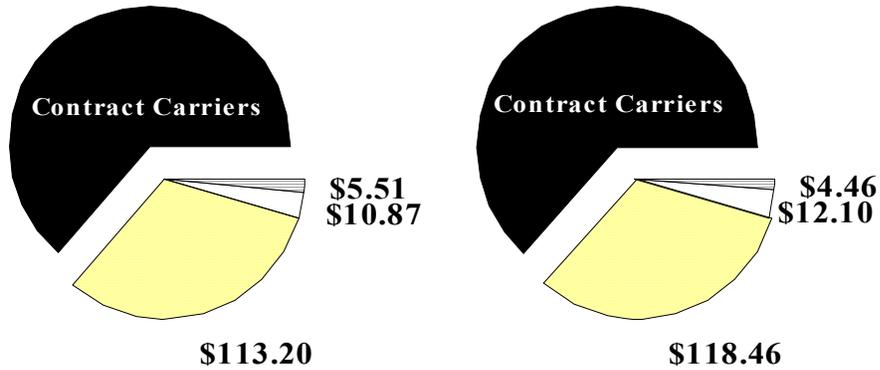
The State Education Department (SED) reimburses a school district in transporting students to and from school once daily. SED provides school districts with a Transportation Aid Handbook that assists them in computing allowable costs. Regular education students must live 1½ miles or more from school to be eligible for reimbursement. Special education students are not subject to a minimum distance requirement.

During our audit period, State Transportation aid years 1991 and 1992 (covering service provided in school years 1989-90 and 1990-91, respectively), BE reported that it transported over 570,000 pupils a year at a total cost of about \$724.6 million (\$356.2 million and \$368.4 million for school years 1989-90 and 1990-91). BE claimed aidable expenditures of \$633.5 million. At the 90 percent reimbursement rate, it claimed over \$570 million in Transportation aid for both years. As reflected in the chart below, contract carriers represent the majority of the expenditures incurred for pupil transportation:

New York City Board of Education Transportation Expenditures

School Year 1989-90
\$226.65

School Year 1990-91
\$233.43



In Millions



Source: 1991 and 1992 State Aid Claims for Pupil Transportation, N.Y.C. Board of Education, Revenue Budget Unit.

Of the \$460.08 million in contract carrier expenditures, BE claimed that \$385.70 million was aidable. The \$74.38 million difference are expenditures which were incurred for the transportation of students who do not live far enough from school to meet SED's criteria for State reimbursement.

Copies of each claim filed with SED are maintained in the Board's Office of Budget Operations and Review's Revenue Budget Unit (RBU). RBU coordinates the gathering of data, and prepares and submits the preliminary and final claims to SED. Documentation (invoices, contracts, etc.) to support the claimed expenditures is supposed to be maintained in various operating units within the Division of Operational Support Services (Support Services).

The primary responsibility for arranging the provision of appropriate transportation service belongs to OPT, a unit within Support Services whose objective is to see that all eligible students receive safe and reliable transportation services on a cost-effective basis. Support Services' Accounts Payable Unit (APU) reviews and approves vendor invoices. Payments to the vendors are made by the City Comptroller's Office.

The Board, by resolution, approves contracts and contract extensions. During the two years audited, there were 112 and 114 contract carriers, respectively. Most of these contracts were first awarded in 1979. Rather than rebidding the contracts when they expired, BE has amended and extended them, a practice allowed by Section 305 of the State Education Law.¹

As part of the contract extensions, BE has annually increased vendor compensation for vehicles and escorts² based on the U.S. Department of Labor's consumer price index (CPI) for the New York, New York-Northeastern, New Jersey area, based upon the index for all urban consumers (known as CPI-U).³

The Board's Office of Auditor General (OAG) audited the CPI-based increases which OPT allowed to the contract carriers for school years 1987 through 1993. OAG determined that these increases had been incorrectly calculated. OAG's recalculation resulted in a net proposed decrease of \$24 million in vendor payments. The vendors objected and this matter is currently the subject of litigation. As a result, we excluded from our audit any determination regarding the CPI adjustments for the years covered in OAG's audit.

Contract carriers submit monthly invoices for their vehicle charges. Escort costs are not usually included on these invoices. By contract, escort costs must be paid in advance, at the beginning of the month. An accountant at APU creates an invoice based on the carrier's number of authorized vehicles, the daily rate for the escort, and the number of school days in the month. Adjustments, if any, are based on the actual services provided by the vendor, and appear on a subsequent month's invoice.

OPT's Contract Compliance Unit functions as a liaison between BE and the contract

¹ Section 305 (14)(a) states: "The requirement for competitive bidding shall not apply to annual, biennial, or triennial extensions of a contract secured through competitive bidding when such annual, biennial, or triennial extensions (1) are made by the board of education or the trustee of a district, under rules and regulations prescribed by the commissioner, and, (2) . . . power is hereby vested in the commissioner . . . (ii) to reject any extension of a contract after ten years from the date transportation service commenced thereunder . . . if in his opinion, the best interests of the district will be promoted thereby. . . ."

² The New York City Administrative Code Section 19-603(a) requires all vehicles transporting handicapped children to and from school in the City to be staffed with an escort. It is the escort's duty to generally supervise and aid the handicapped children riding such a bus; to require each child to utilize a seat belt or other safety device; and to escort the children on and off each bus to an area of safety.

³ Under Section 305 (14)(a)(2)(ii) of the Education Law "the board of education or the trustee of a school district electing to extend a contract as provided herein, may, in its discretion, increase the amount to be paid in each year of the contract extension by an amount not to exceed the regional consumer price index increase for the N.Y., N.Y.-Northeastern, N.J. area, based upon the index for all urban consumers (CPI-U), during the preceding twelve month period, provided it has been satisfactorily established by the contractor that there has been at least an equivalent increase in the amount of his cost of operation, during the period of the contract."

carriers. This unit maintains copies of the contracts; receives, reviews and approves increases in contractor insurance costs; receives, reviews and approves increases in contractor reimbursements due to increased costs (the CPI increases); authorizes the level of service provided by each carrier; provides APU with the number of authorized vehicles for each contractor on a monthly basis; and administers the annual "pick" of routes by contract carriers.

This is the second in a series of reports on the Board's practices and procedures related to the preparation of the State Transportation aid claim. This report discusses expenditures for contract carrier services. The other four reports (Nos. A-16-93, A-25-93, A-26-93, and A-27-93) cover Franchise Carriers, the New York City Transit Authority, Salaries and Supplies, and Oversight and Monitoring Practices.

Objectives, Scope and Methodology

Our audit objective was to determine the accuracy of the amounts BE claimed for contract carrier service during school years 1989-90 and 1990-91, specifically September 11, 1989 to June 27, 1990 and September 6, 1990 to June 28, 1991 (aid claimed for summer school sessions were not reviewed). For this two-year period, BE reported yellow bus expenditures of over \$460.08 million.

RBU provided us with "Expenditure Reports" which summarize the payments to each vendor by type of service (regular education, special education, and escort). These reports show expenditures for each month of the school year (we refer to one month's expenditures on this report as a monthly billing statement). A monthly billing statement may consist of one or more invoices depending on the type of services provided by the vendor.

There were a total of 2,816 monthly billing statements during the audit period. We audited a random statistical sample of 50 billing statements involving 91 invoices. Our review included a determination of whether the individual invoices agreed with the claimed costs; were accurate; and had appropriate supporting documentation.

APU maintains a file for each vendor that includes the invoices and other related documents used to determine the payment. To be sure that the Expenditure Reports were complete, we inventoried these vendor files and compared them to the claims.

We used variable sampling and applied the difference estimation method to project the sample results. Our confidence level was 95 percent with a desired precision level of ± 3 percent. Variable sampling is designed to provide an estimate of the total value of the population. This estimate is subject to sampling error, the difference between checking 100 percent of the population and checking our sized sample.

Difference estimation is a variables estimation sampling technique which provides a more precise sample result for a sample of a given size than less sophisticated sampling techniques. This method is appropriate when it is desired to estimate the total value of a group of vouchers from an audited sample where corrections have been made by the auditor on some items examined. The objective is to estimate the total value that would have been obtained if all items in the population of vouchers had been examined and corrected.

The sample results were used to determine if the total amount claimed for contract carrier costs was acceptable.

For school year 1990-91, the claim also contained \$691,485 of costs associated with purchases of hardware and software for the Computer Assisted Transportation System (CATS), a computerized system under development to replace OPT's manual process of routing yellow buses. Support Services staff maintain the supporting documentation for CATS. We reviewed 20 of the 41 purchase orders regarding CATS, which represented 90 percent of the CATS cost claimed.¹

As part of the audit, we evaluated the internal control structure over the preparation of the claim. We met with officials from the State Education Department and from selected contract carriers.

The State Comptroller served as President of the New York City Board of Education from July 1, 1991 through May 5, 1993. Upon assuming the responsibilities of Comptroller in May 1993, he issued an Executive Order recusing himself from having any role in the examinations (including the planning of examinations), reports or other work of the Office of the State Comptroller relating to the affairs of the New York City Board of Education during his tenure as President. Therefore, his name has been removed from the cover of this report and all applicable documents to which the report applies. This disclosure is being made to allow readers of this report to make their own judgment on any perceived impairments affecting their ability to rely on the contents of this report.

With due consideration to the matter described in the preceding paragraph, we conducted our audit in accordance with generally accepted government auditing standards. Field work started in April 1993 and was concluded during May 1994.

¹ This test used non-statistical sampling techniques. We used this technique to draw valid conclusions without the assurance of precision that statistical sampling otherwise provides. Based on the results of our sample of 90 percent of the costs associated with this expense item, we determined there was little benefit to reviewing the remaining purchase orders.

CHAPTER II. NONALLOWABLE AND UNDOCUMENTED EXPENDITURES

The claim submitted by BE for contract carrier services contained expenditures which were nonallowable and undocumented. Therefore, we reduced net contract carrier expenses by \$2,331,883, as follows:

	<u>Special Education</u>	<u>Regular Education</u>	<u>Total</u>
Per Claim	\$326,200,903	\$133,188,041	\$459,388,943*
Per Audit	324,121,441	132,935,622	457,057,062*
Adjustments:			
Nonallowable	\$(2,046,571)	\$(168,710)	\$(2,215,281)
Undocumented	<u>(32,892)</u>	<u>(83,710)</u>	<u>(116,602)</u>
Total	\$(2,079,463)	\$(252,420)	\$(2,331,883)

* minor differences due to rounding

See Appendix A for details of our calculations.

Nonallowable Expenditures

Certain transportation expenditures are not allowed for Transportation aid under State Education Law. Nonallowable expenditures total \$2,215,281 and include expenditures for the Adopt-a-Class program, CPI escalation on field trip costs, and wage accrual for escorts.

Adopt-a-Class Program

The Expenditure Report for school year 1989-90 includes expenditures totaling \$138,214 for the Adopt-a-Class program. Adopt-a-Class is a program where students leave their school during the day and are transported to a corporate participant or a cultural activity. The students are then transported back to their schools. In our opinion, these trips are similar to field trips which are not allowable for Transportation aid. We discussed this matter with the Office of Budget Operations and Review (OBOR) and OPT officials and, in response to our preliminary findings, Support Services provided several documents prepared by the Board's Office of School and Business Linkages. Our review concluded that these trips were part of a program similar to nonallowable field trips made by many other students attending Board

schools as part of their accredited curriculum. This additional information only strengthens our argument that this is a program expense, not an expenditure allowable for Transportation aid. Therefore, we question the full \$138,214 claimed.

In response to our draft report, BE reiterated its disagreement with our conclusion that the Adopt-a-Class program is a nonallowable transportation expense. It further replied that through this program "school children in the City are able to take advantage of appropriate enrichment opportunities, [and] BE must be able to take the pupils to suitable sites for these experiences."

We still disagree that Adopt-a-Class expenditures are allowable for Transportation aid. For example, a memorandum from the Office of School and Business Linkages to Support Services states "The Adopt-a-Class program has completed two successful years, due largely to the provision of buses for field trips. Participants in the program have consistently singled out the trips as crucial to the development of their projects. Each year the transportation component of the program improves." In addition, an invoice from one of the vendors has attached to it an "Educational Field Trip Request Form" indicating that trips were made to locations such as police precincts, the Police Academy and Chinatown.

CPI Escalation on Field Trip Costs

State reimbursement for pupil transportation expenditures is limited to one trip daily from home to school and back, with certain specific exceptions.¹ Field trips are not allowed for Transportation aid purposes. As required, OBOR deducted from the claim the cost of field trips in each of the school years being audited. However, these costs were deducted at the originally contracted rates, not at the CPI-inflated rates actually paid to the vendors. As a result, expenditures were overstated.

¹ Under Section 3635 of the Education Law, school districts are required to provide transportation to and from school to all children residing within specified distances from school and are permitted to provide transportation to and from school to all children residing outside such specified distances from school. Except as otherwise required by the Education Law, city school districts are exempted from the Section 3635 requirement to provide transportation to all children residing within specified distances from school. Under Section 4402(4)(a) of the Education Law, all school districts are required to provide suitable transportation to and from special classes or programs for children with handicapping conditions. The State Education Department's "Transportation Aid Handbook" includes four circumstances where such transportation costs can be reimbursed, as follows:

- nonpublic students in "dual enrollment" at public school or Boards of Cooperative Educational Services (BOCES) for occupational, special, gifted, talented programs,
- travel to and from BOCES,
- travel to and from approved shared programs in other districts, and
- travel to and from occupational education programs within the district.

To compute the amount that should have been deducted in each claim year, we calculated the CPI increases for each vendor based on the field trip expenses as reported on monthly Expenditure Reports. Also, we found that the deduction was not adjusted for the two-percent prompt payment discount BE is entitled to from the vendors as provided in the contract. Therefore, we allowed for the full discount on both field trips and the CPI increases.

Some vendors had neither field trips nor CPI increases for one or more years. We determined that the claimed expenditures are overstated by \$167,087 in 1989-90 and \$206,964 in 1990-91, a total of \$374,051. RBU officials agreed with our finding and attributed it to an oversight. They indicated that the claim calculation will be revised starting with the 1992-93 school year. However, we believe that prior claims where this error could also have occurred need to be reviewed.

In response to our findings, Support Services indicated that the Expenditure Report form used to provide special education service cost data to RBU was revised and now includes an entry to identify field trip-related CPI increases. The Expenditure Report for regular education service will be similarly modified.

Wage Accrual for Escorts

The Union contract for escorts and drivers entitles them to payments known as wage accruals, payments in addition to regular wages. The drivers and escorts are paid from one to five weeks of additional pay, based on years of service. These benefits are similar to vacation benefits afforded shop employees (maintenance employees and stockroom employees). Contractors bill OPT for the cost of wage accrual payments made to escorts. These costs, in turn, have been included in BE's claim for Transportation aid.

When we questioned the propriety of including these costs, the State Education Department (SED) advised us that these payments are not covered by the original contract specifications and, consequently, are not aidable. Also, SED agreed that wage accruals appear to be comparable to nonaidable vacation benefits provided shop employees. During our audit period, these nonaidable payments totaled \$1,703,015 (\$834,325 and \$868,690 for school years 89-90 and 90-91). Support Services and the Board's Office of Legal Services disagreed with our and SED's interpretation of the contract provisions and pertinent sections of the Education Law.

Undocumented Expenditures

Undocumented expenditures total \$116,602 and include unidentified expense items and increases in escort health insurance costs.

Unidentified Expense Items

Despite our repeated requests, neither OBOR nor OPT provided any written documentation or verbal information for \$83,710 of expenditures in the claim for school year 1989-90 which were labeled "Sundries." In the absence of any support, we have questioned the \$83,710 included in the claim for these items.

In response to our draft report, BE indicated it had located invoices for a majority of these expenses and had determined that they were not aidable.

Escort Health Insurance Cost Increases

OPT pays for increases in the cost of health insurance for union-represented escorts. Although these costs were not provided for in the original contract specifications, an amendment to the contracts, known as "Alternative 2," permitted the vendors to bill for increases in the health insurance costs for escorts. OPT records indicate that during March 1991, OPT incorrectly paid such costs to companies that do not employ unionized escorts. This resulted in a \$32,892 overstatement of claimed expenses during our audit period.

In response to our draft report, BE agreed that these payments were incorrect. It also indicated that these payments were recovered from all 23 vendors during a subsequent year and properly reported on the Transportation aid claim at that point in time. However, the 1992 claim is incorrect and the Board's statements about subsequent events do not have any impact on our correction of this error.

Therefore, BE will have to provide SED documentation for all 23 vendors that will be evaluated as part of SED's desk audit of the claim year when BE made its adjustments.

CHAPTER III. DIFFERENCES BETWEEN CLAIMED AND AUDITED EXPENDITURES

We sampled invoices claimed at \$4,135,918 and questioned \$259,027 of these expenditures. Based on our sampling methodology, this results in an adjustment to the amount claimed by the Board of \$9,225,884.

After deducting from contract carrier costs claimed those expenses that are not allowable and those that were not documented, we sampled the records that support the claim to determine if the total amount was correct as stated. We obtained, from APU's records, documentation to support a sample of 50 monthly billing statements which included 91 invoices for services from 41 vendors. The value of the sampled invoices was \$4,135,918 after the deductions discussed in Chapter II. Each invoice was recalculated based on an evaluation of the documents provided by OPT to support the expenditures.

We found differences between the amount claimed and the amount per audit totaling \$259,027. Based on our sampling methodology, this results in an acceptable range of claimed expenditures of \$437,106,161 to \$447,831,178. The allowable expenditures claimed by BE (as adjusted), are \$457,057,062. We revised the allowable costs downward to our upper limit because the claimed expenditures did not fall within the acceptable range of values, or a difference of \$9,225,884, allocated as follows:

<u>Allowable Expenditures</u>			
<u>Service</u>	<u>Claimed By The Board</u>	<u>Per Audit</u>	<u>Adjustment</u>
Special Education	\$324,121,441	\$317,578,917	\$(6,542,524)
Regular Education	<u>132,935,622</u>	<u>130,252,262</u>	<u>(2,683,360)</u>
Total*	\$457,057,062	\$447,831,178	\$(9,225,884)

* minor difference due to rounding

The differences in the invoices sampled aggregate \$259,027 (see table below) and fall into two major categories:

- C those which affect multiple invoices (because the issues are more policy related and involve contract interpretations and operational practices), and
- C those which are specific to invoices and involve arithmetic errors, clerical errors (use of wrong rates, wrong number of school days, etc.).

Differences In Invoices Sampled

Audit Adjustments Affecting Multiple Invoices:

Hours of Service:	\$70,884	
Escort CPI Adjustments	74,697	
Insurance Cost Increases	<u>25,918</u>	
Subtotal		\$171,499

Invoice-Specific Audit Adjustments:

Supporting documentation	\$60,285	
Invoice Adjustments	7,753	
Violation Penalties	(657)	
Number of Vehicles Operated	16,542	
Other Items	<u>3,606</u>	
Subtotal		<u>87,529</u>
Total*		\$259,027

* difference due to rounding

We also found that expenses for a new computerized bus routing system were overstated by \$6,331 on the school year 1990-91 claim. Furthermore, due to the use of an incorrect student ratio, there was an overstatement of \$404,716 on the claim for school year 1989-90.

Between December 9, 1994 and June 8, 1995, Support Services and OAG officials provided us documents to support BE's contention that some of the questioned costs were in fact eligible for reimbursement. Most of these documents covered vehicle insurance, escort CPI adjustments, escort health insurance increases and service hours. We reviewed these documents and, for those which provided new information, made adjustments further decreasing our projected disallowance in the draft report by \$1,244,580.

BE questioned our sample because in its opinion the sample was not "reflective of the true population values" and the sampling unit used was inappropriate for the population. We believe that the sampling techniques used were appropriate and were properly applied, and that the audit results are representative of the population.

In calculating our disallowance, we did not use the midpoint projection, but rather the upper limit, giving BE the maximum benefit of the doubt. Had we used the midpoint,

the disallowance would have been about 58 percent higher. Because of our extremely conservative approach to making these calculations, we can only conclude that had we looked at the entire claim (which would be impractical) the total disallowance would have resulted in an amount far less favorable to BE.

BE's response to our draft report did not include reference to our adjustment to the expenses claimed for the computerized bus routing system. However, it had previously agreed with our audit adjustment. It agreed with our reallocation of the student ratio and indicated that it was an isolated occurrence.

Audit Adjustments Affecting Multiple Invoices

Hours of Service

BE's contracting practices usually result in the award of transportation work to a number of vendors as the result of one bid opening, with all vendors subject to the same contract terms. This is known as a "contract series". Under four special education contract series, vendors are paid a daily rate for each bus (including driver) depending on the hours the vehicle is operated as follows:

- C Regular Service Rate - This rate is effective for morning pickups starting at 7 a.m. with drop-off at school by 9 a.m., and afternoon pickups starting between 2 and 3:30 p.m., ending with the drop-off of the last student.

- C Extended Service - This rate is usually higher than the Regular Service rate. It is paid when OPT directs a vendor, in writing, to make the bus available through the entire school day, with the initial pickup time of 7 a.m. and concluding with the delivery of the last pupil to his/her home on the return trip.

A contractor may also be eligible for payments for overtime (known as Additional Use) if students are picked up from home before 7 a.m. or from school after 3:30 p.m. for special education or 4:30 p.m. for regular education. Overtime is paid at an hourly rate equal to 10 percent of the daily rate for extended service. Overtime of less than one hour is prorated.

OPT may change the number of vehicles a vendor is authorized to operate. However, vendors are "guaranteed" to be paid at the Extended Service rate (even if the vehicle does not actually operate in Extended Service) for a contract-specified percentage of all originally contracted vehicles. If OPT increases the number of vehicles operated by the vendor, the guarantee does not apply to these vehicles.

Our review of the invoices disclosed several areas where OPT miscalculated the number of "guaranteed" vehicles; could not document that a vehicle was authorized to operate in Extended Service; or made questionable determinations which allowed vendors to be paid for Extended Service when only overtime payments were warranted. As a result, we have questioned \$70,884 in expenses on 27 invoices.

OPT officials advised us that their interpretation of relevant contract terms (which in their opinion reflects the intent of those who originally entered into the contract) is to automatically permit payment to vendors to be made at the Extended Service rate any time overtime charges apply. However, OPT had not provided any documentation to support its practice until April 27, 1995, and subsequently in response to our draft report.

BE indicated it was following an established guideline, which provides that when a vendor was paid at an additional (overtime) rate, the vehicle would be paid at the extended rate. This is not true. From the inception of the contracts in 1979, the vendors were improperly paid at the weighted average rates instead of at the appropriate rates specified in the contracts, as noted on page 1 of the Contractor's Guide to Revised Billing Procedures (RBP) effective September 1987.

The response further indicates that the RBP is incorporated into the contracts by reference. This is not true. The School Bus Contractor's Manual of Procedures and Requirements (Manual) is incorporated by reference beginning with the sixth amendment to the 1979 contract which covers the period 1990-91 to 1992-93. Firstly, the RBP does not indicate that it is part of the Manual. Secondly, contract terms, which are subject to SED approval, should not be unilaterally superseded by a document not subject to SED oversight.

We also noted that the definition of the hours of service for special education extended service is different in the copy of the RBP given to us on April 27, which states "Morning pickup 7 AM or prior," and the copy of the RBP given to us by OPT during the audit, which states "Morning pickup 7 AM or later." The latter definition is similar to the periods of operation as defined in the contract.

Escort CPI Adjustments

Extensions to two special education contract series require that, before any increase in the base escort costs is allowed, a contractor must file a statement of cost increases. The allowed increase is limited to the lesser of the actual increased cost, an increase based on the Consumer Price Index as of the preceding June, or a fixed percentage increase. Contractors were required to provide certified statements showing the actual increased costs for escorts.

To verify the escort rates for invoices in our sample, we requested that OPT's Contract Compliance Unit provide the certified statements for school years 1987-88 (the first year of the contract extension which covers the start of our audit period 1989-90) through 1990-91. The Contract Compliance Unit did not provide all of the required annual certified statements needed to determine cost increases for any of our sampled vendors; statements for individual years were provided for some vendors. We allowed the increases for years when the statements were provided. As a result, we questioned cost increases amounting to \$74,697.

BE replied to our draft report, that "This is an area that OPT did have a problem with in the period covered by the audit. The record keeping requirements for the escort CPI were not clearly delineated to ensure accuracy and substantiation of the increases granted during this period. However, when this was ascertained, corrective action was taken in subsequent years."

BE also stated that despite its inability to produce the required cost justification statements, it is possible to demonstrate that the vendors would qualify for at least a portion of the CPI increases because they had collective bargaining agreements. It also provided documents to support cost increases for three vendors. We evaluated the documents provided for these vendors. Documents for two vendors were accepted, and appropriate adjustments were made. The cost justification for the third vendor was not accepted because the documentation reflected a daily rate rather than an annual cost.

According to the contract extension agreements, cost justification statements must be filed by the contractor in order to qualify for an increase in the escort reimbursement rate. Without these forms, we cannot accept an increase in the rate.

Insurance Cost Increases

OPT's contracts with its vendors allow for rate increases to cover ordinary cost increases. However, we were advised that many of OPT's vendors experienced unusual insurance cost increases due to what was termed an "insurance crisis" beginning in 1985, and warranted special consideration.

When OPT extended these contracts, new terms were incorporated which allow it to recognize vehicle insurance costs increases due to this insurance crisis. OPT can offset the "increased" insurance costs against the contractual two percent prompt payment discount allowed to BE. There is no provision for reimbursing cost increases beyond the discount amount. Contractors are eligible for the increase only if they document, each year, an increase in costs by presenting a copy of their annual Insurance Policy Declarations document. OPT compares the policy rate amounts against those of the contract base year and calculates the increase, if any, on an Insurance Cost Reconciliation Worksheet.

For each of the sampled invoices, we reviewed the Accounts Payable Unit's payment worksheets and requested supporting documentation for those worksheets where an insurance cost offset was included. OPT could not provide complete information for 21 of our sampled vendors; only one vendor's documents were complete. The documents provided were reviewed and a determination made as to whether the vehicle insurance cost increases allowed by OPT were correct. We questioned \$13,341 of increased payments to vendors, where OPT could not provide the Insurance Cost Reconciliation Worksheet and policy declarations for the base year and the expense year, or where the information did not support the amount as calculated on the invoice.

Based on comments and documentation provided by Support Services subsequent to our field work, we revised the text and recalculated the questioned costs.

OPT officials advised us that it also offsets escort health insurance cost increases and workers' compensation costs against the two percent prompt payment discount. OPT did not provide documentation to support the increases. However, in December 1994, Support Services provided the health insurance rate information obtained from the union in October 1994, and a copy of Alternative 2, which amended the original contracts (Alternative 2 specifically mentions these costs). However, we found no language in the contract or any amendment which describes how the escort health insurance increases should be calculated. We therefore questioned \$12,577 for increased payments to vendors.

In total, we questioned \$25,918 in insurance cost increases.

In response to our draft report, BE provided a February 8, 1989 memorandum prepared by the then director of OPT. In it, the director proposed offsetting increased vendor costs for escort health insurance by waiving BE's two percent prompt payment discount. The memorandum proposed a method for calculating the increases in school years 1988-89 and 1989-90 and indicated that this methodology would end in June 1990. We did not accept this document because there is no indication that the proposal was approved by BE's Office of Legal Services and forwarded to SED for its approval. In addition, this memorandum does not affect our audit results because all of the sampled monthly billing statements which contain escort health insurance adjustments were for the 1990-91 school year. To further support its position that these expenses should be allowed, BE provided us a section of the extension and seventh amendment to the contracts for the period July 1993 to June 1996 which similarly does not apply to our audit period. BE's reply did not contain any information related to vehicle insurance or to workers' compensation insurance. As a result, no changes were made to the questioned insurance cost increases.

Invoice-Specific Audit Adjustments

Supporting Documentation

OPT could not provide the supporting documentation for expenditures on seven invoices totaling \$60,285, as follows:

- C no information was available for three invoices; and
- C four invoices resulted from a one-time adjustment of the amounts paid to a large number of the contractors due to a change in insurance premiums (vehicle insurance, escort health insurance, and workers' compensation).

Therefore, we questioned these costs.

In our preliminary report, the expenditures for eight invoices were undocumented. In December 1994, Support Services provided copies of seven of the eight invoices. Four had been previously reviewed, and therefore we did not change our conclusion. Two were not located during the audit, but also resulted from the one-time adjustment of the amounts paid to several contractors for insurance costs, and were treated similarly. One invoice was recreated, and was therefore unacceptable.

In response to our draft report and at a meeting on April 27, 1995, BE officials resubmitted the recreated invoice that showed that the expense was for escort services, as well as invoices for vehicles that were reportedly staffed by these escorts. In our view, these additional documents do not provide sufficient competent evidence; no change was made for this invoice. At a meeting on June 8, 1995, BE presented the original invoice, stating that it was found in one of BE's warehouses. We accepted the document and have adjusted the calculations accordingly.

BE's reply also makes reference to documents provided by Support Services on May 12, 1995, to document the expenses for one contractor as part of the one-time adjustment. We evaluated the documents provided and accepted the amount for the 1990-91 year and the appropriate adjustments were made. The 1989-90 amount was not accepted because the information provided was incomplete and did not match the expenses claimed.

Invoice Adjustments

Ordinarily, the invoice amount is the product of the number of authorized vehicles, the number of regular school days, and the vehicle rate. Events such as authorized overtime, additional days of school, non-performance of work, and field trips affect these categories and are considered adjustments. The Accounts Payable Worksheet contains

a section labeled "adjustments" where these events are listed.

Documentation to support the adjustments to the sampled invoices was reviewed. Where we concluded the documentation was incomplete, and/or the calculation was in error, we made adjustments which net \$7,753.

Support Services' reply to our preliminary report included copies of documentation which had already been reviewed during field work. This item was not specifically addressed in BE's response to our draft report.

Violation Penalties

A monetary penalty can be assessed by OPT when a vendor violates rules (e.g., fails to make a scheduled run, has a driver not in uniform, or uses an unapproved vehicle). The assessment is made after a hearing and is usually expressed as a fraction of the daily rate for the vehicle. We found errors in this calculation. These adjustments increased expenditures by \$657 for the sampled invoices.

BE's response did not address this matter.

Number of Vehicles Operated

We checked the number of vehicles operated by a contractor, on a daily basis, to the Change Orders which covered the month of the invoice. (Change Orders are used by OPT to authorize an increase or decrease in the number of vehicles operated by a vendor.) As a result of differences between the number of vehicles specified on the invoice and the number authorized by Change Orders, we questioned \$16,542 in costs.

BE's response to the draft report did not address this matter.

Other Items

We found several errors totaling \$3,606 in the sampled invoices. The details of our findings can be found in Appendix B.

BE's response to the draft report did not address this matter.

Overclaimed Expenditures for the Computer Assisted Transportation System

Section 3602 (7)(b) of the State Education Law provides for reimbursement of costs of computerized bus routing services. Title 8 of the New York Code Rules and Regulations Part 156.2 (e)(i) defines these services as including programming, software development and software acquisition which results in the economical and efficient development of school bus routes meeting the criteria of this section and approved by the Commissioner of SED. The school district must provide a plan or contract to SED for approval in advance. Part 156.9 provides for reimbursement of computer data processing equipment only upon prior written approval of the Commissioner.

OPT is developing a Computer Assisted Transportation System (CATS) to replace its current manual system for routing contract carrier buses. BE began including these costs in the Transportation aid claim for school year 1990-91. The claim reflects 41 purchase orders totaling \$691,485. We selected for audit 20 of these purchase orders with a total value of \$619,443, nearly 90 percent of the total amount claimed. Our review of the related invoices and BE payment vouchers provided by Support Services staff found that expenses were overstated by \$6,331. The differences were due primarily to purchase discounts and price decreases which were passed on to BE by vendors but not deducted from the expenditures claimed for Transportation aid. The audit results were discussed with the appropriate Support Services officials. They concurred that the expenses should have been adjusted to a lower amount.

Incorrect Student Ratio

In the school year 1989-90 claim, Regular Education contract carrier costs were allocated between normal enrollment (students transported to neighborhood schools) and open enrollment (students transported to a public school for the purpose of creating a more racially balanced environment). These costs were further allocated between regular education and special education based on the ratio of students in each group. RBU incorrectly calculated these ratios because it used the total number of aidable students as the denominator in the ratio instead of the total number of students. This resulted in an overstatement of aidable expenditures of \$404,716.

This matter was discussed with RBU officials. They were unable to explain the basis for their use of aidable students as the denominator in their calculation and agreed with our finding. Details of our finding were provided to the Board on May 12, 1994.

Beginning in school year 1990-91, the State Education Department instituted an allocation formula known as the "nonallowable pupil decimal" which "is used to calculate a deduction from net transportation expenses of district-owned, leased or contract buses in calculating allowable pupil transportation expenditures for aid

purposes." As a result, the allocation method previously used by BE was discontinued effective in school year 1990-91. However, the nonallowable pupil decimal is calculated by taking "the ratio of a district's nonallowable pupil transportation expenditures to total net transportation expenditures for the 1987-88 through 1989-90 school years expressed as a decimal to four places." The error we found in the allocation formula for the 1989-90 school year claim may require the nonallowable pupil decimal to be revised. SED's determination of the effect of the audit adjustment in the 1989-90 school year, as well as any adjustment necessary for the 1987-88 and 1988-89 school years, may result in a revised nonallowable pupil decimal for 1990-91.

Other Matters

Undocumented Reimbursement Rate for the Transportation of Students in Foster Care

After arriving at a figure for net aidable contract carrier costs, BE deducts payments it has received from the Chapter 721 foster care program, which is reimbursed at 100 percent from another aid source. A total of \$1.49 million was credited against the claim during the two years being audited. We were advised that the deduction is based on the specific number of children in the program multiplied by a rate developed by Support Services.

RBU had no documentation regarding the rate calculation, and Support Services declined to provide it. We did not question any expenses for this item because, lacking documentation, we had no basis to determine the reasonableness of the amount deducted and charged to this other program.

Claim Preparation and Recordkeeping Procedures

The Board did not have written procedures for reviewing and processing contract carrier invoices and processing of payment-related documents received from the contract carriers. Lack of written procedures governing a process leaves it susceptible to error, and increases the probability that operations will not be performed in accordance with management's wishes. Written procedures are part of a system of management controls which provides reasonable assurance that government functions are achieving their intended objectives; are efficiently and effectively managed; and are operating in accordance with applicable laws and regulations. Following are several instances where written procedures were not in place:

- C The Accounts Payable Unit, which is responsible for reviewing and processing vendor invoices and approving them for payment, has no written procedures to direct its staff in this

important function. The Unit manager told us that he was in the process of writing such procedures, but has not been able to do so in a timely manner due to other priorities.

- C OPT's Contract Compliance Unit is the control point for various payment-related documents received from the contract carriers. It also generates documents that can affect payments (e.g., violation assessment forms). With the exception of rules and procedures covering violations, this unit has no written procedures to direct its staff in carrying out their tasks. One area that needs improvement is the processing of the Route File Modification Form. This is one of the forms used to document instructions to the contract carriers when there is a change in service. We found that 36 of the 40 forms reviewed were not signed by the Contract Compliance Unit manager as required. Also, the unit was unable to locate copies of the violation assessment forms for the 1991 school year.

CHAPTER IV. NONCOMPLIANCE WITH STATE EDUCATION REGULATIONS

We question the appropriateness of the Board's practice of combining into one contract aidable transportation services to and from school with nonaidable services such as field trips and special events.

We reviewed the transportation contracts entered into by the Board of Education with its contract carriers along with available documentation to determine whether the contracts comply with State Education Law and SED regulations.

By regulation of the SED Commissioner¹, contracts for transportation to and from school and contracts for other purposes, including, but not limited to field trips and athletic events, must be awarded separately. Past judicial decisions of the Commissioner make it clear that these services are not to be combined in one contract.² The Commissioner has stated, in more than one decision, that the purpose of this regulation, "is to require that aidable and nonaidable transportation be separately bid and separately awarded."³

However, contract carriers have been routinely providing nonaidable services pursuant to the scope of their contracts and subsequent extensions with the Board. Section XII of the Board of Education's carrier contracts provide for nonaidable services to be furnished as follows:

The vehicles contracted for extended services are subject to use for field trips, special events, emergency situations, or any other use as prescribed by the Director [of the Bureau of Transportation]. . . Use of these vehicles shall not be restricted to physically handicapped, mentally retarded, emotionally disturbed or other classification of pupils, nor shall use of the vehicles for such purposes be limited to schools specified herein. The vehicles under Contract for extended service shall provide transportation services to any other public agency or private organization upon instruction of the Director.

¹ 8 NYCRR Section 156.1 (c).

² Matter of National School Bus Service, Inc., 23 Ed Dept Rep 377 (1984), Matter of Educational Bus Transportation, Inc., 15 Ed Dept Rep 1 (1975) and Cottrell Bus Service, Inc., 21 Ed Dept Rep 409 (1982).

³ Matter of National School Bus Service, Inc., at 380, citing Matter of Educational Bus Transportation, Inc., and Matter of Brau Bus Corp., 22 Ed Dept Rep 76 (1982).

SED has been aware of this issue for some time. According to related correspondence we reviewed, SED raised the issue of noncompliance with this regulation in a November 21, 1985 letter to the Board. That letter stated that:

An examination of the 1979-1982 Handicapped and 1979-1983 Non-Handicapped contracts has revealed a clause which states that the vehicles contracted for extended service are subject to use for field trips. This seems to indicate that the contracts bid on this basis of an extended daily rate may include the cost of field trips. Such a provision violates Section 156.1 (c) of Commissioner's Regulations which stipulates that separate contracts shall be awarded for transportation to and from school and for other purposes, including but not limited to field trips and athletic events. This regulation was enacted so that the State Education Department could insure that the cost of transportation for field trips, which is not eligible for transportation aid, would not be included in aidable transportation costs.

The Board's April 10, 1986 response stated that it had sought to: "achieve the effect of Section 156.1(c) by asking [contractors] for a separate rate for field trips, or 'extended service'." The Board pointed out that the contractors' bus operators (drivers) and other employees are guaranteed full-time work (based on a court settlement) and there is little likelihood of hiring employees to cover only morning and afternoon service periods. Since the drivers are already paid for the mid-day period (in the base cost of a bus), the Board has in essence already paid for their work. Therefore, the Board maintains that it is fiscally prudent to bid the two types of services together. The Board's letter suggested that SED amend its regulation to permit regular service (transportation to and from school) and extended service to be awarded in one contract where "funding and subsequent claiming for same are identifiable. This would further ensure no State participation in the funding of field trips yet preserve the Board's ability to minimize its costs." [emphasis added] We found no evidence of a response to this proposal from SED.

We are not convinced that the Board actually followed the approach that it suggested and fully separated aidable vehicle use from nonaidable use in its State aid claims. Further, we are also not convinced that had the Board fully separated aidable from nonaidable uses that it would have achieved the effect of SED's regulations. With separate contracts for aidable and nonaidable uses, the Board would be responsible for all costs associated with providing nonaidable service. Using one contract for both services results in the State being billed for the aidable service and all fixed costs associated with providing both aidable and nonaidable services. There is no assurance that the rates bid for nonaidable purposes are reasonable and have not been discounted in value by bidders hoping to win the more substantial part of the contract related to basic transportation to and from school.

Furthermore, we found that the State aid claim filed by the Board in connection with these contracts does not sufficiently identify aidable and nonaidable expenses. These contracts guarantee contractors payment for a minimum number of extended service uses, regardless of actual use. The Board's claim for State aid includes the guaranteed extended service payments without documentation that: (i) vehicles were in fact used during the extended service time period; and (ii) if used, that such use is aidable.

At best, when BE reports the use of extended vehicles for field trips, above and beyond the guarantee, it merely deducts from the claimed costs the difference between the extended service rate and the regular service rate, which in many cases is nothing, or a de minimis amount. Our review of field trip rates billed by the vendors in our sample indicated a range from zero to \$55, with two-thirds billed at \$10 or less.

We did not attempt to quantify these costs because of the lack of adequate cost allocation procedures and the questions we raised about the reasonableness of the rates in the contracts. In addition, it should be noted that the costs not otherwise questioned in our audit are qualified, subject to further determination by the Commissioner that such costs were validly incurred based on the form of contracts used.

BE replied to our draft report that its Office of Legal Services (OLS) disagrees with our conclusion and recommendation. It added that "OLS is pursuing remedies to retain these items as an aidable expenditure."

CHAPTER V. RECOMMENDATIONS

The Board of Education should:

1. Ensure that Transportation aid claims filed with the State Education Department are in accordance with State Education Law and appropriate State regulations.
2. Take corrective action to ensure that the deficiencies in the claiming process noted in this report do not recur.
3. Instruct the Division of Operational Support Services to develop and document procedures for each unit in its area of responsibility. These procedures should clearly delineate responsibility for the receipt, recording, and processing of contract carrier documents (e.g., invoices, cost justification statements, vehicle insurance policies, etc.), and preparation of schedules required to support the Transportation aid claim to ensure that it is complete and accurate.
4. Not award or renew transportation contracts which combine transportation to and from school with transportation for other purposes in violation of the Commissioner's regulation.

The State Education Department should:

5. Determine the actual reimbursement rate for the 1990-91 school year and recover the Transportation aid overpaid to the New York City Board of Education due to the \$10,192,398 in adjustments made in this report.
6. Review, as part of its desk audit of Board claims, all pending claims to determine if errors similar to those detected in this audit occurred in other years.
7. Determine if, based on the use of incorrect student ratios on the 1991 claim (and possible similar errors in the previous two years' claims), the "nonallowable pupil decimal" used in subsequent years needs to be revised.
8. Determine if the adjustments to expenditures made by this audit impact other forms of aid available to the Board.

9. Determine if the Board used the correct rate to adjust the Transportation aid claim for the foster care students transported under Chapter 721, and make the appropriate adjustments.
10. Evaluate the validity of costs incurred based on the form of contract used. In doing so, SED should at a minimum:
 - (a) consider all extended service costs nonaidable except where the Board can specifically demonstrate to SED that the vehicle was used for an aidable purpose, and
 - (b) verify that the Board's calculation of the extended service cost amount for these claims is reasonable and supported by adequate documentation.

Agency Response and Auditor Comments

In response to our draft report, BE indicated it was concerned about the magnitude of the proposed disallowance, and its effect on BE's financial position. BE stated "We agree our records management should have been better during the period covered by the audit. However, practices have improved since that time and your audit will help to ensure continued improvement." BE also disagreed with our interpretation of contractual matters and our valuations based on available documentation.

In its response, SED generally agreed with the recommendations contained in our draft report and indicated it would act to recover overpayments of aid as specified in the report. It also indicated it was willing to provide BE with technical assistance, within the limits of its resources.

BE indicated that it is already in compliance with Recommendation 1 because its claims are filed in accordance with State Education Law and appropriate State regulations. SED, in its response, agreed with Recommendation 1 and indicated it "stands ready to assist the New York City Board of Education with [preparing] accurate and appropriate claims for their contracted pupil transportation services." SED expects the 1996-97 transportation claim will be accurate.

Regarding Recommendation 2, BE's OBOR indicated there were two substantive deficiencies disclosed by the audit and that it has taken corrective action to ensure that they do not recur. SED concurred in general with our recommendation.

Recommendation 3 was revised based on BE's response to our report. BE indicated that it is in the process of drafting new procedures and implementing a new computer

system at Support Services which it expects will substantially strengthen internal controls. SED indicated that it will provide necessary technical assistance, to the extent that it has available resources.

BE disagreed with Recommendation 4. It indicated its Office of Legal Services is handling this matter. SED agreed with Recommendation 4 and stated that "upon receipt of the final audit report, [it will] notify the New York City Board of Education that they need to rebid any contract extension that combines transportation to and from school and transportation for other purposes in violation of the Regulations of the Commissioner of Education."

SED agreed with Recommendations 5 through 9 and indicated that it will take appropriate actions to implement them. Regarding Recommendation 10, SED replied that it disagrees, in part, with the recommendation and "proposes to continue to pay New York City Board of Education transportation aid as claimed and to verify the costs as data and documentation are made accessible to the State Aid Team."

NYC BOARD OF EDUCATION Summary of Contract Carrier Expenditures Eligible For Transportation Aid School Years 1989-90 And 1990-91 Combined			
	<u>Per Claim</u>	<u>Per Audit *</u>	<u>Questioned Costs Inc./(Dec.)</u>
<u>Special Education Services:</u>			
Net Expenditures (1)	\$326,200,903	\$324,121,441	(\$2,079,462)
Results of Audit Sample (4)	<u>0</u>	<u>(6,542,524)</u>	<u>(6,542,524)</u>
Expenditures Eligible for Student Allocation	\$326,200,903	\$317,578,917	(\$8,621,986)
Costs for Non-aidable Students (5)	<u>(26,388,814)</u>	<u>(25,686,169)</u>	<u>702,645</u>
Aidable Expenditures - Special Education	<u>\$299,812,088</u>	<u>\$291,892,747</u>	<u>(\$7,919,341)</u>
<u>Regular Education Services:</u>			
Net Expenditures (2)	\$133,188,041	\$132,935,622	(\$252,419)
Results of Audit Sample (4)	<u>0</u>	<u>(2,683,360)</u>	<u>(2,683,360)</u>
Expenditures Eligible for Student Allocation	\$133,188,041	\$130,252,262	(\$2,935,779)
Costs for Non-aidable Students (5)	<u>(46,393,281)</u>	<u>(45,725,235)</u>	<u>668,046</u>
Aidable Expenditures - Regular Education	<u>\$86,794,760</u>	<u>\$84,527,027</u>	<u>(\$2,267,733)</u>
<u>Computerized Routing System:</u>			
Expenditures Eligible for Student Allocation (3)	\$691,485	\$685,154	(\$6,331)
Costs for Non-aidable Students (5)	<u>(109,946)</u>	<u>(108,939)</u>	<u>1,007</u>
Aidable Expenditures - Computerized Routing	<u>\$581,539</u>	<u>\$576,215</u>	<u>(\$5,324)</u>
<u>Summary of Aidable Expenditures:</u>			
Special Education Service	\$299,812,088	\$291,892,747	(\$7,919,341)
Regular Education Service	86,794,760	84,527,027	(2,267,733)
Computerized Routing System	<u>581,539</u>	<u>576,215</u>	<u>(5,324)</u>
Total Aidable Contract Carrier Service	\$387,188,387	\$376,995,988	(\$10,192,398)
Less: Chapter 721 Reimbursements	<u>1,486,079</u>	<u>1,486,079</u>	<u>0</u>
Net Aidable Contract Carrier Service	<u>\$385,702,308</u>	<u>\$375,509,909</u>	<u>(\$10,192,398)</u>

Notes:

- * The costs not otherwise questioned in our audit are qualified subject to further determination by the Commissioner that such costs were validly incurred based on the form of contracts used.
- (1) Includes escort health insurance adjustment (page 10 of the report) (\$32,892), escort wage accrual (page 9 of report) (\$1,703,015), and field trip CPI (page 8 of report) (\$343,556).
 - (2) Includes Adopt-a-Class program (page 7 of report) (\$138,214), unidentified expense item (page 10 of report) (\$83,710) and field trip CPI (page 8 of report) (\$30,496).
 - (3) Includes Computer Assisted Transportation System invoice adjustment (page 19 of report) (\$6,331).
 - (4) Incorporates result of audit of sampled invoices (page 11 of report).
 - (5) Reflects use of corrected student ratio (page 19 of report) and effects of reductions from notes 1, 2, 3, & 4.

NYC BOARD OF EDUCATION Summary of Contract Carrier Expenditures Eligible For Transportation Aid School Year 1989-90			
	<u>Per Claim</u>	<u>Per Audit *</u>	<u>Questioned Costs Inc./Dec.</u>
<u>Special Education Services:</u>			
Net Expenditures (1)	\$160,233,517	\$159,245,109	(\$988,408)
Results of Audit Sample (4)	<u>0</u>	<u>(3,214,428)</u>	<u>(3,214,428)</u>
Expenditures Eligible for Student Allocation	\$160,233,517	\$156,030,681	(\$4,202,836)
Costs for Non-aidable Students	<u>0</u>	<u>0</u>	<u>0</u>
Aidable Expenditures - Special Education	<u>\$160,233,517</u>	<u>\$156,030,681</u>	<u>(\$4,202,836)</u>
<u>Regular Education Services:</u>			
Net Expenditures (2)	\$66,413,630	\$66,178,703	(\$234,927)
Results of Audit Sample (4)	<u>0</u>	<u>(1,335,844)</u>	<u>(1,335,844)</u>
Expenditures Eligible for Student Allocation	\$66,413,630	\$64,842,859	(\$1,570,771)
Costs for Non-aidable Students (5)	<u>(35,776,150)</u>	<u>(35,325,140)</u>	<u>451,010</u>
Aidable Expenditures - Regular Education	<u>\$30,637,480</u>	<u>\$29,517,719</u>	<u>(\$1,119,761)</u>
<u>Computerized Routing System:</u>			
Expenditures Eligible for Student Allocation (3)	\$0	\$0	\$0
Costs for Non-aidable Students (3)	<u>0</u>	<u>0</u>	<u>0</u>
Aidable Expenditures - Computerized Routing (3)	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
<u>Summary of Aidable Expenditures:</u>			
Special Education Service	\$160,233,517	\$156,030,681	(\$4,202,836)
Regular Education Service	30,637,480	29,517,719	(1,119,761)
Computerized Routing System	<u>0</u>	<u>0</u>	<u>0</u>
Total Aidable Contract Carrier Service	\$190,870,997	\$185,548,400	(\$5,322,597)
Less: Chapter 721 Reimbursements	<u>826,282</u>	<u>826,282</u>	<u>0</u>
Net Aidable Contract Carrier Service	<u>\$190,044,715</u>	<u>\$184,722,118</u>	<u>(\$5,322,597)</u>

Notes:

- * The costs not otherwise questioned in our audit are qualified subject to further determination by the Commissioner that such costs were validly incurred based on the form of contracts used.
- (1) Includes escort wage accrual (page 9 of report) (\$834,325), and field trip CPI (page 8 of report) (\$154,084).
 - (2) Includes Adopt-a-Class program (page 7 of report) (\$138,214), unidentified expense item (page 10 of report) (\$83,710) and field trip CPI (page 8 of report) (\$13,003).
 - (3) Computerized Routing System not claimed in 1989-90.
 - (4) Incorporates result of audit of sampled invoices (page 11 of report).
 - (5) Reflects use of corrected student ratio (page 19 of report) and effects of reductions from notes 2, & 4.

NYC BOARD OF EDUCATION Summary of Contract Carrier Expenditures Eligible For Transportation Aid School Year 1990-91			
	<u>Per Claim</u>	<u>Per Audit *</u>	<u>Questioned Costs Inc./(Dec.)</u>
<u>Special Education Services:</u>			
Net Expenditures (1)	\$165,967,385	\$164,876,332	(\$1,091,053)
Results of Audit Sample (4)	<u>0</u>	<u>(3,328,096)</u>	<u>(3,328,096)</u>
Expenditures Eligible for Student Allocation	\$165,967,385	\$161,548,236	(\$4,419,149)
Costs for Non-aidable Students (5)	<u>(26,388,814)</u>	<u>(25,686,169)</u>	<u>702,645</u>
Aidable Expenditures - Special Education	<u>\$139,578,571</u>	<u>\$135,862,066</u>	<u>(\$3,716,505)</u>
<u>Regular Education Services:</u>			
Net Expenditures (2)	\$66,774,411	\$66,756,918	(\$17,493)
Results of Audit Sample (4)	<u>0</u>	<u>(1,347,516)</u>	<u>(1,347,516)</u>
Expenditures Eligible for Student Allocation	\$66,774,411	\$65,409,403	(\$1,365,008)
Costs for Non-aidable Students (5)	<u>(10,617,131)</u>	<u>(10,400,095)</u>	<u>217,036</u>
Aidable Expenditures - Regular Education	<u>\$56,157,280</u>	<u>\$55,009,308</u>	<u>(\$1,147,972)</u>
<u>Computerized Routing System:</u>			
Expenditures Eligible for Student Allocation (3)	\$691,485	\$685,154	(\$6,331)
Costs for Non-aidable Students (5)	<u>(109,946)</u>	<u>(108,939)</u>	<u>1,007</u>
Aidable Expenditures - Computerized Routing	<u>\$581,539</u>	<u>\$576,215</u>	<u>(\$5,324)</u>
<u>Summary of Aidable Expenditures:</u>			
Special Education Service	\$139,578,571	\$135,862,066	(\$3,716,505)
Regular Education Service	56,157,280	55,009,308	(1,147,972)
Computerized Routing System	<u>581,539</u>	<u>576,215</u>	<u>(5,324)</u>
Total Aidable Contract Carrier Service	\$196,317,390	\$191,447,589	(\$4,869,801)
Less: Chapter 721 Reimbursements	<u>659,797</u>	<u>659,797</u>	<u>0</u>
Net Aidable Contract Carrier Service	<u>\$195,657,593</u>	<u>\$190,787,792</u>	<u>(\$4,869,801)</u>

Notes:

- * The costs not otherwise questioned in our audit are qualified subject to further determination by the Commissioner that such costs were validly incurred based on the form of contracts used.
- (1) Includes escort health insurance adjustment (page 10 of the report) (\$32,892), escort wage accrual (page 9 of report) (\$868,690), and field trip CPI (page 8 of report) (\$189,472).
 - (2) Includes field trip CPI (page 8 of report) (\$17,493).
 - (3) Includes Computer Assisted Transportation System invoice adjustment (page 19 of report) (\$6,331).
 - (4) Incorporates result of audit of sampled invoices (page 11 of report).
 - (5) Reflects reallocation of costs after corrections for notes 1, 2, 3, & 4.

OTHER INVOICE-SPECIFIC ADJUSTMENTS

<u>Description of Error</u>	<u>Number of Invoices</u>	<u>Amount</u>	<u>Note</u>
Accounting Errors on Worksheet	1	\$182	(1)
Invoice Exceeds Expenditure Report	6	1,771	(2)
Vehicle Rate	1	(161)	(3)
Billing Days	1	1,709	(4)
Vehicle Days	7	295	(5)
CPI rates	4	(159)	(6)
Prompt Payment Discount	1	49	(7)
Escort Costs	1	<u>(80)</u>	(8)
Total		\$3,606	

Notes

- (1) Accounting Errors on Payment Worksheet: For most of the audit period, September 1989 to June 1990 and September 1990 to February 1991, Support Services' Accounts Payable Unit (APU) manually computed the amounts due on each invoice. APU switched to using a computer spreadsheet calculation in March 1991. We reviewed the arithmetic for each of the sampled invoices using this computerized spreadsheet. Minor errors were found and corrected. There was one accounting error where a vendor was overpaid.
- (2) Invoice Exceeds Expenditure Report - Some of the invoiced amounts did not reconcile to the amounts shown on the expenditure report; these invoices were reduced.
- (3) Vehicle Rate: We compared the vendor's billing rates to the contract bid blank (the form completed by a vendor for each item being bid upon). This form could not be located for nine invoices. For these nine cases, we accepted the rate from other documents in OPT's files, such as the Recommendation for Award, Change Orders, etc. Payments to vendors per audit were corrected for any errors found in the rates.

APPENDIX B

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- (4) **Billing Days:** We adjusted invoices for discrepancies between the number of billing days in the school month and the official Board of Education school calendars.
- (5) **Vehicle Days:** We reviewed the calculation of Vehicle Days on the invoice as paid by OPT. Vehicle Days are generally calculated as follows: the authorized number of vehicles times the number of school days in the month, adjusted for events where school schedules change, such as when a bus is not needed because a particular school is closed. All adjustments require written authorization from OPT's Operations Unit. We questioned costs when documentation was incomplete or the calculation was in error.
- (6) **CPI rates:** We compared the CPI rates applied by OPT pertaining to increases due to years 1982-83 to 1985-86 with those audited by OAG. Where errors were found, we made an audit adjustment. Pending the resolution of the current litigation, we have taken no position as to the accuracy of the rates used by OPT.
- (7) **Prompt Payment Discount:** We reviewed the calculation of the two percent prompt payment discount allowed by contract. There was one instance where the discount was not taken because the payment was not made promptly. OPT officials could not explain why this invoice was not processed in a timely manner. As a result, we do not consider this an aidable expenditure and have decreased the invoice by this amount.
- (8) **Escort Costs:** We found one instance where the vendor did not bill for one extra day of escort service provided to a nonpublic school on Election Day. This amount was added to the invoiced amount.

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