

New York State Office of the State Comptroller
Thomas P. DiNapoli

Division of State Government Accountability

Compliance With the Reimbursable Cost Manual

All Services for Kids, Inc.
State Education Department



Report 2012-S-19

February 2014

Executive Summary

Purpose

To determine whether the costs reported by All Services for Kids, Inc. (All Services) on its Consolidated Fiscal Reports (CFRs) are adequately documented and allowable pursuant to the State Education Department's (SED) Reimbursable Cost Manual (Manual). The audit covered the two fiscal years ended June 30, 2010.

Background

All Services, located in Fresh Meadows, New York, provided special education itinerant teacher services (SEIT) to disabled children between the ages of three and five. The New York City Department of Education (DoE) paid All Services tuition and fees according to rates established by SED. These rates were based on the financial information All Services presented in its annual CFRs. According to its CFRs for the two fiscal years ended June 30, 2010, All Services claimed approximately \$1.3 million in reimbursable expenses. All Services' CFR for the fiscal year ended June 30, 2011 had not been prepared at the time of our audit. Moreover, All Services had ceased providing SEIT services in 2013.

Key Findings

We identified \$66,532 in unsupported and/or inappropriate costs charged to All Services including:

- \$53,546 in personal service expenses, including compensation paid to the husband of the Executive Director for services that he did not perform, and
- \$12,986 in non-personal service expenses, including inappropriately allocated rental expenses, cell phones used by the Executive Director's minor children, unaccounted for equipment items, and cable television.

Key Recommendation

- SED officials should review the inappropriate and unsupported expenses identified in our report and recover such reimbursed expenses as appropriate.

Other Related Audits/Reports of Interest

[Bilingual SEIT & Preschool, Inc.: Compliance with the Reimbursable Cost Manual \(2011-S-13\)](#)

[IncludED Educational Services, Inc.: Compliance with the Reimbursable Cost Manual \(2010-S-59\)](#)

**State of New York
Office of the State Comptroller**

Division of State Government Accountability

February 25, 2014

Dr. John B. King, Jr.
Commissioner
State Education Department
State Education Building - Room 125
89 Washington Avenue
Albany, NY 12234

Ms. Toby Reich
Executive Director
All Services for Kids, Inc.
159-16 Union Turnpike - Suite 308
Fresh Meadows, NY 11366

Dear Dr. King and Ms. Reich:

The Office of the State Comptroller is committed to helping State agencies, public authorities, and local government agencies manage government resources efficiently and effectively and, by so doing, providing accountability for tax dollars spent to support government operations. The Comptroller oversees the fiscal affairs of State agencies, public authorities, and local government agencies, as well as their compliance with relevant statutes and their observance of good business practices. This fiscal oversight is accomplished, in part, through our audits, which identify opportunities for improving operations. Audits can also identify strategies for reducing costs and strengthening controls that are intended to safeguard assets.

Following is a report of our audit of the State Education Department entitled *All Services for Kids, Inc.: Compliance With the Reimbursable Cost Manual*. This audit was performed pursuant to the State Comptroller's authority as set forth in Article V, Section 1, of the State Constitution and Article II, Section 8, of the State Finance Law.

This audit's results and recommendations are resources for you to use in effectively managing your operations and in meeting the expectations of taxpayers. If you have any questions about this report, please feel free to contact us.

Respectfully submitted,

*Office of the State Comptroller
Division of State Government Accountability*

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This report is also available on our website at: www.osc.state.ny.us

Background

All Services for Kids, Inc. (All Services), located in Fresh Meadows, New York, is a private for-profit corporation that, in addition to other child-related services, provided special education itinerant teacher services (SEIT) to disabled children between three and five years of age. All Services provided these services at the students' homes and/or preschools and day care centers. During the 2008-09 and 2009-10 school (fiscal) years, All Services served an average of 36 SEIT students annually. Based on available information, it appears that All Services ceased providing SEIT services in 2013.

The New York City Department of Education (DoE) reimbursed All Services for all of its SEIT-related costs using reimbursement rates set by the State Education Department (SED). SED established these rates based on the financial information that All Services reported on its annual Consolidated Fiscal Reports (CFRs). To qualify for reimbursement, costs reported on the CFRs must comply with the guidelines set forth in SED's Reimbursable Cost Manual (Manual).

According to its CFRs, All Services claimed approximately \$1.3 million in reimbursable expenses for the two fiscal years ended June 30, 2010. We did not audit All Services' SEIT program for the 2010-2011 fiscal year because, at the time of our audit, the CFR for that period had not yet been submitted to DoE for reimbursement.

Periodically, SED revises reimbursement rates for providers based on its review of their annual CFR data. Once informed of the revisions, DoE will calculate what it should have paid its providers for the affected periods based on those revised rates. For the fiscal years 2007-08 and 2008-09, DoE calculated that it had overpaid All Services \$406,447 of which \$175,253 has been collected. Its calculated overpayment to All Services for fiscal years 2009-10 and 2010-11 is \$661,848, which, as of January 31, 2014, had not been recouped.

Audit Findings and Recommendation

We identified \$66,680 worth of personal service and non-personal service costs charged to All Services' SEIT program that were either unsupported or unrelated to SEIT. We recommend recovery of this amount.

Personal Service Costs

According to the Manual, personal service costs, which include all taxable salaries and fringe benefits paid or accrued to employees on the Agency's payroll, must be reported on the CFR as either direct care costs (e.g., teachers' salaries) or non-direct care costs (e.g., administrators' salaries). During the audit period, All Services reported \$328,895 in personal service costs on its CFRs for the SEIT program. We disallowed \$53,546 of this amount.

Program/Site Director

The Consolidated Fiscal Reporting and Claiming Manual (CFR Manual), used as a guide by certain State agencies responsible for receiving provider CFRs, outlines written job descriptions for each employee title that can be claimed for reimbursement on the CFR. For the two fiscal years ended June 30, 2010, one All Services employee, the Executive Director's husband, was reported on All Services' CFRs under two job titles, Computer/Data/Statistical Specialist and Program/Site Director. His combined salaries totaled \$293,986 for the two-year audit period (\$146,993 as the Computer/Data/Statistical Specialist and \$146,993 as the Program/Site Director). Of these amounts, \$52,466 and \$146,993, respectively, were charged to SEIT.

We interviewed this employee to determine the functions he was actually performing. The duties he explained to us are in line with the written job responsibilities of a Program/Site Director. There was no evidence that this employee performed the duties of a Computer/Data/Statistical Specialist. He also told us that he was working the hours for one full-time position – not two. As such, we are disallowing \$52,466 - the amount of his Computer/Data/Statistical Specialist compensation charged to SEIT.

Support for Payroll Charges

According to the Manual, compensation costs charged to SEIT must be supported by formal payroll records maintained by the provider. To determine whether the salary expenses All Services charged to SEIT were appropriate, we reconciled the CFR payroll data (employee names and salaries) to All Services' payroll records for the review period. We identified overcharges totaling \$1,080 and are disallowing this amount. All Services officials responded that the overcharges were accounting errors.

Other-Than-Personal-Service Costs

According to the Manual, purchases of goods and services must be supported by certain documents, such as invoices and receiving reports, that list the item(s) purchased as well as the dates of receipt and payment. The Manual also states that costs incurred for activities unrelated to the SEIT program are not eligible for reimbursement. During our review period, All Services reported \$1,084,951 in other-than-personal-service (OTPS) costs on its CFRs. Of this amount, \$964,175 was charged to SEIT. We disallowed \$12,986 in OTPS costs that were not properly supported or related to SEIT.

Rent Payments for Personal Residence

For the two fiscal years ended June 30, 2010, All Services charged the SEIT program \$4,188 in rental expenses for the use of a three-room one-bath basement in the Executive Director's personal residence (\$2,711 for the period July 2008 through June 2009, and \$1,477 for the period July 2009 through October 2009). The basement was reportedly being used for All Services' office operations prior to securing commercial office space. By design, SEIT programs require students to be serviced at their homes, preschools, or day care centers, not the provider offices. Thus, the rental costs charged to SEIT should be based on a reasonable method of allocating indirect costs between All Services' programs – in this case SEIT and Related Services.

We requested a copy of the lease agreement and rent receipts for this space to determine whether the SEIT program was being overcharged. The Executive Director provided us with a one-page lease, dated December 30, 2009 (18 months after payments commenced), which stated that the basement is to be rented to All Services for \$1,000 per month including gas and electric payments dating back to July 2007. Thus, during the period when rental payments were actually made and charged to the SEIT program, no formal lease agreement existed.

We are disallowing the entire \$4,188 in rental payments charged to SEIT for the months when no formal lease agreement was in place.

Advertising

During our audit period, All Services charged \$2,726 in advertising expenses to SEIT. We disallowed \$2,425 of these expenses due to a lack of supporting documentation (e.g., invoices and receiving reports). Included in our disallowance is \$845 reportedly paid to various charitable organizations.

Telephone and Cable Expenses

During fiscal years 2008-09 and 2009-10, All Services charged \$5,778 in telephone and cable expenses to SEIT. We disallowed \$4,335 of these expenses as follows:

- \$2,809 in expenses for three cell phones assigned to the Executive Director's minor children who were not employees of All Services,

- \$1,327 in cable television expenses with no apparent relationship to the SEIT program, and
- \$199 in Internet expenses improperly allocated to SEIT based on program revenues.

Office Supplies

For fiscal years 2008-09 and 2009-10, All Services charged \$6,243 in office supplies to SEIT. We selected a sample of 26 of these expenses and identified \$2,038 in inappropriate charges:

- All Services had no documentation to support eight of the sampled purchases reviewed totaling \$939. These disallowances include purchases from supermarkets and gift shops, as well as on-line music and Godiva chocolates.
- Eight computer and computer-related items (e.g., laser copiers and LCD monitors), for which \$1,099 was charged to the audited program, could not be located at the school. The Executive Director's husband advised us that five of the eight missing items were at his personal residence (former office). He also told us that another three of the nine items were disposed of. However, he did not provide us with the disposal records required by the Manual. Furthermore, he stated that he did not know the whereabouts of the remaining item, a computer valued at \$633.

Recommendation

To SED:

1. Review the inappropriate and unsupported expenses identified in our report and recover such reimbursed expenses as appropriate.

Audit Scope and Methodology

We audited the propriety of, and support for, the expenses reported by All Services on its CFR for the two fiscal years ended June 30, 2010. The objective of our audit was to determine whether the costs reported by All Services were adequately documented and SEIT appropriate.

To accomplish our objective, we reviewed All Services' financial records, including audit documentation maintained by All Services' independent certified public accountants. We interviewed All Services officials to obtain an understanding of their financial and business practices. In addition, we interviewed SED officials to discuss certain sampled expenses charged to the SEIT program on All Services' CFRs.

We conducted our compliance 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 objectives. We believe that the evidence obtained during this audit provides us with a

reasonable basis for our findings and conclusions based on our audit objectives.

In addition to being the State Auditor, the Comptroller performs certain other constitutionally and statutorily mandated duties as the chief fiscal officer of New York State. These include operating the State's accounting system; preparing the State's financial statements; and approving State contracts, refunds, and other payments. In addition, the Comptroller appoints members to certain boards, commissions, and public authorities, some of whom have minority voting rights. These duties may be considered management functions for purposes of evaluating organizational independence under generally accepted government auditing standards. In our opinion, these management functions do not affect our ability to conduct independent audits of program performance.

Authority

The audit was performed pursuant to the State Comptroller's authority as set forth in Article V, Section 1, of the State Constitution and Article II, Section 8, of the State Finance Law.

Reporting Requirements

A draft copy of this report was provided to SED and All Services officials for their review and comment. Their comments were considered in preparing this final report and are included in their entirety at the end of the report.

SED officials agree with our report recommendation and informed us that they have already adjusted certain costs in their rate development process. At their request, we provided SED officials with details of our recommended disallowances by year and program.

All Services officials disagree with our report findings as outlined in their response. We address their response in our 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 the State Education Department 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 recommendation contained herein, and if the recommendation was not implemented, the reason(s) why.

Contributors to This Report

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Vision

A team of accountability experts respected for providing information that decision makers value.

Mission

To improve government operations by conducting independent audits, reviews and evaluations of New York State and New York City taxpayer financed programs.

Exhibit

All Services for Kids
Schedule of Submitted, Disallowed, and Allowed Program Costs
Fiscal Years 2008-09 and 2009-10

Program Costs	Amount Per CFR	Amount Disallowed	Amount Allowed	Notes to Exhibit
Personal Services				
Direct Care	\$167,609	\$ 0	\$167,609	A,B
Agency Administration	\$161,286	\$53,546	\$107,740	A,B
Total Personal Services	\$328,895	\$53,546	\$275,349	
Other Than Personal Services				
Direct Care	\$887,411	\$ 0	\$887,411	
Agency Administration	\$ 76,764	\$12,986	\$ 63,778	A,C,D
Total Other Than Personal Services	\$964,175	\$12,986	\$951,189	
Total Program Costs	\$1,293,070	\$66,532	\$1,226,538	

Notes to Exhibit

The Notes shown below refer to specific sections of the Reimbursable Cost Manual upon which we have based our adjustments. We have summarized the applicable sections to explain the basis for the disallowances. Details of the transactions in question were provided to SED and All Services officials during the course of our audit.

- A. Section I. Cost Principles - Costs must be reasonable, necessary, program-related and sufficiently documented.
- B. Section II A.(1) - Compensation costs must be based on approved documented payrolls.
- C. Section I 41.(A) - Rental agreements, including renewals, must be in writing, dated and signed by the lessee.
- D. Section II C.(4) - The costs incurred in less-than-arm's-length lease of real property transactions that are determined to be above actual documented costs of the owner shall be reimbursed only with the written approval of the Commissioner upon the establishment of the cost effectiveness resulting from the transaction.

Agency Comments - State Education Department



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

DEPUTY COMMISSIONER
Office of Performance Improvement and Management Services
O: 518.473-4706
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January 29, 2014

Mr. Frank Patone
Audit Director
Office of the State Comptroller
Division of State Government Accountability
123 William Street – 21st Floor
New York, NY 10038

Dear Mr. Patone:

The following is the New York State Education Department's (SED) response to the draft audit report (2012-S-19 of the State Education Department All Services for Kids, Inc.: Compliance with the Reimbursable Cost Manual).

Recommendation 1: Review the inappropriate and unsupported expenses identified in our report and recover such reimbursed expenses as appropriate.

We agree with this recommendation. The Department will review and make adjustments to the CFRs as noted in the report and recover any overpayments as appropriate by recalculating tuition rates. We note that SED has already adjusted out \$38,004 and \$6,326 in agency administration costs for the fiscal years ending June 30, 2009 and 2010. SED also reduced executive compensation under the median salary calculation for the fiscal year ending June 30, 2010. SED has requested OSC's adjustments by year and program to determine if the recommended adjustments will result in a change to the tuition rates calculated by SED. We will also review and consider additional information All Services for Kids, Inc. may submit in response to this report.

If you have any questions regarding this response, please contact Ann Marsh, Director of the Rate-Setting Unit at (518) 473-2020.

Sincerely,

Sharon Cates-Williams

c: Ann Marsh
Maria Guzman

Agency Comments - All Services for Kids, Inc.

Toby Reich
72-10 136th Street
Flushing, NY 11367

February 4, 2014

Mr. Frank Patone, Audit Director
Office of the State Comptroller
Division of State Government Accountability
123 William Street – 21st Floor
New York, NY 10038

Re: All Services for Kids, Inc.: Compliance With the Reimbursable
Cost Manual – Draft Report (2012-S-19)

Dear Mr. Patone:

Thank you for the opportunity to respond to the OSC's draft audit report. I am doing so as the former Executive Director of All Services for Kids, Inc. to correct certain inaccuracies in the report and to better clarify the context of certain matters. In addition, I would like to state at the outset that your Examiner –in-Charge, Jeffrey Marks, came into my office on the last day that he visited early in the Summer of 2012 and told me "we know that there is no fraud here but we are going to issue a report and you are not going to like it." Needless to say, at the exit conference in your office in October of 2013, Mr. Marks stated that he did not remember making such a comment. For convenience sake I will address the issues in the order in which they appeared in the draft report.

On page 1 of the Executive Summary you state two "Key Findings." The first key finding states that OSC is disallowing "\$53,546 in personal service expenses including compensation paid to the husband of the Executive Director for services that he did not perform." To state that he did not perform the service is simply not true. On page 5 of the report you justify that conclusion by stating "This employee did not perform the duties of a Computer/Data/Statistical Specialist. He also told us that he was working the hours of one full-time position – not two. As such, we are disallowing \$52,466 – the amount of his Computer/Data/Statistical specialist compensation charged to SEIT." During the audit, it was explained to the examiners that when our accountant filed the CFR for the year in question, the State Education Department (SED) changed the title for the position in question. The computer work was done by my husband and to state that it wasn't because he claimed to be working one full-time position not two makes no sense, is untrue and libelous.

The second key finding which states that you are disallowing \$13,134 for "unaccounted for and improperly used equipment items" is also not accurate and taken out of context. Your assertion is more fully explained on page 7 of the draft audit report. When we started our SEIT

* Comment 1

* See State Comptroller's Comments, page 16.

program, we worked out of a basement home office. That was the address that appeared on our 4410 application with SED and that is where our approval to operate the SEIT program was granted. We started providing SEIT services in January of 2007 and when we expanded the program, we took handicap accessible space at 159-16 Union Turnpike in Fresh Meadows. When we moved to the Fresh Meadows office, we hired new employees and we purchased all new computer equipment. We were the second tenants in the building and when we first moved we worked out of both locations because it took time to get our internet and telephone service up and running. You state on page 7 "The Executive Director's husband advised us that five of the nine missing items were at his personal residence" implies that these items were purchased and then kept for personal use. That is not true. We told the examiner that most of the items were still being used in the home office and we offered to bring the examiner to the home office. When he refused, my husband brought the items to the Fresh Meadows office to show them to your examiner. There was one old printer that was broken that my husband had gotten rid of and my husband was able to show your examiner one of the attachments that went with the printer in question which was still in the Fresh Meadows office.

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Comment
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When we first started the program, SED and the NYC Dept. of Education (DOE) gave us no guidance on how to run a SEIT program. SED eventually reviewed our program in 2010, made numerous recommendations which we implemented and gave us a letter dated March 31, 2011 which we provided to your examiners stating that our program was in full compliance with all of SEDs rules and regulations.

At the bottom of your Executive Summary you have a section entitled "Other Related Audits/Reports of Interest which cites audits of Bilingual SEIT & Preschool, Inc. (Bilingual) and IncludEd Educational Services, Inc. (IncludEd).

By mentioning other audits and categorizing them as "Related" you are linking All Services for Kids, Inc. (All Services) with Bilingual and IncludEd. According to your reports, your examiners found numerous instances of fraud and attempts to commit fraud during those audits. In one report you state that you referred your findings for that company to the Queens District Attorney's Office and according to the New York Times, you referred your findings from the other report to the Manhattan District Attorney's Office. It appears that neither of those companies provided a response to your draft audit. To link All Services with those two audits is patently unfair and misleading. There were no such findings in our audit and if you put aside the question of the salary issue label which we still dispute, the total amount of disallowed program cost compared to the total program cost is only 1%.

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Comment
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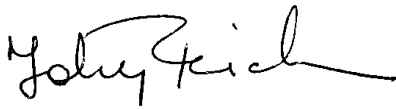
In the Background section of your report on page 4 you state "As a result of its reconciliations for fiscal years 2008-09 and 2009-10, DOE identified more than \$241,000 in overpayments, none of which has been recovered." That is simply not true. Attached please find a spreadsheet, the data of which was downloaded from DOE's website, which shows that on June 20, 2011, DOE recouped \$216,836.23 for FY08 and on June 28, 2012, DOE recouped \$653,068.00 for FY09. Those numbers were generated by DOE, not us. There are other recoupments as well for subsequent fiscal years. In addition there is about \$200,000.00 in

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Comment
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recoupments of which DOE has not applied towards any particular student. When our attorney questioned DOE about that, DOE responded that they are not required to give us an explanation. In addition, without even notifying us, DOE breached our related services contract by not paying for related services, thereby forcing us to close our business.

Many of the above issues were fully explained in our attorney's letter to Jeffrey Marks dated September 28, 2012. Thank you for giving me the opportunity to make corrections and clarify some important details of your draft audit report. If you have any questions, or if you need any additional information, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink that reads "Toby Reich". The signature is written in a cursive style with a long, sweeping underline.

Toby Reich
Encls.

State Comptroller's Comments

1. All Services' former Executive Director did not submit any documents or other evidence to support her assertion that her husband actually performed two full-time jobs and therefore was entitled to the two full-time salaries he was paid.
2. All Services subsequently produced one of the missing items. We revised our report, and corresponding dollar findings, to account for this item. We also revised our Executive Summary to remove the words "improperly used" equipment items, and page 7 of our report to note that the personal residence in question was the former All Services office.
3. The links provided at the bottom of our Executive Summary is standard State Government Accountability procedure and are included as an aid to readers interested in similar type audits.
4. We followed up with the NYC DoE to determine the exact amount of calculated overpayments and associated collections for the noted periods. We have revised page 4 of our report to denote the correct figures according to DoE and to more accurately reflect how the overpayments are identified.