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

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Division of State Government Accountability

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# **Compliance With the Reimbursable Cost Manual**

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## **State Education Department Center for Disability Services**

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Report 2015-S-40

May 2016

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# Executive Summary

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## Purpose

To determine whether the costs reported by the Center for Disability Services (CFDS) on its Consolidated Fiscal Reports (CFRs) were properly calculated, adequately documented, and allowable under the State Education Department's (SED) guidelines, including the Reimbursable Cost Manual (Manual). Our audit covered the calendar year ended December 31, 2013.

## Background

CFDS is an SED-approved not-for-profit special education provider located in Albany, New York. CFDS provides preschool special education services to children with disabilities between the ages of three and five years. CFDS is reimbursed for preschool special education program services through rates set by SED. These reimbursement rates are based on financial information, including costs, that CFDS reports to SED on its annual CFR. To be eligible for reimbursement, reported costs must comply with Manual requirements. For the calendar year ended December 31, 2013, CFDS reported about \$4.8 million in reimbursable costs on its CFR for five preschool special education programs.

## Key Findings

For the year ended December 31, 2013, we identified \$81,581 in costs that were not in compliance with the Manual. These costs included:

- \$64,954 in personal service costs that consisted of ineligible bonuses and executive compensation above the allowed regional median; and
- \$16,627 in non-personal service costs that were either not supported by proper documentation, not allowable, or not related to the programs.

## Key Recommendations

### To SED:

- Review the disallowances identified by our audit and make the necessary adjustments to the costs reported on CFDS's CFR and to CFDS's tuition reimbursement rates, as appropriate.
- Remind CFDS officials of the pertinent SED guidelines that relate to the deficiencies we identified.

### To CFDS:

- Ensure that costs reported on annual CFRs fully comply with SED's requirements, and communicate with SED to obtain clarification as needed.

## Other Related Audits/Reports of Interest

[Newmeadow, Inc.: Compliance With the Reimbursable Cost Manual \(2015-S-48\)](#)

[Upstate Cerebral Palsy: Compliance With the Reimbursable Cost Manual \(2014-S-71\)](#)

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

**Division of State Government Accountability**

May 13, 2016

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

Mr. Alan Krafchin  
President and CEO  
Center for Disability Services  
314 South Manning Boulevard  
Albany, NY 12208

Dear Ms. Elia and Mr. Krafchin:

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, entitled *Compliance With the Reimbursable Cost Manual*, of our audit of the costs submitted by the Center for Disability Services to the State Education Department for purposes of establishing preschool special education tuition reimbursement rates. These rates are used to bill public funding sources that are supported by State aid payments. The audit was performed pursuant to the State Comptroller's authority as set forth in Article V, Section 1 of the State Constitution; Article II, Section 8 of the State Finance Law; and Section 4410-c of the State Education Law.

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  
State Government Accountability*

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 Division of State Government Accountability  
 110 State Street, 11th Floor  
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This report is also available on our website at: [www.osc.state.ny.us](http://www.osc.state.ny.us)

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## Background

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The Center for Disability Services (CFDS), a not-for-profit entity located in Albany, New York, is authorized by the State Education Department (SED) to provide preschool special education services to children with disabilities between the ages of three and five years. For the calendar year ended December 31, 2013, CFDS operated five SED-funded rate-based programs: Preschool Special Class – over 2.5 hours per day; Preschool Special Class – 2.5 hours per day; Preschool Integrated Special Class – over 2.5 hours per day; Preschool Integrated Special Class – 2.5 hours per day; and Preschool Special Education Itinerant Teacher Services (collectively referred to as the Programs). The Programs served 236 children in 12 New York counties (Albany, Columbia, Essex, Fulton, Greene, Hamilton, Montgomery, Rensselaer, Saratoga, Schenectady, Warren, and Washington).

The counties that use CFDS's special education services pay tuition using reimbursement rates set by SED. The State, in turn, reimburses counties 59.5 percent of the tuition that counties pay. SED sets the special education tuition rates based on financial information, including costs, reported by CFDS on its annual Consolidated Fiscal Reports (CFRs) filed with SED. Costs reported on the CFR must comply fully with the guidelines in SED's Reimbursable Cost Manual (Manual) regarding the eligibility of costs and documentation requirements. In addition, costs must comply with the reporting requirements prescribed in the Consolidated Fiscal Reporting and Claiming Manual. For the calendar year ended December 31, 2013, CFDS reported approximately \$4.8 million in reimbursable costs on its CFR for the Programs.

## Audit Findings and Recommendations

According to the Manual, costs reported on the CFR are considered for reimbursement if they are reasonable, necessary, directly related to the special education program, and adequately documented. For the calendar year ended December 31, 2013, we identified \$81,581 in costs reported by CFDS that did not comply with SED's requirements for reimbursement, including \$64,954 in personal service costs and \$16,627 in non-personal service costs. The following table summarizes the non-reimbursable costs we identified.

| <b>Non-Reimbursable Costs</b>                    | <b>Amounts</b>  |
|--|-----------------|
| Personal Service Costs                           |                 |
| Ineligible Employee Bonuses                      | \$56,298        |
| Executive Compensation Exceeding Allowed Amounts | 8,656           |
| <b>Subtotal Personal Service Costs</b>           | <b>\$64,954</b> |
| Non-Personal Service Costs                       |                 |
| Unsupported Vehicle Costs                        | \$8,260         |
| Ineligible Gifts and Food                        | 4,487           |
| Non-Program-Related Costs                        | 3,880           |
| <b>Subtotal Non-Personal Service Costs</b>       | <b>\$16,627</b> |
| <b>Total Non-Reimbursable Costs</b>              | <b>\$81,581</b> |

### Personal Service Costs

We identified \$64,954 in non-reimbursable personal service costs that CFDS claimed for the year ended December 31, 2013. This included \$56,298 in bonuses and associated fringe benefits that were not in compliance with the Manual, and \$8,656 in salary and fringe benefits that were above the allowed regional median compensation.

#### *Non-Reimbursable Bonuses*

Bonus compensation is a non-recurring lump sum payment in excess of regularly scheduled salary. According to the Manual, bonus compensation may be reimbursed if it: is based on merit, as measured and supported by employee performance evaluations; does not exceed three and a half percent of the employee's base salary; and is restricted to direct care titles and certain non-direct care titles.

We identified \$56,298 in ineligible costs pertaining to non-reimbursable bonus payments (\$50,979) and the associated fringe benefits (\$5,319) that CFDS claimed on its CFR. These bonus payments either: exceeded three and a half percent of the employee's base salary (\$34,395); were paid to employees in ineligible titles (\$12,959); or were not supported by an employee performance evaluation (\$8,944).

### *Compensation Above the Regional Median for the Executive and Assistant Executive Directors*

The Manual states that compensation (salaries and fringe benefits) for Executive Directors and Assistant Executive Directors should be consistent with the regional median compensation for comparable administration job titles of public school districts, as determined and published annually by SED. Accordingly, reimbursement of employee compensation for these job titles shall not exceed the median compensation paid to comparable personnel in regional public schools for similar work and hours of employment.

The salaries that CFDS claimed for its Executive Director and two Assistant Executive Directors exceeded SED's median compensation for these positions. Based on these limits, we identified \$8,656 in non-reimbursable compensation allocated to the Programs. (Note: Prior to our audit, SED adjusted the amount of executive salary costs reported by CFDS.)

### **Non-Personal Service Costs**

We identified \$16,627 in non-personal service costs that did not meet the Manual's requirements for reimbursement. This included \$8,260 in unsupported vehicle costs, \$4,487 in non-reimbursable gifts and food, and \$3,880 in non-Program-related costs.

#### *Unsupported Vehicle Costs*

According to the Manual, vehicle costs, such as fuel and repairs, are reimbursable if they are supported by vehicle logs that document: the date, time of travel, to and from destinations, mileage between each, purpose of travel, and name of the traveler. CFDS claimed \$8,260 in costs related to ten Program vehicles; however, CFDS's vehicle logs did not meet the minimum requirements specified in the Manual. Specifically, we found the vehicle logs were missing the date, time of travel, to and from destinations, mileage between each trip, the purpose of the travel, and the name of the traveler. Therefore, the reported costs are non-reimbursable. The non-reimbursable costs included the following:

- \$4,501 for tolls, gas, and vehicle maintenance;
- \$2,633 for vehicle depreciation;
- \$1,049 for insurance; and
- \$77 for interest expense related to vehicle financing.

#### *Non-Reimbursable Gifts and Food*

According to the Manual, gifts and food for staff are non-reimbursable. We identified \$4,487 in costs that CFDS claimed on its CFR for gifts and food for staff. Therefore, the reported costs are non-reimbursable. (Note: Prior to the audit, SED adjusted \$527 of the costs we identified.)

### *Non-Program-Related Costs*

According to the Manual, costs will be considered for reimbursement provided such costs are directly related to the special education program and are reasonable and necessary. We identified \$3,880 in costs that were not in compliance with these guidelines. Specifically, CFDS claimed \$3,243 for costs that were not related to the Programs as a result of a clerical error. Additionally, CFDS claimed \$637 in overcharges that one of its direct care contractors improperly billed to CFDS.

## **Recommendations**

### **To SED:**

1. Review the disallowances identified by our audit and make the necessary adjustments to the costs reported on CFDS's CFR and to CFDS's tuition reimbursement rates, as appropriate.
2. Remind CFDS officials of the pertinent SED guidelines that relate to the deficiencies we identified.

### **To CFDS:**

3. Ensure that costs reported on annual CFRs fully comply with SED's requirements, and communicate with SED to obtain clarification as needed.

## **Audit Scope and Methodology**

We audited the costs CFDS reported on its CFR for the calendar year ended December 31, 2013. The objective of our audit was to determine whether the reported costs were allowable, properly calculated, and adequately documented in accordance with applicable SED requirements.

To accomplish our objective, and assess internal controls related to our objective, we interviewed SED officials to obtain an understanding of the CFR and the policies and procedures contained in SED's guidelines. We interviewed CFDS officials and staff to obtain an understanding of their financial practices relating to the expenses reported on CFDS's CFR. We reviewed CFDS's CFR for the year ended December 31, 2013, as well as its audited financial statements for the same period. We visited and performed observations at one of the preschool facilities in operation. We reviewed a judgmental sample of Program costs to determine whether they were supported, Program appropriate, and reimbursable. The sample included selected high-cost items as well as selected items only reimbursable in limited circumstances, such as food and staff award expenses.

We conducted our performance audit in accordance with generally accepted government auditing standards. These standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. We believe that the evidence obtained provides a reasonable basis for our



findings and conclusions based on our audit objective.

In addition to being the State Auditor, the Comptroller performs certain other constitutionally and statutorily mandated duties as the chief fiscal officer of New York State. These include operating the State's accounting system; preparing the State's financial statements; and approving State contracts, refunds, and other payments. In addition, the Comptroller appoints members 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 functions do not affect our ability to conduct independent audits of program performance.

## Authority

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The audit was performed pursuant to the State Comptroller's authority under Article V, Section 1 of the State Constitution; Article II, Section 8 of the State Finance Law; and Section 4410-c of the State Education Law.

## Reporting Requirements

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We provided a draft copy of this report to SED and CFDS officials for their review and formal comment. We considered their comments in preparing this report and have included them in their entirety at the end of it. In their response, SED officials agreed with our audit recommendations and indicated the actions they will take to address them. In their response, CFDS officials disputed our proposed disallowances pertaining to certain bonuses, executive compensation, and vehicle costs. Our rejoinders to comments by CFDS on these matters are included in the report's State Comptroller's Comments.

Within 90 days of the final release of this report, as required by Section 170 of the Executive Law, the Commissioner of 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 recommendations contained herein and, where recommendations were not implemented, the reasons why.

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## Contributors to This Report

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**Andrea Inman**, Audit Director  
**David Fleming**, Audit Manager  
**Daniel Towle**, Audit Supervisor  
**Jessica Turner**, Examiner-in-Charge  
**Suzette Millard**, Senior Examiner  
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## Division of State Government Accountability

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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

**Center for Disability Services  
Schedule of Submitted and Disallowed Program Costs  
Calendar Year 2013**

| <b>Program Costs</b>               | <b>Amount Submitted Per CFR</b> | <b>Amount Disallowed</b> | <b>Amount Remaining</b> | <b>Notes to Exhibit</b> |
|------------------------------------|---------------------------------|--------------------------|-------------------------|-------------------------|
| Personal Services                  |                                 |                          |                         |                         |
| Direct Care                        | \$3,893,559                     | \$50,923                 | \$3,842,636             |                         |
| Agency Administration              | 147,110                         | 14,031                   | 133,079                 |                         |
| <b>Total Personal Services</b>     | <b>\$4,040,669</b>              | <b>\$64,954</b>          | <b>\$3,975,715</b>      | A,B                     |
| Non-Personal Services              |                                 |                          |                         |                         |
| Direct Care                        | \$669,619                       | \$16,100                 | \$653,519               |                         |
| Agency Administration              | 60,264                          | 527                      | 59,737                  |                         |
| <b>Total Non-Personal Services</b> | <b>\$729,883</b>                | <b>\$16,627</b>          | <b>\$713,256</b>        | C-G                     |
| <b>Total Program Costs</b>         | <b>\$4,770,552</b>              | <b>\$81,581</b>          | <b>\$4,688,971</b>      |                         |

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## Notes to Exhibit

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The following Notes refer to specific sections of the Manual that we used as a basis for our recommended disallowances. We summarized the applicable sections to explain the basis for each disallowance. We provided the details supporting our recommended disallowances to SED and CFDS officials during the course of the audit.

- A. Manual Section II.13.A.10 - A merit award (or bonus compensation) shall mean a non-recurring and non-accumulating (i.e., not included in base salary of subsequent years) lump sum payment in excess of regularly scheduled salary, which is not directly related to hours worked. A merit award may be reimbursed if it is based on merit, as measured and supported by employee performance evaluations and does not exceed three and a half percent of the base salary of the direct care employee who is receiving the merit award. In addition, merit awards: are restricted to direct care titles/employees as defined by the Reimbursable Cost Manual's Appendix A-1 and those in the 100 job code series as defined by the Consolidated Fiscal Report's Appendix R.
- B. Manual Section II.13.A.4.a - Compensation (i.e., salaries plus fringe benefits) for an entity's staff whose function is that of Executive Director, Assistant Executive Director or Chief Financial Officer will be directly compared to the regional median compensation for comparable administration job titles of public school districts, as determined and published annually by the Department's Basic Educational Data Systems (BEDS). Reimbursement of employee compensation for these job titles shall not exceed the median compensation paid to comparable personnel in public schools for similar work and hours of employment in the region in which the entity is located. Compensation for an "Executive Director" providing services to an Article 81 and/or Article 89 funded program will be compared to the median "Superintendent-Independent" compensation for the region in which the entity is located and compensation for an Assistant Executive Director or Chief Financial Officer will be compared to the median compensation for "Assistant Superintendent."
- C. Manual Section III.1.J.2 - Vehicle use must be documented with individual vehicle logs that include at a minimum: the date, time of travel, to and from destinations, mileage between each, and purpose of travel and name of traveler. If the vehicle was assigned to an employee, also list the name of the employee to whom it was assigned. The annual mileage for program purposes and repairs and maintenance costs for each vehicle should be summarized and maintained.
- D. Manual Section II.20.B - All personal expenses, such as personal travel expenses, laundry charges, beverage charges, gift certificates to staff and vendors, flowers or parties for staff, holiday parties, repairs on a personal vehicle, rental expenses for personal apartments, etc., are not reimbursable unless specified otherwise in this Manual.
- E. Manual Section II.24 - Gifts of any kind are non-reimbursable.
- F. Manual Section II.22.C - Costs of food provided to staff including lunchroom monitors are not reimbursable.
- G. Manual Section II - Costs will be considered for reimbursement provided such costs are reasonable, necessary, directly related to the special education program and are sufficiently documented.

# 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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April 21, 2016

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

Dear Ms. Inman:

The following is the New York State Education Department's (Department) response to the draft audit report, 2015-S-40, Compliance with the Reimbursable Cost Manual: Center for Disability Services (CFDS).

**Recommendation 1:** Review the disallowances identified by our audit and make the necessary adjustments to the costs reported on CFDS's CFR and to CFDS's tuition reimbursement rates, as appropriate.

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

**Recommendation 2:** Remind CFDS officials of the pertinent SED guidelines that relate to the deficiencies we identified.

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

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

Sincerely,

*Sharon Cates-Williams*  
Sharon Cates-Williams

c: Pat Geary  
Suzanne Bolling

# Agency Comments - Center for Disability Services



April 22, 2016

Ms. Andrea Inman  
Audit Director  
Office of the State Comptroller  
110 State Street – 11<sup>th</sup> Floor  
Albany, NY 12236-0001

Dear Ms. Inman:

The following is the Center for Disability Services response to the draft Audit Report 2015-S-40, Compliance with the Reimbursement Cost Manual:

## Personal Service Costs

### *Non Reimbursable Bonuses*

We do not dispute that the disallowance of \$34,395 for bonuses paid to our direct care staff exceeded the allowable three and a half percent of the employees' base salary. However, CFDS was unable to give our preschool employees a salary increase for many years, due to no growth factor in the preschool rate since 2009. This also puts the agency in a difficult position as public schools have annual increases and STEP programs. CFDS values our preschool employees and believes giving the employees that earned a practical (5%) bonus will help maintain a dedicated workforce and is in keeping with our Governor's belief of a fair wage for all hard working staff.

Regarding the \$12,959 in bonuses paid to employees in non eligible position title codes, we agree as noted above, these bonuses were not in accordance with the manual, however we chose to recognize staff in all programs equally and not to differentiate their treatment based on funding source.

The \$8,944 in bonuses paid to employees who did not have performance evaluations (1%) at the time bonuses were awarded is not in accordance with the manual, however, at less than 1% of staff is an isolated occurrence and should be reinstated.

### *Compensation above the Regional Median for the Executive and Assistant Executive Directors*

The median salary review/analysis is performed annually by SED's rate setters. This analysis will be again performed by SED staff when rates are established based on the final audit findings. Therefore, we believe this finding is duplicative and unnecessary, and are requesting that this disallowance be removed and resolved through the already established rate setting process. Furthermore, setting the rate of executive compensation for the President and CEO of a multi-dimensional organization to the median salary of a regional superintendent is not an appropriate comparison of executive compensation in the case where a pre-school makes up only a small part of a multi-dimensional organizations operation. The comparable position is the Deputy Executive Director of Educational

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Comment

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Comment

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\*See State Comptroller's Comments, Page 15

Services who oversees all education services in the agency. This Executive's compensation is less than the salary for the regional superintendent

#### Non-Reimbursable Service Costs

##### *Unsupported Vehicle Costs*

We do not dispute the RCM requirements regarding vehicle logs and we agree that when vehicles are assigned to individual employees the requirements in the RCM are reasonable. CFDS does not assign the vehicle in question to individual employees, or even individual programs, but rather CFDS owns and has vehicles available for maintenance staff in order to perform routine business operations such as the maintenance staff moving from property to property, using vehicles for trips to hardware vendors, plumbing supply houses, etc. CFDS allocates related vehicle expenses for this maintenance vehicle based on the allocation of facility square footage. We believe this method is both accurate and efficient. We recommend that the RCM be amended to reflect a more practical requirement for reporting related costs for vehicles used and assigned in this manner, especially for buildings that provide services to individuals funded by state agencies other than the State Education Department. We believe these costs should be reinstated.

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Comment  
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##### *Non-Reimbursable Gifts and Food*

We do not dispute that the RCM does not consider these costs allowable. However, the CFR manual which is used by three other State Agencies considers these types of expenditures reimbursable. CFDS operates programs for DOH, OMH, OPWDD, as well as for SED. CFDS believes staff recognition is critical in maintaining a dedicated workforce. We chose to recognize staff in all programs equally and not to differentiate their treatment based on funding source. We have no further comment on this finding.

##### *Non-Program-Related Costs*

We do not dispute the preliminary finding that \$3,880 is not reimbursable.

We would like to thank the Audit Team for their courtesy and professionalism. If you have further questions regarding this response, please contact Joyce Gabriele, Internal Auditor at (518)944-2132 or Laura Wells, Compliance Officer at (518)944-2129.

Sincerely,

Gregory J Sorrentino  
Chief Operating Officer and Chief Financial Officer  
Center for Disability Services, Inc  
22 Corporate Woods Blvd, 5<sup>th</sup> floor  
Albany, NY 12211

Cc: Seamus Keating, Associate, Shenker Russo & Clark LLP

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## State Comptroller's Comments

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1. CFDS can pay staff bonuses as deemed appropriate. However, for SED rate-setting purposes, amounts not eligible for reimbursement per the Manual cannot be charged through the CFR to the Programs. We, therefore, maintain that the amounts in question should be disallowed.
2. As noted on page 6 of our report, SED adjusted the amount of executive salary costs reported by CFDS prior to the audit. Furthermore, we appropriately compared the compensation of CFDS's executive staff to the regional median salaries of Superintendents and Assistant Superintendents, in accordance with the Manual. We present the issue to acknowledge the ineligible costs in question and also to preclude any double-counting of the corresponding disallowance.
3. We based our recommended disallowances on the requirements in effect for the audit period. CFDS officials acknowledge the Manual's requirements regarding vehicle logs, and CFDS does not dispute that vehicle logs were missing the date, time of travel, to and from destinations, mileage between each trip, the purpose of the travel, and the name of the traveler. We, therefore, maintain that the costs in question should be disallowed.