



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

Division of State Government Accountability

Compliance With the Reimbursable Cost Manual

**State Education Department
Infant and Child Learning Center -
The Research Foundation for the
State University of New York**



Report 2017-S-22

June 2018

Executive Summary

Purpose

To determine whether the costs reported by Infant and Child Learning Center - The Research Foundation for the State University of New York (ICLC) on its Consolidated Fiscal Reports (CFRs) were reasonable, necessary, directly related to the special education program, and sufficiently documented pursuant to the State Education Department's (SED) Reimbursable Cost Manual (RCM). The audit focused primarily on expenses claimed on ICLC's CFR for the fiscal year ended June 30, 2015 and certain expenses claimed on its CFRs for the two fiscal years ended June 30, 2014.

Background

ICLC is a Brooklyn, New York-based organization approved by SED to provide preschool special education services to children with disabilities who are between the ages of three and five years. During our audit period, ICLC operated full-day and half-day Special Classes, full-day Special Class in an Integrated Setting, and Special Education Itinerant Teacher programs. For purposes of this report, these programs are referred to as the SED preschool cost-based programs. ICLC also operated three other SED-approved preschool special education programs: Evaluations, Related Services, and 1:1 Aides. However, payments for services under these programs are based on fixed fees. In addition, ICLC operated a day care program and a Department of Health-funded Early Intervention program. In 2011, the State University of New York Downstate Medical Center purchased the Long Island College Hospital, including its preschool – the Stanley S. Lamm Institute Preschool (Lamm). Lamm's costs are reported on ICLC's CFRs.

During the 2014-15 school year, ICLC served about 291 students. The New York City Department of Education (DoE) refers students to ICLC and pays for its services using rates established by SED. The rates are based on the financial information ICLC reports to SED on its annual CFRs. The DoE is reimbursed by SED for a portion of its payments to ICLC. For the three fiscal years ended June 30, 2015, ICLC reported approximately \$19.1 million in reimbursable costs for its SED cost-based preschool special education programs.

Key Findings

For the three fiscal years ended June 30, 2015, we identified \$1,727,960 in reported costs that did not comply with the requirements in the RCM, as follows:

- \$1,519,114 in improperly calculated parent agency administrative allocation costs;
- \$99,276 in insufficiently documented and/or undocumented costs;
- \$68,537 in ineligible fringe benefits, including \$46,906 in vacation and sick leave costs and \$21,631 in Metropolitan Commuter Transportation Mobility Taxes;
- \$25,606 in personal service expenses, including \$12,994 in excess staffing expenses and \$12,612 in ineligible bonuses; and
- \$15,427 in other ineligible other than personal service expenses.

Key Recommendations

To SED:

- Review the recommended disallowances resulting from our audit and make the appropriate adjustments to ICLC's CFRs and tuition reimbursement rates, as warranted.
- Work with ICLC officials to ensure their compliance with SED's reimbursement requirements.

To ICLC:

- Ensure that costs reported on future CFRs comply with SED's reimbursement requirements.

Other Related Audits/Reports of Interest

[Birch Family Services, Inc.: Compliance With the Reimbursable Cost Manual \(2016-S-74\)](#)

[Kennedy Child Study Center: Compliance With the Reimbursable Cost Manual \(2017-S-7\)](#)

State of New York
Office of the State Comptroller

Division of State Government Accountability

June 6, 2018

Ms. MaryEllen Elia
Commissioner
State Education Department
State Education Building - Room 125
89 Washington Avenue
Albany, NY 12234

Ms. Kathy McCormick
Executive Director
Infant and Child Learning Center -
The Research Foundation for the
State University of New York
670 Parkside Avenue
Brooklyn, NY 11226

Dear Ms. Elia and Ms. McCormick:

The Office of the State Comptroller is committed to helping State agencies, public authorities, and local government agencies manage their resources efficiently and effectively and by so doing, providing accountability for the 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 expenses submitted by the Infant and Child Learning Center to the State Education Department for the purposes of establishing the tuition reimbursement rates. 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 draft 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

The Infant and Child Learning Center (ICLC) is approved by the State Education Department (SED) to provide full-day and half-day Special Classes (SC), full-day Special Class in an Integrated Setting (SCIS), and Special Education Itinerant Teacher (SEIT) preschool special education programs to children with disabilities who are between the ages of three and five years. ICLC is a component of the Research Foundation for the State University of New York (Research Foundation) – a not-for-profit education corporation serving the State University of New York. In May 2011, the State University of New York Downstate Medical Center purchased the Long Island College Hospital, including its special education preschool – the Stanley S. Lamm Institute Preschool (Lamm). Lamm also offers SC and SCIS preschool special education programs. ICLC and Lamm are located in Brooklyn, New York. For purposes of this report, ICLC and Lamm’s SC, SCIS, and SEIT preschool special education programs are collectively referred to as SED’s cost-based programs.

In addition to the SED cost-based programs, ICLC operates three other SED-approved preschool special education programs: Evaluations, Related Services, and 1:1 Aides. However, payments for services under these programs are based on fixed fees, as opposed to the cost-based rates established through financial information reported on the annual Consolidated Fiscal Reports (CFRs) ICLC files with SED – ICLC’s CFRs include Lamm’s preschool special education costs. In addition, ICLC operates a day care program and an Early Intervention program funded through the Department of Health.

The New York City Department of Education (DoE) refers students to ICLC based on clinical evaluations and pays for its services using rates established by SED. The rates are based on the financial information ICLC reports to SED on its annual CFRs. To qualify for reimbursement, ICLC expenses must comply with the criteria set forth in SED’s Reimbursable Cost Manual (RCM) and Consolidated Fiscal Reporting and Claiming Manual (CFR Manual), which provide guidance to special education providers on the eligibility of reimbursable costs, the documentation necessary to support these costs, and cost allocation requirements for expenses relating to multiple programs. The State reimburses the DoE 59.5 percent of the statutory rate it pays to ICLC.

Section 4410-c of the Education Law provides that the State Comptroller shall audit the expenses reported to SED by special education service providers for preschool children with disabilities. For the three fiscal years ended June 30, 2015, ICLC reported approximately \$19.1 million in reimbursable costs for the SED cost-based programs. During the 2014-15 school year, ICLC served about 291 students. This audit focused primarily on expenses claimed on ICLC’s CFR for the fiscal year ended June 30, 2015, and included certain expenses claimed on its CFRs for the two fiscal years ended June 30, 2014.

Audit Findings and Recommendations

According to the RCM, costs will be considered for reimbursement provided such costs are reasonable, necessary, directly related to the special education program, and sufficiently documented pursuant to the guidelines in the RCM. For the three fiscal years ended June 30, 2015, we identified \$1,727,960 in reported costs that did not comply with SED's requirements for reimbursement. The ineligible costs included \$95,678 in personal service costs, \$113,168 in other than personal service (OTPS) costs, and \$1,519,114 in insufficiently documented parent agency administration allocation costs (see Exhibit at the end of this report).

Personal Service Costs

According to the RCM, personal service costs, which include salaries and fringe benefits paid or accrued to employees on the agency's payroll, must be reported on the provider's CFR as either direct care costs (e.g., teachers' salaries) or non-direct care costs (e.g., administrators' salaries). For the three fiscal years ended June 30, 2015, ICLC reported approximately \$12.6 million in personal service costs for its SED cost-based programs. We identified \$95,678 in personal service costs that did not comply with the RCM's guidelines for reimbursement.

Ineligible Fringe Benefits

According to the RCM, fringe benefits may include vacation leave, sick leave, holidays, etc. Vacation and sick leave costs can be claimed for reimbursement in the year they are actually paid and reported. According to the RCM, payment of the Metropolitan Commuter Transportation Mobility Tax (MTA Tax) is reimbursable. In addition, the CFR Manual requires the MTA Tax to be reported as Other OTPS costs on the CFR. Our review identified \$68,537 in ineligible costs that were claimed as fringe benefits, as follows:

- \$46,906 in vacation and sick leave costs were allocated to ICLC from the Research Foundation. However, no documentation was provided to show that these costs were incurred for/paid to ICLC employees.
- \$21,631 in MTA Taxes were allocated to ICLC from the Research Foundation and reported as fringe benefits on ICLC's CFRs. MTA taxes should be reported as Other OTPS expenses rather than fringe benefits. In addition to the reporting error, ICLC did not provide sufficient documentation to show that these taxes were applicable to the preschool special education cost-based programs.

Consequently, we recommend that SED disallow \$68,537 (\$46,906 in vacation and sick leave and \$21,631 in MTA Taxes) that did not comply with SED's requirements for reimbursement.

Ineligible Bonuses

According to the RCM, a bonus is 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 bonus may be reimbursed if it is based on merit as measured and supported by employee performance evaluations. For the fiscal year ended June 30, 2015, we determined that \$12,612 in bonus compensation did not comply with the RCM's requirements, as follows:

- \$7,092 (\$5,116 in salaries and \$1,976 in fringe benefits) in bonus compensation for three employees (two psychologists and one teacher assistant). The documents (evaluations) provided in support of the bonuses were not signed or dated. Consequently, it could not be determined if the bonuses were based on merit as required by the RCM. One of the three employees is no longer employed by ICLC. ICLC officials offered to prepare replacement evaluations for the two remaining employees and to have the evaluations signed and backdated. ICLC officials later provided signed and dated evaluations for the two current employees. However, these evaluations did not meet the RCM's requirements, as they were prepared after the bonuses were paid.
- \$5,520 (\$3,907 in salaries and \$1,613 in fringe benefits) in bonus compensation for a teacher assistant. ICLC could not provide a performance evaluation, as required, to support this payment.

Consequently, we recommend that SED disallow \$12,612 (\$9,023 in salaries and \$3,589 in fringe benefits) in bonus compensation for the four employees because the bonuses did not comply with the guidelines in the RCM.

Excess Staffing Expenses

SED program approval letters establish the direct care student-to-staff ratios under which preschools must operate. According to the RCM, direct care personnel costs in excess of the approved ratios are not reimbursable. For the three fiscal years ended June 30, 2015, we compared teacher and teacher assistant staffing levels reported on ICLC's CFRs with the relevant SED approval letters. We found that, for the three fiscal years, staffing levels exceeded approved levels for the Lamm programs by approximately 0.31 FTEs. Consequently, we recommend that SED disallow \$12,994 (\$9,757 in salaries and \$3,237 in fringe benefits) in excess compensation because it did not comply with the RCM requirements.

Undocumented Personal Service Costs

According to the RCM, final costs are determined upon field audit. Such costs must have adequate substantiating documentation. Moreover, compensation costs (salaries and fringe benefits) must be based on approved and documented payrolls and supported by employee time records.

For the fiscal year ended June 30, 2015, ICLC reported \$1,535 in unsupported compensation costs on its CFR for seven employees (six teacher assistants and one speech pathologist). These costs were not supported by payroll and time and attendance records. Consequently, we recommend that SED disallow the \$1,535 (\$1,129 in salaries and \$406 in fringe benefits) in compensation costs because these costs did not comply with the requirements in the RCM.

Other Than Personal Service Costs

According to the RCM, costs must be reasonable, necessary, directly related to the special education program, and sufficiently documented. For the three fiscal years ended June 30, 2015, ICLC reported approximately \$5 million in OTPS costs for SED's preschool cost-based programs. We identified \$113,168 of those costs that did not comply with SED's reimbursement requirements.

Insufficiently Documented and Ineligible Rent Expenses

According to its lease agreement, Lamm's rent is approximately \$50,000 each month. In addition, the lease requires ICLC to reimburse the landlord for 7.5 percent of the building's custodial, cleaning service, water, and electricity costs. These amounts varied each month and totaled \$158,640 for the three fiscal years ended June 30, 2015.

According to the RCM, final costs are determined upon field audit and will be considered for reimbursement provided that such costs are reasonable, necessary, directly related to the special education program, and sufficiently documented. Our review determined that \$97,741 of the additional rental costs did not comply with the requirements in the RCM, as ICLC did not provide sufficient documentation to show that these costs were related to the Lamm building and the cost-based programs.

Consequently, we recommend that SED disallow the \$97,741 (\$35,806 for 2012-13, \$30,711 for 2013-14, and \$31,224 for 2014-15) because these costs were insufficiently documented and/or unnecessary.

Other Ineligible OTPS Costs

According to the RCM, adequate documentation for reimbursement of consultant costs includes, but is not limited to, the consultant's resume and a written contract that includes the nature of the services to be provided, the charge per day, and service dates. All payments must be supported by itemized invoices that indicate the specific services actually provided and, for each service, the date(s), number of hours provided, the fee per hour, and the total amount charged. In addition, costs must be directly related to the SED preschool special education program in order to be reimbursed.

For the fiscal year ended June 30, 2015, we judgmentally selected and reviewed 62 transactions totaling \$275,563 to determine whether these costs complied with the guidelines in the RCM. Our review determined that \$15,427 in expenses were not reimbursable, as follows:

- \$14,355 in payments to a consultant for Information Technology services. Although the invoices provided by ICLC officials stated "Consultation and Programming," they did not indicate the specific services the vendor performed, and for each service, the number of hours provided and the fee per hour.
- \$957 for Early Intervention program expenses (\$534 for membership fees and \$423

for depreciation costs). Early Intervention is not an SED preschool cost-based special education program.

- \$115 in fingerprinting costs for an individual who did not work for ICLC’s preschool special education cost-based programs.

Consequently, we recommend that SED disallow the \$15,427 because these costs were insufficiently documented and/or were not related to the preschool cost-based special education programs.

Parent Agency Administration Allocation Costs

According to the RCM, costs must be reasonable, necessary, directly related to the special education program, and sufficiently documented. On its CFR for the three fiscal years ended June 30, 2015, ICLC reported approximately \$2.7 million in “parent agency administration allocation” costs and allocated \$1,519,114 of those costs to the SED preschool special education cost-based programs.

The Research Foundation, as ICLC’s parent company, provides a variety of administrative services to ICLC, including payroll processing, human resources functions, and the purchasing of goods and services. According to the RCM, a preschool may claim reimbursement for parent agency administrative costs as long as those costs are not duplicative in nature, provide a direct benefit to the subsidiary, are allocated to all programs on a consistent basis, and are defined as reimbursable in the RCM and the CFR Manual. Such costs are categorized as “parent agency administration allocation” costs and should be reported on schedule CFR-3 line 38.

ICLC officials did not provide adequate documentation to support the \$2.7 million in parent agency administrative costs. The documents provided indicated that the Research Foundation’s administration costs represented about 11 percent of its total operating costs. We acknowledge that some costs may have been incurred. However, ICLC did not provide a list of identifiable administrative costs. Consequently, we were unable to determine if the costs reported by ICLC as “parent agency administration allocation” costs were allocated consistently and reimbursable as per the RCM and CFR Manual.

Consequently, we recommend that SED disallow \$1,519,114, the amount allocated to the SED cost-based programs, because these costs did not comply with the reimbursement requirements.

Recommendations

To SED:

1. Review the recommended disallowances resulting from our audit and make the appropriate adjustments to ICLC’s CFRs and tuition reimbursement rates, as warranted.
2. Work with ICLC officials to ensure their compliance with SED’s reimbursement requirements.

To ICLC:

3. Ensure that costs reported on future CFRs comply with SED's reimbursement requirements.

Audit Scope, Objective, and Methodology

We audited the costs reported on ICLC's CFRs to determine whether they were reasonable, necessary, directly related to the special education program, and sufficiently documented pursuant to SED guidelines. The audit focused primarily on expenses claimed on ICLC's CFR for the fiscal year ended June 30, 2015, and included certain expenses claimed on its CFRs for the two fiscal years ended June 30, 2014.

To accomplish our objective, we reviewed the RCM, the CFR Manual, ICLC's CFRs, and relevant financial and program records for the audit period. In addition, we evaluated the internal controls over the costs claimed on, and the schedules prepared in support of, the CFRs submitted to SED. We also interviewed ICLC officials and staff and Research Foundation officials to obtain an understanding of ICLC's financial and business practices. In addition, we selected and reviewed a judgmental sample of reported costs to determine whether they were supported, program related, and reimbursable. Specifically, we reviewed costs that were considered high risk and reimbursable in limited circumstances, based on prior audit report findings, such as salaries and fringe benefit expenses, OTPS expenses, and parent company costs. Our samples were based on the relative materiality of the various categories of costs reported and their associated level of risk. Our samples were not designed to be projected to the entire population of reported costs. Also, our review of ICLC's internal controls focused on the controls over the CFR preparation process.

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 during our audit provides a reasonable basis for our findings and conclusions.

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; Article II, Section 8 of the State Finance Law; and Section 4410-c of the Education Law.

Reporting Requirements

We provided draft copies of this report to SED and ICLC officials for their review and formal comment. Their comments were considered in preparing this final report and are included at the end of it. In their response, SED officials agreed with our recommendations and indicated that they will take steps to address them. ICLC officials in their response disagreed with most of our proposed disallowances. Our rejoinders to certain comments are embedded within the responses.

Within 90 days of the final release of this report, as required by Section 170 of the Executive Law, the Commissioner of Education shall report to the Governor, the State Comptroller, and the leaders of the Legislature and fiscal committees, advising what steps were taken to implement the recommendations contained herein, and if the recommendations were not implemented, the reasons 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

**Infant and Child Learning Center -
The Research Foundation for the State University of New York
Summary of Submitted and Disallowed Program Costs
for the 2012-13, 2013-14, and 2014-15 Fiscal Years**

Program Costs	Amount per CFR	Amount Disallowed	Amount Remaining	Notes to Exhibit
Personal Services				
Direct Care	\$11,963,567	\$90,191	\$11,873,376	
Agency Administration	615,017	5,487	609,530	
Total Personal Services	\$12,578,584	\$95,678	\$12,482,906	A,C,E-K,N
Other Than Personal Services				
Direct Care	\$4,843,001	\$112,634	\$4,730,367	
Agency Administration	200,906	534	200,372	
Total Other Than Personal Services	\$5,043,907	\$113,168	\$4,930,739	C,J,L,M
Parent Agency Administration Allocation	\$1,519,114	\$1,519,114	\$0	B-D,J,O
Total Program Costs	\$19,141,605	\$1,727,960	\$17,413,645	

Notes to Exhibit

The following Notes refer to specific sections of SED's RCM and the CFR Manual used to develop 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 ICLC officials during the course of our audit.

- A. RCM Section I(6) - Staff-to-student ratios are defined in Part 200 of the Commissioner of Education's (Commissioner) Rules and Regulations. A specific approved program's student-to-staff ratio is also defined in that program's programmatic approval letter from SED's Office of Special Education-Special Education Quality Assurance. Direct care personnel in excess of, or not prescribed by such ratios, are not reimbursable, unless supported by the student's individualized education program (IEP) requirements and the program generated summary data relating to those IEPs. An SED programmatic review and approval of variations from these ratios is required for costs of additional staff to be reimbursable.
- B. RCM Section I(9) - Agency administration is defined as those expenses which are not directly related to the specific program but are attributable to the overall operation of the agency. These cost include: costs for the overall direction of the organization; costs for general recordkeeping, budget and fiscal management; costs for public relations (non-fundraising); and costs for parent agency expenditures.
- C. RCM Section II - Generally, costs will be considered for reimbursement provided such costs are reasonable, necessary, directly related to the education program and are sufficiently documented.
- D. RCM Section II(10) - Charges to programs receiving administrative services, insurance, supplies, technical consultants, etc. from a parent or related organization are reimbursable provided they are not duplicative in nature, provide a direct benefit to subsidiary charged and based on actual direct and indirect costs, allocated to all programs on a consistent basis and defined as reimbursable in the Regulations of the Commissioner, the CFR Manual or the RCM.
- E. RCM Section II(13) - Compensation for personal services includes all salaries and wages as well as fringe benefits and pension plan costs.
- F. RCM 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.
- G. RCM Section II(13)(B)(1) - Fringe benefits may include paid time off, such as vacation leave, sick leave, military leave, holidays, training and educational costs, provided the benefit is established by written school policy.
- H. RCM Section II(13)(B)(2)(a) - Vacation and sick leave are reimbursable in the year actually paid and reported as a salary expense.
- I. RCM Section II(56)(C) - Payments for Metropolitan Commuter Mobility Tax under Chapter 25 of the Laws of 2009 are reimbursable within the parameters of the tuition rate-setting methodology.

- J. RCM Section III(1) - Costs will not be reimbursable on field audit without appropriate written documentation of costs.
- K. RCM Section III(1)(A) - Compensation costs must be based on approved, documented payrolls. Payroll must be supported by employee time records prepared during, not after, the time period for which the employee was paid. Employee time sheets must be signed by the employee and a supervisor, and must be completed at least monthly.
- L. RCM Section III(1)(C)(2) - Adequate documentation includes, but is not limited to, the consultant's resume, a written contract which includes the nature of the services to be provided, the charge per day and service dates. All payments must be supported by itemized invoices which indicate the specific services actually provided; and for each service, the date(s), number of hours provided, the fee per hour; and the total amount charged.
- M. RCM Section III(1)(D) - All purchases must be supported with canceled checks and invoices listing items purchased, date of purchase and date of payment.
- N. CFR Manual Page 8.17 - The Metropolitan Commuter Mobility Tax should be reported as Other OTPS on CFR-1 and/or CFR-3, as appropriate.
- O. CFR Manual Page 15.1 - The CFR-3 schedule is used to report and allocate the administrative costs that are not directly related to specific programs/sites but are attributable to the overall operation of the agency.

State Education Department and State Comptroller's Comments



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

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April 18, 2018

Mr. Kenrick Sifontes
Audit Director
Division of State Government Accountability
NYS Office of the State Comptroller
59 Maiden Lane, 21st Floor
New York, NY 10038

Dear Mr. Sifontes:

The following is the New York State Education Department's (SED) response to the draft audit report, 2017-S-22, Compliance with the Reimbursable Cost Manual: Infant and Child Learning Center (ICLC).

Recommendation 1:

Review the recommended disallowances resulting from our audit and make the appropriate adjustments to ICLC's CFRs and tuition reimbursement rates, as warranted.

We agree with this recommendation; provided that if ICLC is part of the Research Foundation and does not have a parent/child relationship, different standards of the Consolidated Fiscal Report (CFR) manual and the Reimbursable Cost Manual (RCM) may apply. This determination will impact what is allowable in terms of agency administration reimbursement and fringe benefits.

State Comptroller's Comment - The CFRs ICLC submitted to SED for the three fiscal years ended June 30, 2015 did not indicate that ICLC is a component of the Research Foundation for the State University of New York. Moreover, ICLC reported a total of \$2.7 million in "parent agency administration allocation" costs on the three CFRs. In addition, the RCM requires all costs to be sufficiently documented and as stated in the report, ICLC did not provide a detailed list of administration costs.

Furthermore, custodial and cleaning services costs contained as part of a lease agreement may be allowable per the RCM at reasonable cost.

State Comptroller's Comment - ICLC did not provide sufficient documentation to show that these costs were for work performed in the leased building.

With these considerations, SED 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:

Work with ICLC officials to ensure their compliance with SED's reimbursement requirements.

We agree with this recommendation. SED will continue to provide technical assistance whenever requested and will strongly recommend the ICLC officials take advantage of our availability to help them better understand the standards for reimbursement as presented in Regulation and the RCM. Furthermore, CFR training is available online on SED's webpage. SED recommends that all individuals the CFR certification statements, namely Executive Directors and Certified Public Accountants, complete this training. This training is a requirement for preschool special education providers upon approval and reapproval.

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

Yours truly,



Sharon Cates-Williams
Deputy Commissioner

c: Thalia Melendez
Christopher Suriano
Harold Matott
Belinda Johnson
Suzanne Bolling

Infant and Child Learning Center - The Research Foundation for the State University of New York and State Comptroller's Comments



April 24, 2018

Kenrick Sifontes

Office of the State Comptroller
Division of State Government Accountability
59 Maiden Lane – 21 Floor
New York, NY 10038

Re: Audit 2017-S-22

Dear Mr. Sifontes,

Thank you for the opportunity to provide a response to the draft audit report referenced above.

Background

Infant Child Learning Center (ICLC) is not a separate not for profit organization. We request the following corrections to the background information:

ICLC SUNY Research Foundation is a Brooklyn, New York-based not for Profit organization.....

Or

State Comptroller's Comment - The CFRs ICLC filed with SED for the three fiscal years ended June 30, 2015 did not indicate that ICLC was/is a component of the Research Foundation for the State University of New York. However, based on the response to the Draft Report, dated April 24, 2018, we revised our report to reflect that ICLC is a component of the Research Foundation for the State University of New York.

ICLC is a Brooklyn, New York based center reporting to the Pediatrics Department Chair for SUNY Downstate Medical Center, where Grants & Contracts are managed by the SUNY Research Foundation a not for profit organization.....

The Research Foundation did not participate in the purchase of Long Island College. We request the following corrections to the background information:

In 2011, SUNY Downstate Medical Center purchased the Long Island College Hospital.....

State Comptroller's Comment - We revised our report to indicate that the State University of New York Downstate Medical Center purchased the Long Island College Hospital in 2011.

Research Administration / 450 Clarkson Avenue / Brooklyn, New York 11203 / Telephone (718) 270 – 1178 / Fax (718) 270 - 1407

Personal Service Costs:**Ineligible Fringe Benefits**

We disagree. Documentation was provided to show eligible fringe benefit costs and that we did comply with SED's requirements for reimbursement.

According to the CFR Section 13, "service providers may use a fringe benefit rate percentage derived from actual costs on an agency wide basis." Further, Section II of the Reimbursable Cost Manual (RCM) states that "vacation and sick leave are reimbursable in the year actually paid" and "payments for the Metropolitan Commuter Transportation Mobility Tax (MTA Tax) are reimbursable." The MTA Tax is a mandated employer paid tax on behalf of employees working in designated counties per Article 23 of NYS Tax Law.

The Research Foundation (RF) for SUNY uses a fringe benefit pool concept for expenditures and then establishes different employee groups, each of which includes employees with similar fringe benefits entitlements. Once the various employee groups are established, the fringe benefits expenditures of each group are pooled to determine the fringe benefits rate. Under this method, fringe benefits are expensed as a percentage of direct actual salary or wage costs of a program. This is consistent with fringe benefit methodologies of other higher education organizations and federal, state and local governments and conforms to guidelines in both the Reimbursable Cost Manual (RCM) and the Consolidated Fiscal Reporting (CFR).

As part of the documentation requested for the audit, the RF provided the general ledger detail for the fringe benefit pool which included actual costs on an agency wide basis for pooled expenditures such as vacation and sick leave payments and MTA Tax. Fringe benefits mandated by State laws were included in the CFR as part of mandated fringe benefits line 18 of CFR-1 cost code 13200. Further, additional documentation was provided to show actual invoices and payments for sampled fringe costs. The RF corresponding fringe benefit rate has been approved by our federal cognizant agency (Department of Health and Human Services) and was applied consistently across all federal, state and industry programs.

When employment ends, un-used accrued vacation is paid to the terminating employee and funding of the vacation payout is expensed to a fringe benefit pool. Accrued vacation payouts are included in the fringe benefit percentage.

MTA Taxes are included in the fringe benefit percentage. Fringe Benefits mandated by Federal, State and Local laws were included in the Consolidated Fiscal Reporting (CFR) as part of mandated fringe benefits line 18 of CFR-1 cost code 13200. The costs of MTA taxes were not recorded in the other line 40 of CFR-1 cost code 14998. MTA taxes are an allowable fringe benefit costs that were not recorded on the proper line of CFR-1.

In accordance with the CFR and the RCM, the vacation payout at termination and the MTA taxes are allowable costs. A fringe benefit percentage is an acceptable methodology for applying fringe benefit expenses.

State Comptroller's Comment - Section II(13)(B)(2)(a) of the 2014-15 RCM states: "Vacation and sick leave are reimbursable in the year actually paid and reported as a salary expense." Consequently, accrued vacation and sick leave expenses are not reimbursable until actually paid. The Metropolitan Commuter Mobility Tax (MTA Tax) is not a fringe benefit for purposes of Preschool Special Education cost reimbursement. Page 8.17 of the 2014-15 CFR Manual states: "For Full CFR filers, the Metropolitan Commuter Mobility Tax should be reported as Other OTPS on the predefined line in CFR-1, line 40 and/or CFR-3, line 17 as appropriate." Moreover, ICLC could not demonstrate that the accrued vacation and sick leave expenses as well as the MTA Tax were actually paid.

Ineligible Bonus

The Research Foundation procedure is to attach the individual's evaluation form to the requested bonus. The documents were possibly miss-filed, or inadvertently detached from the bonus request.

The personnel file is being maintained electronically to avoid future miss-placement or loss of records.

Excess Staffing Expenses

A Substitute Teacher Assistant/Floater was coded in position 232 "Teacher Assistant" on the CFR but should have been put in position 230 "Teacher Aide/Assistant - Substitute". Her FTE should not be calculated as part of the approved ratios. The correction will restate the claimed costs to be \$95,350 in salary expense for Teacher Assistants at 3.0 FTEs for the Teacher assistant positions in the 9161 program.

Coding error in the CFR.

State Comptroller's Comment - No documentation was provided to support ICLC's assertion that there was a coding error.

Undocumented Personal Service Costs

Clerical error in the reporting of the hours worked on the CFR.

State Comptroller's Comment - No documentation was provided to support ICLC's assertion that there was a clerical error.

Other Than Personal Service CostsInsufficiently Documented and Ineligible Rent Expense

We disagree. Sufficient documentation was provided to show that these costs benefited the Lamm building and cost based programs, were necessary and consistent with the requirements in the RCM.

State Comptroller's Comment - The documentation provided by ICLC was insufficient to demonstrate that the costs actually benefited the Lamm building and the cost-based programs.

RCM Section 11.39 Purchased Services states that "fees paid to independent contractors, such as payments for garbage pickup, upkeep of ground . . . are reimbursable." Additionally, Section 11.60 Utilities states "costs of . . . fuel, . . . are reimbursable provided that these costs are not included in the lease agreement. Such costs must be . . . allocated on a reasonable basis". Further, the corresponding documentation standard for the above would fall under RCM Section II1.D "Purchases" which includes what was purchased, date of purchase and date of payment only."

As tenant in the Lamm building, the RF lease agreement with the property-owner requires us to pay for services to maintain the facility and to provide utilities at 7.5% of actual costs. Since the cost of cleaning services and other building maintenance overhead expenses cannot be directly assigned to a single cost objective, the charges are allocated based on the square footage of the cost based programs, consistent with RCM Section M and reasonableness standard. The utilities include specifically water and electricity. Additionally, the utilities clause in the lease

agreement indicates heat will be provided but does not specify if the heat provided will be by oil, gas, or electricity. The lease was established in 2008 prior to the Research Foundation assuming responsibility for the Children's Center.

As part of the documentation requested for the audit, the RF provided the invoices for selected costs that included services purchased, the date of services and date of payment, as prescribed in the RCM standards. The request by the auditors for additional documentation, such as cleaning employee time records and breakdown of the hours spent cleaning on each floor, were inconsistent with the requirements outlined in the RCM guidelines for purchased services. The auditor's initial observation to us on October 18, 2017, was based on a documentation standard under RCM Section 3.1.(c) 2 for consultants (*or professional services*), which did not apply in this circumstance. Further, the additional documentation requested were for records maintained by the independent contractor for which the RF does not control or have the right to access.

We disagree with the recommendation disallow portions of the costs covered by the lease agreement.

State Comptroller's Comment - Upon further review of available information, we revised our report and allowed the previously disallowed \$4,319 in oil costs. However, we continue to maintain that the \$97,741 in custodial and cleaning service costs were insufficiently documented and are therefore not reimbursable.

Other ineligible OTPS Costs

The Research Foundation Grant Manager and the ICLC Administrative staff will insure that all future expenses are documented, allowable and allocable to the program.

Parent Agency Administration Allocation Costs

We disagree. Sufficient documentation was provided to support the administrative costs related to the cost based programs and complied substantially with the requirements in the CFR and RCM.

State Comptroller's Comment - The documentation provided was insufficient to meet the requirements of the RCM and the CFR Manual for reimbursement.

The parent agency costs requirements in the RCM are not applicable in the circumstance. The Infant Child Learning Center (ICLC) is not separately incorporated, does not have a tax identification number and is not a legal subsidiary of the Research Foundation. The cost based programs at the ICLC location are administered wholly by the Research Foundation for SUNY. The applicable standard for these costs falls under agency administration, which is defined in the RCM as "expenses which are not directly related to a specific program but attributable for to the overall operation of the agency." Agency administration costs are reimbursable per RCM Section II.

According to the CFR Section 15, agency administration costs must be allocated to each applicable program. NYSED uses the ratio value (R/V) method to determine the reasonableness of a rate, which takes the total agency administration costs and divides it by total agency operating costs (i.e. *direct personal services, fringe benefits and OTPS*). Similarly, the RF has an approved overhead rate or Facilities and Administrative Rate (F&A Rate). F&A is the mechanism used by higher education institutes to reimburse for the administrative support costs associated with sponsored programs that cannot be directly assigned to a specific cost objective. It is calculated as a percentage of administrative costs divided by the total direct operating costs of sponsored and other activities. The F&A rate for the RF is reviewed and approved by our federal cognizant, Department of Health and Human Services (DHHS), and is based on actual incurred costs. Therefore, the allocation of administrative costs by the RF concurs with the methodology prescribed in the (RCM) and (CFR).

As part of the documentation requested for the audit, the RF provided a copy of the RF Financial Statements for the Period ending June 30, 2015 to represent the total costs of the organization and total administrative costs, the allocation of RF administrative costs to each campus, the allocation of RF Downstate campus costs and the approved campus F&A rate by DHHS.

State Comptroller's Comment - As stated in our report, the provider did not provide a list of its administrative costs. Consequently, we could not conclude that the reported costs complied with the reimbursement requirements in the RCM and the CFR Manual.

Summary

Personal Service Costs,

Ineligible Fringe Benefits,
 Vacation Payout at Termination, Disagree
 MTA Taxes, Disagree Coding Error
 Ineligible Bonus, Agree
 Excess Staffing Expenses, Disagree coding error
 Undocumented Personal Service Costs, Disagree coding error

Other Than Personal Service Costs

Insufficiently Documented and Ineligible Rent Expense, Disagree
 Other ineligible OTPS Costs, Agree
 Parent Agency Administration Allocation Costs, Disagree

Thank you

Sincerely:



Joseph Barabino
 Associate Vice President for Research Administration
 Research Foundation at Downstate Medical Center

References:

Reimbursable Cost Manual**"10. Charges from Parent or Related Organizations**

Charges to programs receiving administrative services, insurance, supplies, technical consultants, etc. from a parent or related organization are reimbursable provided they are not duplicative in nature, provide a direct benefit to subsidiary charged and based on actual direct and indirect costs, allocated to all programs on a consistent basis and defined as reimbursable in the Regulations of the Commissioner of Education, the CFR Manual or this Manual."

"9. Agency Administration

Agency administration is defined as those expenses which are not directly related to a specific program but are attributable to the overall operation of the agency. These costs include: costs for the overall direction of the organization; costs for general recordkeeping, budget and fiscal management; costs for public relations (non-fundraising); and costs for parent agency expenditures."

Reimbursement of fringe benefit expenses shall be subject to the following principles:

- a. Vacation and sick leave are reimbursable in the year actually paid and reported as a salary expense. Accrued vacation and sick leave expenses are not reimbursable until actually paid.

Consolidated Fiscal Reporting (CFR)**"Parent Agency Administration Allocation:**

The allocation of administration expense of a parent organization incurred in providing support and/or direction to its separately incorporated subsidiary agencies. Supporting documentation for the parent agency administration allocation should be sent with the certification pages to each funding/certifying State Agency. Supporting documentation must include: total parent organization cost, total allocated cost to all subordinate agencies of the parent organization and the basis used to allocate the cost to its subordinate agencies. If all necessary documentation is not submitted, the cost will be excluded from allowable cost."

Fringe Benefits

"Note: Service providers may use actual fringe benefits or a fringe benefit percentage derived from Actual costs on an agency wide or program specific basis

LEASE

ARTICLE 10 UTILITIES

10.1 **Landlord shall provide heat**, as provided below, from the existing **fixtures, water and electric for the Tenants reasonable use of the Premises, Except as provided herein, Landlord shall be under no duty to provide any other service or utility. Heat shall be provided on all days and hours that Tenant is operational. If the outside temperature is below 55 degrees Fahrenheit, the inside temperature shall not fall below 68 degrees Fahrenheit.**