

ALAN G. HEVESI
COMPTROLLER



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STATE OF NEW YORK
OFFICE OF THE STATE COMPTROLLER

September 29, 2005

Mr. Frederick Abston
Chairman, Board of Directors
East Bronx Day Care Center
1480 East Avenue
Bronx, NY 10462

Mr. Richard P. Mills
Commissioner
New York State Education Department
State Education Building
Albany, NY 12234

Re: East Bronx Day Care Center
Report 2003-S-22

Dear Mr. Abston and Mr. Mills:

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, we audited the cost and enrollment information reported to the State Education Department (SED) on the Consolidated Financial Report (CFR) submitted by the East Bronx Day Care Center (East Bronx) for its Pre-School Center Based (9100) and Pre-School Integrated (9160) programs. Our audit covered the CFRs submitted for the three years ended June 30, 2002.

A. Background

East Bronx is located in the Parkchester section of the Bronx, and it provides a variety of community services, including pre-school and day care services for children in the Bronx, New York. During the fiscal year that ended on June 30, 2002, East Bronx operated 12 programs, including the two pre-school special education programs addressed by our audit, the Pre-School Center Based (code 9100) and Pre-School Integrated (code 9160) programs in which 72 children were enrolled. East Bronx is governed by a seven-member Board of Directors; an Executive Director is responsible for its day-to-day management.

Children are placed in the 9100 program and the 9160 program by the New York City Department of Education (DoE). DoE pays tuition based on rates established by SED. The rates are designed to allow East Bronx to recover its cost of operating the programs, within guidelines set by SED's *Reimbursable Cost Manual* (Manual). The Manual also sets requirements regarding the

adequacy of accounting records, back up documentation and how administrative costs should be allocated amongst all of an agency's programs. The Manual sets allowable limits for certain costs. SED reimburses DoE for about 50 percent of the tuition paid to East Bronx.

For the three years ended June 30, 2002, East Bronx reported total expenditures of over \$5.0 million for the two programs we audited. The table below summarizes the expenditures by program and year.

	Reported Program Costs		
Fiscal Year	Pre-School Center Based (9100)	Pre-School Integrated (9160)	TOTALS
1999-2000	\$1,064,472	\$ 630,826	\$1,695,298
2000-2001	\$1,143,560	\$ 607,426	\$1,750,986
2001-2002	\$1,092,112	\$ 505,977	\$1,598,089
TOTAL	\$3,300,144	\$1,744,229	\$5,044,373

B. Audit Scope, Objectives and Methodology

We audited the costs and enrollment information reported by East Bronx for its Pre-School Center Based 9100 program and the Pre-School Integrated 9160 program on the CFRs submitted to SED for the three years ended June 30, 2002. The objectives of our audit were to determine whether the costs reported by East Bronx were reasonable, necessary, and consistent with provisions of the Manual; and to determine whether the enrollment information was accurate. To accomplish our objectives, we reviewed financial records, student records, and other supporting documentation; and interviewed East Bronx and SED staff. To assess East Bronx's compliance with provisions of the Manual, we selected a sample of the reported expenditures for the three fiscal years that ended on June 30, 2002. Our sample took into account the materiality and relative risk of individual transactions. Our audit was limited to the costs charged to the East Bronx's 9100 and 9160 programs and the enrollment information reported for these programs.

Government Auditing Standards suggest that auditors may find it useful to obtain written representation from management, both to affirm the completeness and accuracy of information provided to the auditors, and to ensure there are no undisclosed situations of which management is unaware, including instances of fraud, abuse or illegal acts, that would significantly affect the auditors' awareness of risk. It is our policy to routinely request a management representation letter covering these issues and have done so in conjunction with this audit. As a result of not receiving a representation letter, we lack assurance from officials that all relevant information was provided to us during this audit. Therefore, readers of this report should consider the potential effect on the findings and conclusions presented in this report.

We conducted our audit in accordance with Government Auditing Standards. Such standards require that we plan and perform our audit to adequately assess those East Bronx operations that are included within our audit scope. Further, these standards require that we understand East Bronx's internal control structure and compliance with those laws, rules and regulations that are relevant to the operations, which are included in our audit scope. An audit includes examining, on a test basis, evidence supporting transactions recorded in the accounting and operating records and applying such other auditing procedures, as we consider necessary in the circumstances. An audit also includes assessing the estimates, judgments, and decisions made by management. We believe our audit provides a reasonable basis for our findings, conclusions and recommendations.

In addition to being the State Auditor, the Comptroller of New York State performs certain other constitutionally and statutorily mandated duties as the chief fiscal officer of New York State, several of which are performed by the Division of State Services. 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 Government Auditing Standards. In our opinion, these management functions do not affect our ability to conduct independent audits of program performance.

C. Results of Audit

Our audit found errors in the CFRs submitted by East Bronx for each of the three years we audited. The combined amount of the negative adjustments we propose total \$948,536. The amounts of the adjustments, the programs for which adjustments must be made and the years affected by the adjustments are detailed in Exhibits A through F. The significant adjustments to the CFR amounts will likely cause SED to re-compute (reduce) the allowable tuition rates for the East Bronx's programs under review.

1. Personal Service Costs

Personal service costs must be reported on the CFR as either direct costs, such as for teachers' salaries, or indirect costs, such as a portion of the agency's Executive Director's salary. Direct costs should be charged directly to a program based upon where the person works while indirect costs should be allocated amongst all the programs operated by an agency based upon some fair and reasonable method. According to the Manual, any expenditure that cannot be charged directly to a specific program must be allocated across all of the entity's programs that benefit from the expenditure. In addition, the entity's operating programs must use allocation methods that are fair and reasonable, as determined by SED. Such methods, as well as the statistical basis used when calculating allocation percentages, must be documented and retained for each fiscal year for review upon audit. Allocation percentages should be reviewed on an annual basis by the entity and adjusted as necessary. We found a number of errors in the methods used to allocate salaries on the CFR.

a. Executive Director's Salary

We found that the former Executive Director's salary was not allocated to the two programs audited in compliance with SED guidelines. The Manual requires that an agency allocate an Executive Director's salary amongst all of an agency's programs in a fair and reasonable method. Furthermore, there are limits as to how much of an Executive Director's salary may be allocated amongst the agency's programs. The Manual limits the amount of an Executive Director's compensation (i.e., salaries plus fringe benefits) that can be included as an allowable cost to an amount that does not exceed the regional median compensation for comparable job titles of public school districts. For the 1999-2000 school year, the median salary amount was \$132,537 and it rose to \$136,513 the next year and \$140,609 for the last year of our audit period; for a three year total of \$409,659.

We determined that East Bronx included on the CFR a total of \$660,421 in salary for the former Executive Director for the three years ended June 30, 2002. This was \$250,762 more than the limit set by SED for these three school years. Furthermore, a disproportionate share of this salary amount was charged to the two programs within our audit scope. We asked East Bronx officials how the Executive Director's salary was allocated since it did not conform with the accepted ratio/value method allowed in the Manual. Neither the Certified Public Accountant who reviewed the CFR, nor the current East Bronx officials could explain what method was used in allocating the former Executive Director's salary.

Therefore, for the three years ended June 30, 2002, we removed a total of \$230,430 of the former Executive Director's salary from the Personal Service category on the CFR for the 9100 and 9160 programs and included an appropriate amount in the administrative category, based upon the median salary limits set by SED. This allowance totaled \$143,339 for the three years.

b. Personal Service Costs for Other Staff

We reviewed the allocations of the Personal Service costs for other East Bronx staff and found that the amounts allocated were not properly supported for the 1999-2000 and 2000-2001 fiscal years. In contrast, the method used to allocate Personal Service costs appeared to be reasonable for the 2001-2002 fiscal year. Therefore, we reallocated the Personal Service costs using the 2001-2002 methods. In total, we adjusted the amount of salaries to \$751,550 for staff other than the Executive Director.

2. Other Than Personal Service Costs (OTPS)

The Manual provides guidance as to what Other Than Personal Service (OTPS) costs are eligible for reimbursement and what documentation is required to properly support such costs reported on the CFR. According to the Manual, for select OTPS items such as consultant charges, adequate documentation includes the consultant's resume, a written contract that describes the nature of the service to be provided, the charge per day, and the dates the service was delivered. Vehicle use must be documented by notations in individual vehicle logs that include the date and time of

travel, the destination to and from, the mileage traveled, the purpose of the trip, and the name of the traveler. If the vehicle was assigned to an employee, the name of that individual must also be listed. The annual mileage for program purposes, and repairs as well as maintenance costs for each vehicle, are to be summarized and maintained.

The Manual states that various OTPS costs that were the result of a violation or failure to comply with laws and regulations, such as fines and penalties, are not reimbursable to the entity. In addition, travel expenses, beverage charges, gift certificates to staff and vendors, flowers, food or parties for staff, holiday parties, repairs on a personal vehicle, rental expenses for personal apartments, etc., are not reimbursable. Ordinary living expenses of the programs' children, such as the cost of clothing and uniforms that are normally assumed by parents or legal guardians, are not reimbursable.

For the 1999-2000 fiscal year, we identified \$75,110 in expenses reported for the 9100 and 9160 programs that, according to the Manual, either were ineligible for reimbursement or had been documented inadequately. These costs included \$54,820 paid to a financial consultant for which there was no support as to what specific services were performed. The other costs included \$13,503 in expenses for which there were no invoices or supporting documentation; \$4,679 for a Christmas dinner cruise for 60 East Bronx employees; \$600 for fines and fees; \$911 for auto lease expenses not supported by a vehicle use log; and \$597 for flowers.

For the 2000-2001 fiscal year, we adjusted \$4,202 in reported costs for the 9100 and 9160 programs, including \$2,172 in auto lease expenses that were not supported by a vehicle log book. We also adjusted costs totaling \$964 because they lacked supporting documentation. Other ineligible items totaling \$1,066 included costs for T-shirts (clothing, uniforms); fines, fees, and charges; gifts; and contributions.

For the 2001-2002 fiscal year, we adjusted a total of \$30,583 in reported costs from the 9100 and 9160 programs. These costs were comprised of \$20,293 of items which lacked supporting documentation; \$2,125 of reported costs which were ineligible for reimbursement per the Manual such as fines and fees, clothing, uniforms, flowers, gifts and food for staff; and \$8,165 in reported costs for payments to two clinicians that lacked the appropriate specific documentation to justify the expense totaling \$7,945 and another \$220 of clerical payment errors (agency incorrectly calculated the payments to the clinicians).

3. Enrollment Reporting

Section 175.6 of the Commissioner of Education's Regulations (Regulations) prescribes the methodology that entities such as East Bronx are to use in calculating the number of full-time equivalent (FTE) students who are enrolled during the school year. Specifically, the Regulations state that enrollment commences on the first day a pupil is enrolled in and is physically present at (or legally absent from) school, and terminates on the last day the pupil is enrolled in and is physically present at (or legally absent from) school. For example, a student who is enrolled from September through June is deemed to be in attendance during that period and is calculated at 1.0 FTE. If a student is enrolled for less than the full program duration, then the student's FTE enrollment is determined by dividing the total weeks of enrollment by the total number of weeks the program operated - calculated to three decimal places without rounding. Further, according to the Manual, no

more than four weeks of enrollment may be counted in any calendar month. Finally, enrollments for the regular school year must be counted separately from enrollment for summer sessions.

To determine whether East Bronx reported FTE enrollments in accordance with the Manual's provisions, we reviewed the methodology used to calculate enrollment. We found that in some months East Bronx used five weeks of enrollment data in a calendar month, despite the Manual's requirement that no more than four weeks be used. East Bronx officials acknowledged that they did not calculate enrollment by using the number of weeks prescribed by the Manual. The agency's tuition rates, established by SED, could be affected by the incorrect usage of the number of weeks used to calculate enrollment.

Recommendations

To SED:

1. *Review the adjustments noted in this report and make appropriate adjustments to the costs reported on East Bronx's CFRs. Recompute the rate and take appropriate action to recover any overpayments.*

To East Bronx:

2. *Document, at least annually, the methodology used to allocate administrative costs and ensure this method is used when preparing the CFR.*

We provided officials at East Bronx and SED with draft copies of this report for their review and formal comment. SED officials provided us with comments, and they agreed with our report's observations and conclusions. We considered SED's comments in the preparation of this report and have included them as Appendix A. In addition, we provided East Bronx officials with 90 days (60 days beyond the standard period) to formally respond to the draft report. However, East Bronx did not provide us with a response, although we made several contacts with East Bronx officials in an effort to obtain one. Nonetheless, we considered comments made by East Bronx officials at the audit's closing conference in preparing this report.

Within 90 days after 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 the recommendations were not implemented, the reasons why.

Major contributors to this report were Brian Mason, Tony Carbonelli, Marc Geller, Joseph Giaimo and Ken Haque. We wish to thank the management and staff of the East Bronx Day Care Center for the courtesies and cooperation extended to our auditors during this audit.

Very truly yours,

Steven E. Sossei
Audit Director

cc: Mr. Robert Barnes, Division of the Budget
Ms. Theresa Savo, New York State Education Department
Mr. Nader Francis, New York City Department of Education

Exhibit A

**Pre-School
Center Based
Program**

Schedule of Costs Reported, Adjusted and Allowed

2000 Fiscal Year

<u>Expenditure Category</u>	<u>Reported</u>	<u>Adjustment</u>	<u>Allowed</u>	<u>Notes</u>
Personal Service and Fringe Benefits	\$710,928	\$(329,036)	\$381,892	1
Other Than Personal Service Costs	293,088	(43,798)	249,290	2
Vehicle and Equipment Rental	11,492	0	11,492	
Property Costs	48,964	0	48,964	
Administrative Costs	<u>0</u>	<u>30,921</u>	<u>30,921</u>	3
Total Costs	<u>\$1,064,472</u>	<u>\$(341,913)</u>	<u>\$722,559</u>	

Note 1 - A reduction was made in the amount allowed for Personal Service costs because the former Executive Director's salary was reported as a direct program cost instead of an Administrative Cost. In addition, the salary amount for the Executive Director exceeded the allowable limit set by the Manual. We also reduced the Personal Service costs for other salaries not properly allocated by East Bronx.

Note 2 - Adjustments were made to the reported costs for undocumented and unallowable costs.

Note 3 - We increased the amount allowed for Administrative Costs by an appropriate amount for the Executive Director's salary.

Exhibit B

Pre-School Integrated Program

Schedule of Costs Reported, Adjusted and Allowed

2000 Fiscal Year

<u>Expenditure Category</u>	<u>Reported</u>	<u>Adjustment</u>	<u>Allowed</u>	<u>Notes</u>
Personal Service and Fringe Benefits	\$373,794	\$(153,408)	\$220,386	1
Other Than Personal Service Costs	209,530	(31,312)	178,218	2
Vehicle and Equipment Rental	9,030	0	9,030	
Property Costs	38,472	0	38,472	
Administrative Costs	<u>0</u>	<u>15,454</u>	<u>15,454</u>	3
Total Costs	<u>\$630,826</u>	<u>\$(169,266)</u>	<u>\$461,560</u>	

Note 1 - A reduction was made in the amount allowed for Personal Service costs because the former Executive Director's salary was reported as a direct program cost instead of an Administrative Cost. In addition, the salary amount for the Executive Director exceeded the allowable limit set by the Manual. We also reduced the Personal Service costs for other salaries not properly allocated by East Bronx.

Note 2 - Adjustments were made to the reported costs for undocumented and unallowable costs.

Note 3 - We increased the amount allowed for Administrative Costs by an appropriate amount for the Executive Director's salary.

Exhibit C

**Pre-School
Center Based
Program**

Schedule of Costs Reported, Adjusted and Allowed

2001 Fiscal Year

<u>Expenditure Category</u>	<u>Reported</u>	<u>Adjustment</u>	<u>Allowed</u>	<u>Notes</u>
Personal Service and Fringe Benefits	\$678,410	\$(236,845)	\$441,565	1
Other Than Personal Service Costs	413,160	(2,780)	410,380	2
Vehicle and Equipment Rental	14,130	0	14,130	
Property Costs	37,860	0	37,860	
Administrative Costs	<u>0</u>	<u>31,848</u>	<u>31,848</u>	3
Total Costs	<u>\$1,143,560</u>	<u>\$(207,777)</u>	<u>\$935,783</u>	

Note 1 - A reduction was made in the amount allowed for Personal Service costs because the former Executive Director's salary was reported as a direct program cost instead of an Administrative Cost. In addition, the salary amount for the Executive Director exceeded the allowable limit set by the Manual. We also reduced the Personal Service costs for other salaries not properly allocated by East Bronx.

Note 2 - Adjustments were made to the reported costs for undocumented and unallowable costs.

Note 3 - We increased the amount allowed for Administrative Costs by an appropriate amount for the Executive Director's salary.

Exhibit D

**Pre-School
Integrated
Program**

Schedule of Costs Reported, Adjusted and Allowed

2001 Fiscal Year

<u>Expenditure Category</u>	<u>Reported</u>	<u>Adjustment</u>	<u>Allowed</u>	<u>Notes</u>
Personal Service and Fringe Benefits	\$368,149	\$(182,804)	\$185,345	1
Other Than Personal Service Costs	211,282	(1,422)	209,860	2
Vehicle and Equipment Rental	7,609	0	7,609	
Property Costs	20,386	0	20,386	
Administrative Costs	<u>0</u>	<u>15,917</u>	<u>15,917</u>	3
Total Costs	<u>\$607,426</u>	<u>\$(168,309)</u>	<u>\$439,117</u>	

Note 1 - A reduction was made in the amount allowed for Personal Service costs because the former Executive Director's salary was reported as a direct program cost instead of an Administrative Cost. In addition, the salary amount for the Executive Director exceeded the allowable limit set by the Manual. We also reduced the Personal Service costs for other salaries not properly allocated by East Bronx.

Note 2 - Adjustments were made to the reported costs for undocumented and unallowable costs.

Note 3 - We increased the amount allowed for Administrative Costs by an appropriate amount for the Executive Director's salary.

Exhibit E

Pre-School Center Based Program

Schedule of Costs Reported, Adjusted and Allowed

2002 Fiscal Year

<u>Expenditure Category</u>	<u>Reported</u>	<u>Adjustment</u>	<u>Allowed</u>	<u>Notes</u>
Personal Service and Fringe Benefits	\$662,183	\$(55,063)	\$607,120	1
Other Than Personal Service Costs	355,581	(21,305)	334,276	2
Vehicle and Equipment Rental	10,414	0	10,414	
Property Costs	25,269	0	25,269	
Administrative Costs	<u>38,665</u>	<u>32,804</u>	<u>71,469</u>	3
Total Costs	<u>\$1,092,112</u>	<u>\$(43,564)</u>	<u>\$1,048,548</u>	

Note 1 - A reduction was made in the amount allowed for Personal Service costs because the former Executive Director's salary was reported as a direct program cost instead of an Administrative Cost. In addition, the salary amount for the Executive Director exceeded the allowable limit set by the Manual. We also reduced the Personal Service costs for other salaries not properly allocated by East Bronx.

Note 2 - Adjustments were made to the reported costs for undocumented and unallowable costs.

Note 3 - We increased the amount allowed for Administrative Costs by an appropriate amount for the Executive Director's salary.

Exhibit F

**Pre-School
Integrated
Program**

Schedule of Costs Reported, Adjusted and Allowed

2002 Fiscal Year

<u>Expenditure Category</u>	<u>Reported</u>	<u>Adjustment</u>	<u>Allowed</u>	<u>Notes</u>
Personal Service and Fringe Benefits	\$304,531	\$(24,824)	\$279,707	1
Other Than Personal Service Costs	165,927	(9,278)	156,649	2
Vehicle and Equipment Rental	5,305	0	5,305	
Property Costs	12,341	0	12,341	
Administrative Costs	<u>17,873</u>	<u>16,395</u>	<u>34,268</u>	3
Total Costs	<u>\$505,977</u>	<u>\$(17,707)</u>	<u>\$488,270</u>	

Note 1 - A reduction was made in the amount allowed for Personal Service costs because the former Executive Director's salary was reported as a direct program cost instead of an Administrative Cost. In addition, the salary amount for the Executive Director exceeded the allowable limit set by the Manual. We also reduced the Personal Service costs for other salaries not properly allocated by East Bronx.

Note 2 - Adjustments were made to the reported costs for undocumented and unallowable costs.

Note 3 - We increased the amount allowed for Administrative Costs by an appropriate amount for the Executive Director's salary.



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

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June 7, 2005

Mr. Steven E. Sossei
Audit Director
Office of the State Comptroller
Bureau of State Audit
110 State Street – 11th Floor
Albany, NY 12236

Dear Mr. Sossei:

I am responding to your letter of May 9, 2005 to Commissioner Mills regarding the Office of the State Comptroller's Draft Audit Report (2003-S-22) for the East Bronx Day Care Center-Compliance with the Reimbursable Cost Manual for the three years ended June 30, 2002. Our comments to your recommendation are provided below.

Recommendation #1

Review the adjustments noted in this report and make appropriate adjustments to the costs reported on East Bronx's CFR's. Recompute the rate and take appropriate action to recover any overpayments.

The Department agrees with this recommendation.

We will make the appropriate adjustments to East Bronx's allowable costs when determining each year's final audit tuition rate.

If you have any questions, please contact John Delaney, Coordinator of the Rate Setting Unit at (518) 486-2774.

Sincerely,

Theresa E. Savo

c: John Delaney
Linda Rhodes