

THOMAS P. DiNAPOLI
STATE COMPTROLLER



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ALBANY, NEW YORK 12236

STATE OF NEW YORK
OFFICE OF THE STATE COMPTROLLER

February 28, 2007

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

Mr. Brian J. Wing
Interim Executive Deputy Commissioner
Department of Health
Corning Tower
Empire State Plaza
Albany, NY 12237

Ms. M. Patricia Smith
Acting Commissioner
Department of Labor
W. Averell Harriman State Office Campus
Albany, NY 12240

Re: Consortium for Worker Education
Contract C-015021
Report 2006-R-6

Dear Mr. Mills, Mr. Wing and Ms. Smith:

According 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 Workforce Education grant the Consortium for Worker Education (CWE) received for the year that ended on June 30, 1998; the Contract C-015021 between the New York State Department of Health and CWE for the year that ended on October 14, 1998; and the New York City Department of Small Business Services (successor to the New York City Department of Employment) Worker Career Centers contract for the period July 1, 1997 through June 30, 1998.

A. Background

The Consortium for Worker Education is a not-for-profit corporation created in 1989 to improve employment opportunities for labor union members and their families through education and job training. As a provider of government-funded job training programs, CWE reported that it received \$20 million in 1997 and \$29.8 million in 1998 from various New York City (City) and New York State (State) agencies that included the State's Education Department (SED), Department of Health (DOH), and Department of Labor (DOL).

For the period July 1, 1997 through June 30, 1998, SED awarded a Workforce Education (WFE) grant to CWE under which CWE was allowed to claim more than 1.5 million contact hours of education and training classes for union members and their families. Four months after the commencement of this grant, DOH entered into a \$2.2-million contract (C-015021) with CWE as part of the State's Health Workforce Retraining Initiative. Under this contract, CWE was to provide health care workers with training classes intended to improve the employment opportunities of union members who were at risk of losing their jobs, and to accommodate shifts in the health care labor market. As part of the same retraining initiative, DOH contracted with the healthcare industry union Local 1199, as well as various hospitals throughout the City. These contractors then hired CWE as a subcontractor to provide the patient care training and instructions stipulated under the contract or that were mandated by the sponsoring hospital. Also, during this period, DOL received Federal funding through the Job Training Partnership Act III (JTPA) and provided those funds to localities throughout the State. In the City, the JTPA program was administered by the Department of Small Business Services (SBS), which then contracted with CWE to administer Worker Career Centers, providing dislocated workers with job training services. In addition, CWE administered the Parent Resource Center program through a partnership with the United Federation of Teachers and the City Department of Education. The program, funded through SED's WFE grant, provided parents of school age children with the resources needed to find employment.

B. Audit Scope, Objective, and Methodology

We audited the WFE grant CWE received for the fiscal year that ended on June 30, 1998; Contract C-015021 between DOH and CWE for the fiscal year that ended on October 14, 1998; and the SBS Worker Career Centers contracts covering the period July 1, 1997 to December through June 30, 1998. The objective of our audit was to determine whether CWE had complied with the terms of the WFE Education grant and both of the contracts.

We conducted our audit in accordance with generally accepted government auditing standards. To accomplish our audit objective, we reviewed applicable laws, grants and contracts. We also interviewed CWE, SBS, DOH, DOL, and SED officials. In addition, we reviewed various data and supporting documents related to the instructional contact hours that were claimed for services provided.

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, 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 generally accepted 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

We found that CWE claimed 41,370 contact hours for WFE services it said it provided to members of Local 1199, Worker Career Center participants, and participants in its Parent Resource Centers. However, CWE did not substantiate the claim with adequate supporting documentation.

We also found that the contracts are not clear in determining whether CWE was precluded by the terms of the contracts from receiving additional funds from other sources for services performed under the contracts.

Our report contains four recommendations to improve compliance with the terms of the WFE grant and the contracts. The detailed results of our audit are described in the remainder of this report.

Inadequately Documented Services

CWE received \$159,274 for claiming 41,370 contact hours that were documented inadequately, as shown in the following table:

SED Grant	Inadequately-Documented Contact Hours	SED Payments at \$3.85 per Hour
Worker Career Centers	1,178	\$4,535
Workforce Education Program	18,175	\$69,974
Parent Resource Centers	22,017	\$84,765
Total	41,370	\$159,274

CWE’s claim to SED for 1,178 contact hours of instructional classes for Worker Career Center participants was not supported by adequate attendance records.

CWE also claimed to SED another 111,023 contact hours under the WFE grant for classes it presented to Local 1199 members. When we examined the documentation submitted to support these claims, we found that for 18,175 of the hours CWE did not have adequate attendance records for the classes. CWE officials told us they had no control over such records because they were maintained by the union. CWE officials later provided us with the records given to them by Local 1199, but these documents could not substantiate that the classes took place during the scope period or had been conducted by CWE. Moreover, we could not confirm that the documents referred to the classes in question.

Under CWE’s Parent Resource Center program, 38,708 contact hours were claimed to SED. These classes addressed such topics as parenting, workplace issues, and adult basic education. We examined the documentation supporting the claims and found that 22,017 of the

hours had not been supported adequately because CWE did not have adequate attendance records for the classes.

We recommend that SED recover the \$159,274 it paid for 41,370 contact hours that have not been documented adequately.

Unclear Contract Language

The intent of the Legislature in enacting Chapter 756 of the Laws of 1992 was to partially fund a workforce education program to be conducted by CWE in order to provide adults with basic literacy and work skills training. The Legislature has funded this initiative annually. The Legislature outlined the scope and the nature of reimbursable services to be partially funded by the WFE grant. The services provided by CWE pursuant to the Health Workforce Retraining Initiative contracts it entered into with DOH and Local 1199, as well as the JTPA contract it entered into with SBS, facially met the standards for partial reimbursement under the WFE grant. However, language in these contracts made it unclear whether the payments due CWE under the individual contracts were intended to fully fund its costs, thus precluding any additional reimbursement from the WFE grant or other sources. CWE's position is that the payments received under each of these contracts were never intended to reimburse it for the full cost of each instructional hour it provided, but rather were understood by all to constitute only partial reimbursement. As such, CWE contends that it was entitled to be reimbursed for the unfunded expenses it incurred in providing the training from moneys available for such purpose under the WFE grant.

Based upon the language in the contracts and related documents, we have concluded that CWE's position in this regard arguably has some merit. While we believe the contracts may be construed to require that the agreed upon consideration provided for in the contracts was intended to fully compensate CWE for the services it provided, we recognize that an alternative view is that such provisions merely set forth the compensation to be paid and did not serve to preclude CWE from seeking to fund its unreimbursed costs from other sources. Given the ambiguity presented by these provisions, we cannot say definitively that the contracts precluded CWE from receiving reimbursement from other sources (such as the WFE grant) for the costs not covered by the contract payments. We note that under any view of the contracts, CWE is not entitled to reimbursement in excess of its actual total costs. We recommend that future contracts more clearly state the terms and conditions of the compensation to be paid by the State.

Recommendations

To SED:

- 1. Recover \$159,274 in Workforce Education grant payments made to CWE.*

To SED, DOH, and DOL:

- 2. Reinforce the requirement that CWE must maintain adequate documentation of services provided.*

To DOH:

- 3. Develop contracts that clearly identify the terms and conditions of reimbursement in relation to the services provided.*

To DOL:

- 4. Work with SBS to develop contracts that clearly identify the terms and conditions of reimbursement in relation to the services provided.*

We provided a draft copy of this report to SED, DOH and DOL officials for their review and comment. Their comments were considered in preparing this report, and are included as Appendices A, B, and C. SED, DOH, and DOL concurred with the recommendations addressed to them.

Within 90 days of the final release of this report, as required by Section 170 of the Executive Law, the Commissioner of the Education Department and the Department of Health 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 therefor.

We wish to thank the management and staff of the State Education Department, the Department of Health, the Department of Labor, and the Consortium for Worker Education, for the courtesies and cooperation extended to our auditors during this review.

Very truly yours,

William P. Challice
Audit Director

cc: Lisa Ng, Division of the Budget
Joseph McDermott, CWE
Philip Pinsky, CWE
Robert Walsh, Small Business Services



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

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AND MANAGEMENT SERVICES
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February 1, 2007

Mr. William P. Challice, Audit Director
Office of the State Comptroller
Division of State Services
State Audit Bureau
123 William Street – 21st Floor
New York, NY 10038

Dear Mr. Challice:

I am responding to your letter of January 4, 2007 addressed to Commissioner Mills regarding the Office of the State Comptroller's (OSC) draft audit report (2006-R-6) on Consortium for Worker Education (CWE). The following is the New York State Education Department's (SED) response to OSC's recommendations.

Recommendation 1: Recover \$159,274 in Workforce Education grant payments made to CWE.

The Department agrees with this recommendation. SED will recover the \$159,274 in Employment Preparation Program funds.

Recommendation 2: Reinforce the requirement that CWE must maintain adequate documentation of services provided.

The Department agrees with this recommendation. Staff from the Adult Education and Workforce Development team will monitor this program to ensure compliance with documentation requirements.

If you have any questions, please contact Tom Orsini in our Adult Education and Workforce Development office at (518) 474-8940.

Sincerely,

A handwritten signature in cursive script that reads "Theresa E. Savo".

Theresa E. Savo

c: Commissioner Mills
Jean Stevens
James Conway
Tom Orsini

DOH STATE OF NEW YORK
DEPARTMENT OF HEALTH

Coming Tower The Governor Nelson A. Rockefeller Empire State Plaza Albany, New York 12237

January 26, 2007

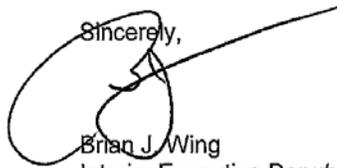
William P. Challice
Audit Director
Office of State Services
State Audit Bureau
123 William Street – 21st floor
New York, New York 10038

Dear Mr. Challice:

Enclosed are the Department of Health's comments on the Office of the State Comptroller's (OSC) draft audit report (2006-R-6) on "Consortium for Worker Education."

Thank you for the opportunity to comment.

Sincerely,



Brian J. Wing
Interim Executive Deputy Commissioner

Enclosure

cc: Ms. Arnold
Mr. Gray
Mr. Griffin
Mr. Howe
Ms. More
Mr. Reed
Ms. Stackman

**Department of Health
Comments on the
Office of the State Comptroller's
Draft Audit Report
2006-R-6 on
"Consortium for Worker Education"**

The following are the Department's (DOH) comments in response to the Office of the State Comptroller's (OSC) draft audit report (2006-R-6) on "Consortium for Worker Education."

Recommendations #1 and #4 were not directed to the Department; therefore, no comments are provided thereon.

Recommendation #2:

Reinforce the requirement that CWE must maintain adequate documentation of services provided.

Response #2:

The Department now includes an extensive list of supporting documentation requirements in all its workforce contracts as Appendix A-2, Program Specific Clauses. This document was not included in the first cycle of health worker retraining initiative contracts, although a separate copy was provided to the Consortium for Worker Education (CWE) in a program guidance handbook.

Recommendation #3:

Develop contracts that clearly identify the terms and conditions of reimbursement in relation to the services provided.

Response #3:

The Department has taken steps to clearly identify the terms and conditions of reimbursement in relation to the services provided. DOH requires line-item budgets and budget justifications that describe the derivation of costs and includes in the contract a list of documentation that describes eligible costs and documentation required to support them.



Eliot Spitzer, Governor

January 31, 2007

Mr. William Challice
Office of the State Comptroller
Division of State Services
State Audit Bureau
123 William Street, 21st Floor
New York, New York 10038

Dear Mr. Challice:

This correspondence is to transmit the New York State Department of Labor's (NYSDOL) formal response to the Office of the State Comptroller (OSC) draft audit report addressing the Workforce Education grant the Consortium for Worker Education (CWE) received for the year ended June 30, 1998; the Contract C-015021 between the New York State Department of Health and CWE for the year that ended October 14, 1998; and the New York City Department of Small Business Services Worker Career Centers contract for the period July 1, 1997 through June 30, 1998.

The draft report contains two recommendations that require some level of action to be taken on the part of the Department of Labor. The first recommendation is that the State Education Department, the Department of Health and the Department of Labor reinforce the requirement the CWE must maintain adequate documentation of services provided. NYSDOL conducts oversight and monitoring of the New York City Local Workforce Investment Area regarding New York City's obligation to monitor its contractors for the funding for which NYSDOL has administrative accountability. One of the aspects of our oversight is to ensure that New York City makes all of its contractors aware that they must maintain adequate documentation of services provided.

The second recommendation states that the Department of Labor should work with the New York City Department of Small Business Services to develop contracts that clearly identify the terms and conditions of reimbursement in relation to the services provided. The Department of Labor is in agreement with this recommendation and will take the appropriate steps necessary for implementation.

Mr. William Challice
January 31, 2007
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Thank you for the opportunity to respond. If you have any questions or would like any clarification, please contact me at (518) 457-9016.

Sincerely,

Karen Stackrow
Karen Stackrow *DS*
Director of Internal Audit

Attachment

cc: P. Smith
D. Ryan
M. Moree
J. Tracy
R. Bailie
R. Lillpopp
D. Bolles