

THOMAS P. DINAPOLI
COMPTROLLER



110 STATE STREET
ALBANY, NEW YORK 12236

STATE OF NEW YORK
OFFICE OF THE STATE COMPTROLLER

July 22, 2015

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

Dr. Stephen Anderson
Chief Executive Officer
Summit Educational Resources
150 Stahl Road
Getzville, NY 14068

Re: Compliance With the Reimbursable Cost
Manual: Summit Educational Resources
Report 2014-S-49

Dear Ms. Elia and Dr. Anderson:

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, we conducted an audit of the expenses submitted by Summit Educational Resources (Summit) to the State Education Department (SED) for purposes of establishing the preschool special education tuition reimbursement rates used to bill public funding sources that are supported by State aid payments.

Background

Established in 1973, Summit provides a wide range of services to children with disabilities from ages three through 21. In 1977, SED authorized Summit to provide special education services. Summit provides such services to approximately 600 preschool children with developmental disabilities from 38 school districts in three counties in western New York. The preschool special education services provided by Summit for children between the ages of three and five years include: Special Education Itinerant Teacher Services, Preschool Integrated Special Education Class 2.5 hours, Preschool Integrated Special Education Class 5 hours, Preschool Special Education Class 2.5 hours, and Preschool Special Education Class 5 hours (collectively referred to as the Programs).

The counties that use Summit’s special education services pay tuition to Summit using reimbursement rates set by SED. The State reimburses the counties 59.5 percent of the special education tuition that counties pay. SED sets the special education tuition rates based on financial information, including costs, reported by Summit on its annual Consolidated Fiscal Reports (CFRs) filed with SED. Costs reported on the CFR must comply fully with the provisions of SED’s Reimbursable Cost Manual (RCM), including those pertaining to cost eligibility and documentation requirements. In addition, costs must comply with the requirements prescribed by the Consolidated Fiscal Reporting Manual. For the fiscal year ended June 30, 2013, Summit reported approximately \$4.25 million in reimbursable costs for the Programs.

Results of Audit

For the fiscal year ended June 30, 2013, we identified \$28,176 in other than personal service costs charged to the Programs that did not comply with SED’s requirements for reimbursement. The disallowances included \$26,754 for consultant services that were not supported by itemized invoices and \$1,422 in various other costs that were ineligible for reimbursement. We also questioned the appropriateness of an additional \$34,357 in costs charged to the Programs for consultant services and information technology procurements that were not obtained through solicitation of competitive bids.

The following table summarizes the disallowed costs that were not supported by itemized invoices and the costs we identified as questionable because Summit did not use competitive bidding practices.

Consultant/Vendor Name	Bid	Itemized Invoices	Total Costs Allocated to the Programs	Disallowed Costs	Questioned Costs
Dopkins and Company	No	No	\$19,049	\$19,049	\$0
Goldstein, Ackerhalt & Pletcher LLP	No	No*	10,228	7,705	2,523*
Damon & Morey, LLP	No	Yes	13,267	0	13,267
Highfalls Technologies Group, Inc.	No	Yes	18,567	0	18,567
Totals			\$61,111	\$26,754	\$34,357

*Goldstein, Ackerhalt & Pletcher submitted itemized invoices for the last quarter of the fiscal year ended June 30, 2013.

Auditing and Legal Services

According to the RCM, costs must be properly documented and supported by itemized invoices which indicate the specific services actually provided and, for each service, the dates, number of hours provided, the fee per hour, and the total amount charged. We identified \$26,754 in claimed costs for two consultants that were not supported by itemized invoices: \$19,049 for

auditing services provided by Dopkins and Company (Dopkins) and \$7,705 for legal services provided by Goldstein, Ackerhalt & Pletcher LLP (Goldstein). The invoices did not include required information such as the date each billed service was provided, the number of hours worked, or the fee per hour.

Selection of Consultants

To ensure the most economical and/or appropriate consultant is selected, services should be procured through solicitation of competitive bids. Request for Proposals (RFPs) and other bidding documentation must be kept on file. We identified \$42,544 in costs allocated to the Programs for three consultants that were not selected through competitive bidding. The costs included \$19,049 for auditing services provided by Dopkins, \$10,228 for legal services provided by Goldstein, and \$13,267 for legal services provided by Damon & Morey, LLP (Damon).

Summit did not issue RFPs or obtain bids for the auditing services provided by Dopkins or for the legal services provided by Goldstein or Damon. As detailed previously in the Auditing and Legal Services section of this report, based on a review of invoices from the three consultants, we identified disallowances of \$26,754 (of the \$42,544). Our disallowances did not include the remaining \$15,790 (\$13,267 for Damon + \$2,523 for Goldstein) allocated to the Programs, as these costs were supported by itemized invoices. However, absent competitive bidding, there is a lack of assurance these costs were the most economical and appropriate and we, therefore, questioned the appropriateness of these costs.

In early 2013, Summit appointed a new Chief Financial Officer (CFO). According to officials, and subsequent to our audit scope, Summit issued an RFP to solicit bids for auditing and legal services, as well as instituted a policy to require itemized invoices in support of all payments. These changes have proved effective in improving payment accuracy. For example, Summit identified overcharges on an invoice submitted by Dopkins, resulting in a lesser payment and illustrating the need for itemized invoices. Summit also noticed a downward trend in invoice charges after they began requiring Goldstein to submit itemized invoices for legal services.

Procurement of Information Technology Equipment

During our audit scope period, Summit purchased \$96,014 in equipment (\$18,567 was allocated to the Programs) from one information technology vendor, Highfalls Technologies Group, Inc. (Highfalls), without competitive bidding. According to the SED Purchasing Handbook (Chapter 4.C) and the RCM, "There must be formal bidding with legal advertisement if a single item to be purchased exceeds \$10,000 (\$20,000 effective June 22, 2010) or the aggregate cost of an item or reasonable commodity grouping estimated to be purchased in a fiscal year would exceed that figure."

Summit purchased some low-dollar items through Highfalls on an ad hoc basis. Other items, however, were higher cost and could have been combined into a reasonable commodity grouping and obtained through a competitive bidding process. For example, the following items were among the purchases made during the year we reviewed:

- Thirteen wireless routers totaling \$11,050;
- Ten desktop computers and seven monitors for \$7,706; and
- One back-up server setup for \$9,275.

Summit was able to provide invoices to support all payments made to Highfalls; therefore, we did not disallow these costs. However, Summit did not maintain any documentation (such as quotes from multiple vendors) of competitive procurement for the items purchased. As a result, there is no assurance these purchases were the most economical and appropriate. Therefore, we questioned the propriety of \$18,567 in Highfalls-related costs allocated to the Programs.

Conference and Credit Card Expenses

According to the RCM, reported costs should be reasonable, necessary, program related, and documented properly. We reviewed Summit's other than personal service costs reported on their 2012-13 CFR and identified \$1,422 in costs allocated to the Programs that did not comply with RCM provisions for reimbursement. Specifically, we found the following:

- Summit reported \$6,816 in costs related to conferences (including food, lodging, and travel costs) on its CFR that were not in compliance with the RCM. Of this, \$1,346 was allocated to the Programs.
- Summit reported \$391 in credit card expenses (a microwave, flowers, and food) on its CFR that were not in compliance with the RCM. Of this, \$76 was allocated to the Programs.

Recommendations

To SED:

1. Review the disallowances and questionable costs identified by our audit and, if warranted, make the necessary adjustments to Summit's reimbursement rates.
2. Work with Summit officials to ensure they understand and comply with the RCM and the Consolidated Fiscal Reporting Manual.

To Summit:

3. Ensure that costs reported on annual CFRs fully comply with SED's guidelines and requirements.

Audit Scope, Objective, and Methodology

We audited the expenses submitted by Summit on its CFR for the fiscal year ended June 30, 2013. The objective of our audit was to determine whether the costs submitted by Summit on its CFR were properly calculated, adequately documented, and allowable under SED's guidelines, including the RCM.

To accomplish our objective and assess internal controls related to our objective, we interviewed SED officials to obtain an understanding of the CFR and the policies and procedures contained in SED's guidelines. We interviewed Summit officials and staff to obtain an understanding of their financial practices relating to the expenses reported on Summit's CFR. We reviewed Summit's 2012-13 CFR, IRS-990, and financial statements. We also reviewed selected consultant contracts, leases, and employee certifications. We reviewed a judgmental sample of Program costs to determine whether they were supported, program appropriate, and reimbursable. The sample included selected high-cost items as well as selected items only reimbursable in limited circumstances, such as food and entertainment expenses and employee bonuses.

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

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

Reporting Requirements

We provided a draft copy of this report to SED and Summit officials for their review and formal comment. We considered their comments in preparing this report and have included them in their entirety at the end of it. In their response, SED officials agreed with the audit recommendations and indicated the actions they will take to address them.

Summit officials disagreed with some of our audit findings; however, officials also indicated they made certain changes to strengthen internal controls to help ensure enhanced accountability. The changes include the use of formal RFPs to competitively procure professional services and the modification of billing (invoice) requirements to comply with all of the technical requirements of the RCM. Our rejoinders to certain Summit comments are included in the report's State Comptroller's Comments.

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

Major contributors to this report were David Fleming, Christopher Morris, Arnold Blanck, Bruce Brimmer, Christian Butler, and Dylan Spring.

We would like to thank SED and Summit management and staff for the courtesies and cooperation extended to our auditors during this review.

Sincerely,

A handwritten signature in black ink that reads "Andrea M. Inman". The signature is written in a cursive style with a large initial 'A' and a long, sweeping tail on the 'n'.

Andrea Inman
Audit Director

cc: Andrew Fischler, Audit Manager - Office of Audit Services, SED
Suzanne Bolling, Director of Special Education Fiscal Services, SED

Agency Comments - State Education Department



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

DEPUTY COMMISSIONER
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July 1, 2015

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

Dear Ms. Inman:

The following is the New York State Education Department's (Department) response to the draft audit report, 2014-S-49, Compliance with the Reimbursable Cost Manual: Summit Educational Resources (Summit).

Recommendation 1: Review the disallowances identified by our audit and, if warranted, make the necessary adjustments to Summit's reimbursement rates.

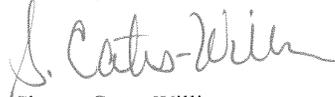
We agree with this recommendation. The Department will review the recommended disallowances as noted in the report and make adjustments to the reported costs to recover any overpayments, as appropriate, by recalculating tuition rates.

Recommendation 2: Work with Summit officials to ensure they understand and comply with the RCM and the Consolidated Fiscal Reporting Manual.

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

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

Sincerely,

A handwritten signature in cursive script, appearing to read "S. Cates-Williams".

Sharon Cates-Williams

c: James P. DeLorenzo
Suzanne Bolling

Agency Comments - Summit Educational Resources



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June 18, 2015

Andrea Inman, *Audit Director*
Office of State Comptroller
Division of State Government Accountability
110 State Street – 11th Floor
Albany, NY 12236-0001

RE: *Audit Findings*

Dear Ms. Inman:

Thank you for your May 22, 2015 draft audit findings report for the Fiscal audit year of 2012-2013 and the courtesy and professionalism your staff extended to our staff during the audit. Thank you also for giving us the opportunity to respond to this report. We appreciate that you made some revisions to the initial report based on information we provided to you in that regard. However, there are still some areas we feel compelled to comment on with regard to the report you forwarded to us.

Although we are aware that there are some areas for improvement, we feel that some of the disallowances that you have noted are unwarranted and diminish the resources we will have to successfully serve children with significant developmental and behavioral challenges. Summit Educational Resources, Inc. is a private, not-for-profit organization approved by the New York State Department of Education, New York State Department of Health, and New York State Office for People with Developmental Disabilities to provide educational, therapeutic and support services to children and adults with learning, communication, developmental and/or behavioral challenges. We presently provide services for 94 preschool children and 237 school age children that school districts are unable to serve. We also serve more than 1,900 additional individuals through other programs we offer. Our services are invaluable to the Western New York community, in part because we serve many of the most challenging children in our community and we do so with great success. Because of our reputation, we often have a list of individuals waiting for our services.

Summit is a 23 million dollar organization of which 19% is preschool. Our administration costs (13.87%) are currently lower than the projected administrative expense limitation required in Executive Order #38. Thus, not only are we operating effectively, but also efficiently. Although we appreciate the auditors' suggestions and comments and have made some changes as a result, we have included our responses below to each finding so that our position is clear.

Conferences:

Summit accepts the disallowance of \$1, 346 for certain conferences. These disallowances were either because staff had attended one more conference than the RCM allows or because it was determined that the conferences were not reimbursable as they were for recruiting purposes and there did not appear to be enough evidence to support the need for out-of-state recruiting. However, we think it is important to point out that Summit is a national leader in the areas of autism research and services, and these conferences are a way for our staff to provide content to other organizations and to hear about, and later apply, cutting edge evidence-based practices in our school. In addition, we can remain cutting-edge only if we recruit experts in the field of autism and related disabilities and we indeed have recruited individuals from out-of-state to our employ. Conferences are an opportunity to create greater visibility for our organization and successfully recruit individuals for highly skilled positions. That being said, we accept the disallowance in this regard and will not pursue reimbursement for these costs in the future. Rather, we will find other revenue sources to pay for these necessary conference expenditures.

Other:

With regard to the “other” disallowances totaling \$76, we accept the disallowances. We believe these amounts are not material to the programs under audit or the agency as a whole and were simply errors. We will continue to pay close attention to expenditures to assure that these items are appropriately treated as disallowed costs in all future reporting.

Consultant Expenses:

Summit challenges the disallowances regarding our legal consultants Goldstein, Ackerhalt, & Pletcher, LLP (hereinafter “Goldstein”) and our auditors, Dopkins & Co (hereinafter “Dopkins”). Their bills were incurred and paid in good faith and there has been no allegation that the consultants did not perform the work, nor is there any allegation that the work performed was improper. It should also be noted that no fraud or inappropriate governance was found and neither of the consultants had any conflict of interest with any staff or Directors. The failure to bid audit (Dopkins) and legal (Goldstein) services may warrant a finding but should not cause a disallowance, and particularly not a total disallowance. ALL costs were necessary and no one would perform audit services or provide legal work for free.

There is a well-known legal maxim which states “equity regards substance rather than form.” The idea is that equity (fairness) enforces the spirit of the law (or the reimbursement manual in this case) rather than resting on a technicality. The “spirit” of the RCM is to prevent overpayments. Even if there were indeed an overpayment because of the identified issues, which in these instances there were not, the actual amount of the overpayment would be the relevant figure and only that excess amount should be considered for disallowance.

As you will see below, the fees that Goldstein and Dopkins charged were reasonable – and thus there should be no disallowance. Even if there were evidence the fees were a little high (which is not the

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case), those services would not have been provided without any cost. Therefore, at most, the more equitable finding would be to reduce the fees by a percentage that the OSC reasonably determined Summit overpaid, rather than disallowing the full costs. Note also, the RCM does not require disallowance when some of the requirements regarding consultants are not followed; it only specifies guidance on eligibility for reimbursement.

In fact, in prior audits the OSC has referred similar matters to the State Education Department to handle rather than determining them to be a disallowance. For example, in the audit of “Institutes of Applied Human Dynamics” (completed in 2014) there was a concern about the procurement of janitorial supplies (of almost \$700,000) without a contract or bid. It also appeared that it was a “less than arm’s length transaction” as the company was owned by the Board Treasurer. In that case, the OSC referred the issue to the State Education Department rather than determining it to be a disallowance. Summit requests the OSC consider addressing the Dopkins and Goldstein issues as “procurement process issues” without any disallowance.

Below are separate responses for each of the two consultants as our responses to their expenses are fact specific. We do understand the need for bids (which we have addressed as was noted in your report) but reiterate that fairness calls for these costs to be allowed or, at the least, that the vast majority of the costs be allowed as described above.

Legal Consultant Expenses:

The first of the two consultant disallowances relate to services provided by the Goldstein legal firm, who represented Summit as general counsel. This law firm was selected based on their experience and knowledge (particularly in the areas of special education and Not-For-Profit Corporation laws) which has been invaluable to Summit.

Three different firms were utilized by Summit during the Fiscal Year 2012-13 (of which Goldstein was only one) and rates charged across all three firms are within similar ranges as evidenced on the applicable billings, thus establishing prevailing rates for such services in the Western New York Region.

Damon & Morey:	\$205-\$375/hour depending on applicable counsel
Phillips Lytle:	\$340-355/hour
Goldstein:	\$210-\$255/hour

The hourly rates range from \$205-\$375 for the three different firms. This clearly establishes the prevailing rate for the time frame being audited for Goldstein.

Additionally, the 2012 Rate Report from Martindale-Hubbell notes the prevailing rate for legal services in Western New York was \$279 an hour for the period under audit. Indeed, all of the above evidences we paid below market rates for Goldstein’s services.

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Summit Educational Resources, Inc. – Response to Draft Audit Findings Reports

We did receive invoices, including a description of services rendered by this firm. Although we acknowledge that we did not have a contract and that these invoices did not contain some details, the average hourly rate was computed at \$235/hour which is patently competitive. The lack of some details found in the bill was identified in early 2013 at the time the new Chief Financial Officer was appointed. As you noted, the issue was substantially corrected prospectively before the end of the Fiscal Year as is evidenced by the detailed billing for services rendered for April 1, 2013-June 30, 2013 (the end of the Fiscal Period in this audit review).

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Summit needed these legal services and they would not have been provided free of charge; moreover, the charges were in line with other lawyers in the community. The audit should be used as a teaching tool in these types of situations where disallowance is neither required nor equitable. This lesson has been learned: a formal RFP was sent out for all legal services and the process has been completed and billing (invoice) requirements have been modified to comply with all the technical requirements of the RCM (as you noted in your report). As a result, Summit respectfully requests that OSC remove this disallowance from the final report as it would be out of proportion to the oversight made by Summit.

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Accounting and Auditing Consultant Expenses:

The second of the two consultant disallowances relate to services provided by Dopkins. Summit Management and the Board of Directors engaged in responsible due diligence and made a decision to retain Dopkins in the Fiscal Year 2012-13. Although the Board's Audit Committee considered bidding the work, an informed decision was made to wait. Summit had hired a new Chief Financial Officer in the middle of the Fiscal Year 2012-13, and for the sake of continuity and a historical perspective the Audit Committee felt it would be inefficient and, possibly ineffective, to change at that time. Auditor selection and retention were discussed and documented in the audit committee minutes from those meetings. Summit decided to continue contracting with Dopkins given their experience with our agency, their significant industry experience, and relatively modest fee increases over the years.

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The decision also was made easier by the fact that our account experienced a partner change in 2012-13. As required under the Sarbanes Oxley legislation governing public companies and the Public Company Accountability Standards Board (PCAOB), there was a change in the client services partner on the engagement. Although these standards are not applicable to a not-for-profit entity, they do establish and require a higher standard for independence and partner and/or firm rotations which we achieved with the new client services partner assigned to the engagement.

Based on these circumstances, there is ample evidence and justification for the continuation of Dopkins' services without recourse to an RFP. This determination was reasonable, considered, documented and made by a legally constituted committee of the Summit Board of Directors. The Board of Directors' fiduciary responsibilities were fully met and an audit should not be used to second guess the Board's decision in this instance. Thus, the final audit report should not express any concern regarding the absence of an RFP.

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Summit Educational Resources, Inc. – Response to Draft Audit Findings Reports

We note that in the audit of “Aspire of Western New York” (hereinafter “Aspire”) (conducted in 2014), which covered a portion of the same time period (2012), prevailing rates for accountants in our area were obtained. We are located within a mile of Aspire and provide similar types of services. It is our understanding that the rate that we were charged was within prevailing rates and it was above the lowest bidder that Aspire found through their RFP process by 27%. We request that the OSC use those prevailing rates in our audit. Use of those prevailing rates in our opinion would result in no disallowance because we are not required take the lowest bidder. In the worst case scenario, however, using a 27% rate of disallowance for amounts paid in the Fiscal Year 2102-13 would result in a total disallowance of \$26,595.00 and the portion related to the preschool programs under audit would be \$5,154.11.

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We contracted with Dopkins because we are required by the New York State Education Department to have an annual independent audit. Although there was no RFP process for accounting and auditing services in the Fiscal Year 2012-13 (which we have addressed above), the services were reasonable and necessary and the equitable argument above applies identically to these costs. It is also important to note that the billing provided sufficient documentation to show the services were appropriate. As a result, Summit respectfully requests that OSC remove this disallowance from the final report or at least reduce the disallowance based on the lowest rate provided in the Aspire RFP Process.

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As you are aware, the Audit Committee decided to go out to bid for the Fiscal Year 2014-15 services as also evidenced by the minutes from those meetings. This has now been completed.

Procurement Process Issues- Highfalls:

The draft audit report questioned the procurement process related to Highfalls. Highfalls is a vendor from whom we purchase computer equipment because they are a preferred supplier (by HP) of “refurbished” HP products. We purchase only “refurbished” rather than new HP equipment. Buying refurbished equipment only, rather than new, saves on average 50% off a product’s list price. This is intuitively better than any retail competitor. It is our position that requiring bidding for the items purchased from Highfalls is not only unwarranted, but also impractical and could actually impede Summit’s ability to achieve the savings it has secured in the past.

The OSC audit report acknowledges that the three purchases in question which range from \$7,706-\$11,050 are all under the \$20,000 threshold required by the RCM. It is our position that these three purchases were not related and could not have been combined into a “reasonable commodity grouping” which would have required competitive procurement. The largest purchase referenced by the OSC report of \$11,050 involved routers which were purchased as an immediate need. In fact all three purchases were related to immediate needs, were not planned replacements and involved different and unrelated equipment. Further, the purchases were made at different times. Therefore, Summit does not agree there was a procurement process issue related to Highfalls. Moreover, given these unique circumstances, bidding would have been impractical, if not self-defeating.

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Procurement Process Issues- Damon and Morey LLP:

The draft audit report also questioned the procurement process related to the law firm of Damon and Morey. As was noted above in the section of this response regarding Bruce Goldstein, three different firms were utilized by Summit during the Fiscal Year 2012-13 and rates charged across all three firms are within similar ranges as evidenced on the applicable billings, thus establishing prevailing rates for such services in the Western New York Region.

Although we acknowledge that we did not competitively bid this legal work it is our position that since the prevailing rate is clear these costs should not be subject to question as there is no reason to think they were not the most economical and appropriate. Further there has been no allegation that these legal services were not necessary. We have recently bid the legal work through an RFP process and this recent bid process confirmed that the rates we were paying during the time of this audit were prevailing rates.

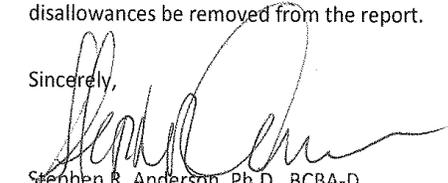
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CONCLUSION:

Summit is hopeful that the OSC will consider the comments and explanations set forth in this response, and revise the draft audit report accordingly. If the OSC's final report contains a disallowance of the consultant costs Summit reserves the right to challenge the facts and findings of the OSC in a future legal proceeding. Summit also reserves the right to challenge the OSC's legal authority to conduct the audit at hand in any such future legal proceeding. Summit's response to the draft audit findings report and its participation in the audit does not operate as a waiver of this right.

We appreciate the opportunity to comment on the draft audit findings report and respectfully request that consideration be given by the OSC to the information in this response and request the disallowances be removed from the report.

Sincerely,



Stephen R. Anderson, Ph.D., BCBA-D
Chief Executive Officer

CC: Elizabeth Berlin, Action Commissioner, SED
Suzanne Bolling, Director of Special Education Fiscal Services, SED
Andrew Fischler, Director – Office of Audit Services, SED

State Comptroller's Comments

1. The fact remains that the ineligible costs we identified for Goldstein and Dopkins (totaling \$26,754 for legal and auditing services, respectively) lacked the prescribed supporting documentation. The Reimbursable Cost Manual (RCM) requires such costs to be supported by itemized invoices which indicate the specific services actually provided as well as the date(s) of the services, the number of hours provided, the fee per hour, and the total amount charged. The \$26,754 in claimed costs were not supported by itemized invoices, and consequently, they were not allowed. We did not question whether the bills were paid in good faith, nor allege that the consultants did not perform the work. Nevertheless, special education providers (including Summit) must comply fully with the provisions of the RCM to establish the eligibility of claimed costs.
2. As detailed in our report, we did not recommend disallowances of certain costs due to the absence of competitive bidding. Rather, we questioned the propriety of such costs because, without vendor competition, Summit could not demonstrate that the procurements were sufficiently economical and efficient. Per the RCM, professional services must be acquired through competitive bidding at least once every five years. However, we identified \$61,111 in consultant service and information technology procurements that were not obtained through vendor competition. As previously noted, we disallowed \$26,754 for the portion of those services that lacked itemized invoices. Although we questioned the remaining \$34,357 (\$61,111 - \$26,754) in costs due to the lack of competitive bidding, we did not disallow them.
3. During our audit, Summit provided no evidence that the purchases in question were made on an immediate need basis. Further, Summit did not provide any documentation of price comparisons among multiple vendors to show that the items were obtained at competitive prices. In their response, Summit officials also state the purchases were made at different times. However, according to the invoice dates, the routers (\$11,050) and a server (\$9,275) were purchased on the same date, and the computers and monitors (\$7,706) were purchased about one and a half months later. Because these items were related IT hardware and electronics acquisitions (totaling about \$28,000), we reiterate that they could have been combined into a commodity grouping and obtained through a competitive process.