



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

Division of State Government Accountability

New York Youth Jobs Program

Department of Labor
Department of Taxation and
Finance



Report 2017-S-69

January 2019

Executive Summary

Purpose

To determine if the Department of Labor (Labor) is ensuring that employers meet New York Youth Jobs Program (Program) eligibility requirements and are certified, and that the youth they hire are eligible for the Program. This audit also determined if the Department of Taxation and Finance (Tax and Finance) is ensuring that tax credits are appropriately granted under the Program. Our audit covers the period January 1, 2014 through July 2, 2018 for Labor and January 1, 2014 through July 3, 2018 for Tax and Finance.

Background

The Program, which was established in 2011 under section 25-a of the New York State Labor Law (Law), and known formerly as both the New York Youth Works Program and the Urban Youth Jobs Program, is intended to create jobs and spur economic growth in the State by establishing incentives for employers to hire new employees and retain existing ones. Under the Program, eligible employers may receive tax credits when they hire unemployed, disadvantaged youth aged 16 to 24 who live in New York State, with a focus on 13 cities and towns. Labor certifies both employer and youth eligibility, while Tax and Finance establishes procedural requirements for claiming Program tax credits and determines whether credits that are claimed are allowable.

The Program began with an allocation of \$25 million for the combined 2012 and 2013 calendar years and was expanded in 2016 with additional allocations to include non-target areas. It has since been reauthorized through 2022. During the audit period, employers were entitled to claim credits equal to \$500 per month, for up to six months, for each full-time employee or equal to \$250 per month, for up to six months, for each part-time employee who worked at least 20 hours per week (or 10 hours per week for employees enrolled full time in high school). Retaining employees beyond the initial six months results in an additional credit to employers.

Although as much as \$50 million per year has been allocated to the Program in certain years, the amount of credits claimed and allowed has been relatively low. For the three calendar years 2014 through 2016, \$80 million was allocated to the Program, while the tax credits allowed totaled \$17.6 million, 22 percent of the amount available.

Key Findings

- Labor could improve its methods for verifying youth eligibility, and Tax and Finance could do better to ensure that the tax credits granted are accurate and only for Program-eligible youth.
- We found that 209 of 359 individuals in our sample who were certified by Labor were either not Program-eligible or potentially not eligible, or their employer records did not support the claimed full-time high school status. Employers claimed and received \$191,336 in tax credits for the 209 individuals that they may not have been entitled to.
- Program tax credits were granted by Tax and Finance for 145 employees whose eligibility was in question or inadequately supported or who were inaccurately claimed, including tax credits allowed for 29 employees who were not certified by Labor as Program-eligible.

Key Recommendations

To Labor:

- Develop risk-based procedures to ensure that only eligible youth are certified for the Program.

To Tax and Finance:

- Improve procedures to help ensure Program tax credits are appropriately claimed and allowed, such as providing clarified tax credit instructions to employers.
- Take appropriate action to investigate and recover – where applicable – the \$191,336 in excess tax credits allowed.

Other Related Audit/Report of Interest

[Empire State Development: Performance of the Excelsior Jobs Program \(2015-S-15\)](#)

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

Division of State Government Accountability

January 9, 2019

Ms. Roberta Reardon
Commissioner
Department of Labor
Building 12, W.A. Harriman Campus
Albany, NY 12110

Ms. Nonie Manion
Acting Commissioner
Department of Taxation and Finance
Building 9, W.A. Harriman Campus
Albany, NY 12110

Dear Ms. Reardon and Ms. Manion:

The Office of the State Comptroller is committed to helping State agencies, public authorities, and local government agencies manage government resources efficiently and effectively and, by so doing, providing accountability for tax dollars spent to support government operations. The Comptroller oversees the fiscal affairs of State agencies, public authorities, and local government agencies, as well as their compliance with relevant statutes and their observance of good business practices. This fiscal oversight is accomplished, in part, through our audits, which identify opportunities for improving operations. Audits can also identify strategies for reducing costs and strengthening controls that are intended to safeguard assets.

Following is a report of our audit entitled *New York Youth Jobs Program*. The audit was performed pursuant to the State Comptroller's authority set forth in Article V, Section 1 of the State Constitution and Article II, Section 8 of the State Finance Law.

This audit's results and recommendations are resources for you to use in effectively managing your operations and in meeting the expectations of taxpayers. If you have any questions about this report, please feel free to contact us.

Respectfully submitted,

*Office of the State Comptroller
Division of State Government Accountability*

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Background

The New York Youth Jobs Program (Program) was established in 2011 under section 25-a of the New York State Labor Law (Law), and known formerly as both the New York Youth Works Program and the Urban Youth Jobs Program. The Program is intended to create jobs and spur economic growth in the State by establishing incentives for employers to hire new employees and retain existing ones. Under the Program, eligible employers may receive tax credits when they hire unemployed, disadvantaged youth aged 16-24 who live in New York State, with a focus on the following 13 cities and towns: Albany, Brookhaven, Buffalo, Hempstead, Mount Vernon, New Rochelle, New York City, Rochester, Schenectady, Syracuse, Utica, White Plains, and Yonkers.

Both the Department of Labor (Labor) and the Department of Taxation and Finance (Tax and Finance) have important roles in the Program. Labor is responsible for administering the Program and for certifying eligibility of youth and employers, while Tax and Finance establishes procedural requirements for claiming Program tax credits and determines whether credits that are claimed are allowable. Under the Law, Labor must give preference to employers who offer advancement and employee benefit packages to qualified individuals. Labor has the option to give preference to employers engaged in demand occupations or industries or in regional growth sectors, such as clean energy, health care, and advanced manufacturing.

Labor requires that qualified employers (employers) be certified by Labor after an application process, employ one or more qualified employees (employees), be in good legal standing, and be located in the State. In general, good legal standing is defined by Labor as having less than or equal to \$200 in arrears on unemployment insurance; having both workers' compensation and disability insurance; and having no violations for debarments, labor standards, public works, or occupational safety hazards that it has identified. Employers submit a confirmation to Labor for each eligible youth they hire and for whom they might claim a Program tax credit. Based on that information, Labor then issues a Certificate of Eligibility (Certificate) to the employer that states the maximum two-year tax credit the employer may claim for each Program employee for the calendar year, and a list of the employee names. Employers may claim credits for fewer employees, but not for more employees, than named on the Certificate.

To qualify for the Program, youth must also submit an application and be certified by Labor. The applicants provide their name, Social Security number, date of birth, home address, high school status, and current employment status. Qualified youth must be 16 to 24 years old, live in New York State, and be unemployed at the time of their hire by a certified employer. They must also be considered low income or at risk, which they indicate by checking a confirmation box on the application. Low income or at risk is defined by Labor as meeting at least one of the following criteria:

- Being 18-24 years old, no longer in school, and not having a high school diploma, GED/TASC certificate, or high school equivalency diploma;
- Being a member of a family receiving Temporary Assistance for Needy Families, SNAP benefits (food stamps), or Supplemental Security Income (SSI) benefits, or the child of a

- parent collecting unemployment insurance benefits;
- Receiving a free or reduced-cost school lunch;
- Having been referred by a rehabilitation agency approved by the State or an employment network under the Ticket to Work Program;
- Having served time in jail or prison, being on probation or parole, or being the child of a parent who is currently in jail or prison or who has been within the past two years;
- Being pregnant or a parent;
- Being homeless, living in public housing, or receiving housing assistance;
- Being or having been in foster care or the custody of the Office of Children and Family Services;
- Being a veteran; or
- Having another risk factor not identified above but approved by the Commissioner of Labor.

The applicants certify the information they provide by checking a box indicating that they believe the information provided is correct and complete, that they agree to allow Tax and Finance to share their wage records with Labor, and that they understand that Labor will make sure the information submitted is true and may contact them for follow-up. Employers, who typically have access to information about a youth's age, residency, and employment situation, are not permitted, per the terms of an agreement in the employer Program application, to ask about which low-income or at-risk criteria the applicants meet. Labor, on the other hand, may obtain this information.

The amount of the tax credit an employer may receive is tied to the duration of employment and the number of hours worked per month. During the audit period, employers were entitled to claim credits of \$500 per month for up to six months for each full-time employee and \$250 per month for each part-time employee who worked at least 20 hours per week (or 10 hours per week for employees enrolled full time in high school). Retaining employees beyond the initial six months resulted in an additional credit to employers. The total two-year maximum tax credit was \$5,000 for each full-time employee and \$2,500 for each part-time employee.

In April 2018, legislation increased the maximum allowable Program tax credit from \$5,000 to \$7,500 for each certified youth employed full time and from \$2,500 to \$3,750 for each youth employed part time. The allowable credit for the first six months also increased, from \$500 to \$750 per month for employees who work full time and from \$250 to \$375 for those who work part time or for full-time high school students working at least ten hours per week. In addition, the credit for retaining employees for a second six months or for a second year increased from \$1,000 to \$1,500 for full-time employees and from \$500 to \$750 for part-time employees. Labor does not track the length of employment for individuals hired in the Program.

The following table presents the original tax credit amounts and those subsequent to the April 2018 legislation.

Maximum Tax Credit Per Employee ¹	Full-Time Employees ²		Part-Time Employees ³	
	Through 12/31/2017	Beginning 1/1/2018	Through 12/31/2017	Beginning 1/1/2018
First six months ⁴	\$3,000	\$4,500	\$1,500	\$2,250
If retained additional six months	\$1,000	\$1,500	\$500	\$750
If retained additional one year	\$1,000	\$1,500	\$500	\$750
Totals	\$5,000	\$7,500	\$2,500	\$3,750

¹ Claimed in the year the wages are paid for the first six months; thereafter claimed in the year the additional period ends.

² 35 or more hours worked per week.

³ 20-34 hours worked per week or 10-34 hours worked per week for full-time high school students.

⁴ \$500 full time or \$250 part time per month through 12/31/2017; \$750 full time or \$375 part time beginning 1/1/2018.

The Program began with an allocation of \$25 million for the combined 2012 and 2013 calendar years. It was expanded in 2016 with additional allocations to include non-target areas, and has since been reauthorized through 2022. Although as much as \$50 million a year has been allocated to the Program in certain years since its inception, the amount of credits claimed and allowed remains relatively low. For the three calendar years 2014 through 2016, a total of \$80 million was allocated to the Program, but allowable tax credits totaled \$17.6 million, 22 percent of the amount available. However, the allowable tax credits increased each year during that period, from \$2.4 million for 2014 to \$6.1 million and \$9.1 million for 2015 and 2016, respectively. For the period January 1, 2014 through December 31, 2016, Labor certified 2,903 employers as eligible for the Program, of which 1,749 (60 percent) certified that they hired Program-eligible youth.

Along with increasing the maximum credits, the legislation included new requirements for employers. Beginning in 2019, as part of their application for certification, employers must agree to allow Tax and Finance to share certain tax information with Labor and to allow both agencies access to employer records. Beginning January 2020, employers will also be required to submit an annual report to Labor demonstrating that they satisfied all eligibility requirements for the prior Program year. The report must provide enough information so that Labor can determine the actual maximum tax credit the employer may claim, which Labor will communicate by issuing a final Certificate to the employer. This differs from the current process, in which Labor provides just an initial Certificate to the employer with only the potential maximum tax credit amounts.

Audit Findings and Recommendations

We found that both Labor and Tax and Finance could improve their methods for capturing employer information and verifying youth eligibility (Labor) and for ensuring that tax credits granted are for eligible youth, are accurate, and are supported by appropriate documentation where applicable. In total, we identified problems with the eligibility for, accuracy of, or required documentation for the tax credits claimed for 209 of the 359 employees (58 percent) whose records we examined.

Labor – Employer and Youth Eligibility

Employer Eligibility

In general, Labor's process provides reasonable assurance that employers meet Program eligibility requirements. Employers must apply for Program certification annually between January 1 and November 30. We examined records for a sample of 30 employers and found that each employer met the requirements for good standing before Labor certified it as Program-eligible. We also reviewed Labor's employer application to determine if or how it addressed the advancement opportunities and employee benefit information that Labor is required to consider, and found that it does not capture information about whether an employer offers either of these. In addition, although the application requests industry sector information (e.g., arts, entertainment and recreation, manufacturing), Labor officials told us they do not give preference to any particular industry or type of business. They said that to increase participation, they broadened the scope of the Program as much as possible to include all employers. While we acknowledge the value of attracting more participating employers, the advancement and benefit information is not only required, but it could also provide useful data about whether employers who offer these opportunities are participating in the Program, especially if participation increases.

Youth Eligibility

Based on our review of employer records, we identified youth who were not eligible for the Program tax credits that employers claimed and that were allowed by Tax and Finance. We also found that youth may not have completed or certified the Program applications, and that some may have been otherwise employed at the time they were hired.

We visited 11 employers who claimed \$793,000 in Program tax credits for 770 employees for the combined three calendar years 2014 through 2016. We reviewed supporting documentation, including payroll records, for 359 of the 770 employees to determine if they met selected Program eligibility requirements (there was no documentation, other than payroll records, supporting Program eligibility for 2 of the 359 employees in our sample). In total, employers claimed \$383,500 in Program tax credits for the 359 employees. We reviewed supporting documentation for whether each employee met age and residency requirements, completed a Program application (including certifying to its accuracy), and was certified by Labor as a confirmed hire in the year claimed. Finally, we attempted to determine if the employees were unemployed at the time they were hired.

Of the 359 employees in our sample, 330 had been certified by Labor as Program-eligible in the year we reviewed, yet we identified multiple instances in which these employees either did not meet the age requirement, did not complete and/or certify to the accuracy of the youth application, or may have been employed elsewhere at their time of hire. The other 29 employees had been certified by Labor, but not for the year that we reviewed and their employers claimed credits for (we address the 29 employees further in the Tax and Finance section of this report). In some cases, a single employee may not have met more than one requirement. In total, we identified concerns with 112 of the employees whose records we reviewed, representing 134 instances. Our observations were as follows:

- 5 employees did not meet the 16-to-24-year-old age range requirement;
- 50 employees did not complete and/or certify to the accuracy of the youth application; and
- 79 employees may have already been employed at time of hire.

In some cases, we could readily determine ineligibility from employer records. For example, one of the five individuals who did not meet the age requirement was 62 at the time of hire, well outside the eligible range. In four of the five cases, inaccurate dates were entered on the online youth application, and Labor's edit check that rejects applicants outside the required age range (the edit check is a calculation of the applicant's age based on the birth date entered) could not detect this type of error. In the fifth case, Labor certified a 15-year-old youth. In other instances, eligibility was more difficult to determine. For example, the records for 79 employees suggested that the individuals were employed at the time they completed the youth application. In other cases, records did not include enough information or indicators for us to draw conclusions on employment status, and we treated employment as unknown.

For 10 of the 11 employers we visited, the employees were not the people who completed and submitted the Program application. Instead, the employers said that consultants they hired completed and submitted online applications to Labor on employees' behalf, and in some cases also prepared the forms claiming the Program tax credit. Some employers said that the consultants receive a percentage of the credits received by the employer. Five of the ten employers who used consultants said that they did not provide a Program application to the employees whose records we reviewed. This suggests that the employees may not have known about or agreed to the attestation at the end of the application, and raises the possibility that they may not have met eligibility requirements.

Labor does limited verification of information on the youth Program application. For example, Labor uses the birth date given on the application to determine if the applicant is between 16 and 24 years old, although it does not request supporting documentation for the date's accuracy. Similarly, it determines whether the residence address provided on the application is within the State and in a target geographical area, but does not confirm that the youth resides at the given address. Because the information on youth Program applications is self-reported by the youth or the employer consultant – with little verification – there is a risk that Labor could certify applicants who are not eligible.

Although the Law requires that Program employees be unemployed at time of hire by a qualified employer, Labor officials told us that, for purposes of the Program, underemployment also qualifies as unemployment. However, neither of the terms unemployment or underemployment is explained in Program information, nor does the youth application ask for this information. Instead, the application requires youth to answer whether they are currently working and if so, to provide the date of hire. As such, Labor is not likely to have sufficient information to determine if the applicant meets the employment criteria.

The application requires youth to meet one or more of 15 categories to qualify for the program. Most of these categories are specific – for example, whether a youth is aged 18-24 and does not have a high school diploma or equivalent; is in a family receiving TANF, food stamp, or SSI benefits; or is a parent or in foster care. However, the catchall category, “Another risk factor not identified above but approved by the Commissioner of Labor,” is not. Labor officials explained that this category opens up the Program to individuals who believe they are at risk but who do not meet other qualifications. Labor officials told us that self-verified information best serves the Program’s purpose in terms of facilitating youth participation, and that they have attempted to develop ways to verify applicant information, but cost considerations are a constraint.

Tax and Finance – Claimed Tax Credits

Program tax credits that were granted for employees whose eligibility was in question or that were inaccurately claimed or inadequately supported totaled \$191,336 (\$121,818 we identified plus the \$69,518 identified by Tax and Finance during the audit). We found that Tax and Finance could use information it receives from tax returns and from Labor more effectively to ensure both the accuracy of Program tax credits granted and the eligibility of the employees claimed. We also found that some of the relevant form instructions lack clarity.

To claim the Program tax credit, employers (which may be businesses, such as corporations, or individuals, such as self-employed individuals or partners in a partnership) complete a two-page form that they attach to the income tax return they file with Tax and Finance. The form requires information about hours worked per month for each claimed employee and the relevant full- or part-time factors (i.e., the factor is 1.0 for hours worked that are at least the minimum to be considered full time, and 0.5 if part time). Employers must also include the Certificate issued by Labor, which provides the maximum potential tax credit and a list of certified employees. The employee information, however, is not captured in a format that would readily allow a match between the form and the Certificate. Employers who claim a tax credit for a full-time high school student must maintain current support for student enrollment status, such as a work permit, school identification card, or a current or future course schedule. At the end of each Program year, Tax and Finance requests and receives an electronic list of all qualified employers and employees from Labor.

Of the 359 employees in our sample, we identified concerns with 145 of the employees whose records we reviewed, representing 156 instances, as follows:

- Tax and Finance allowed \$22,700 in Program tax credits for 29 employees who had not been certified by Labor in the year claimed;
- Employer records for 10 employees were not adequate to support their claimed full-time high school student status; and credits that Tax and Finance granted for 117 employees were not supported by information on the form and/or the on-site payroll records.

In addition, of the 12 tax returns we reviewed for the 11 businesses in our sample, 2 were missing the form claiming the tax credit, and 6 did not include the required Certificate.

In addition, in the process of responding to our inquiries, Tax and Finance personnel identified an error in which a business shareholder claimed a tax credit for the entire business rather than just the shareholder's portion, resulting in an excess credit of \$69,518. Tax and Finance officials stated that they have begun action to recover the excess credit. In some cases, Tax and Finance staff may have been able to prevent allowing claims to ineligible employees by ensuring that the tax return included the required Certificate and that claimed employees matched those on the Certificate. Similarly, ensuring that information on the form supports the amount of the tax credit claimed would improve accuracy.

We also found that the instructions for calculating the credit allowable for the first six months are unclear. Although Tax and Finance officials stated that they allow employers to prorate the credit based on when in the month an employee starts working, the instructions lack this guidance. During our audit, we found that employers varied in their interpretations of how to claim the credit for this period. For example:

- No employers prorated the first month of hire;
- All 11 employers miscalculated the credit claimed in the first six months for at least one employee. In some cases, employers did not count the first month of employment because the date of hire did not result in enough work hours to claim the employee for the month.

Recommendations

To Labor:

1. Re-evaluate the employer Program application to determine whether, and how, to capture information such as employee advancement and benefit opportunities.
2. Provide and publicize Program-specific definitions for underemployment and unemployment and align them with Program requirements.
3. Develop risk-based procedures to ensure that only eligible youth are certified for the Program. Steps may include using records from Tax and Finance or other sources to verify applicant information on a sample basis.

To Tax and Finance:

4. Improve procedures to ensure that Program tax credits that are granted are accurate and for eligible employees. Steps might include, but not be limited to:
 - Modifying form instructions to clarify how to claim tax credits in the first six months;
 - Changing how employee work hours, factors, and personal information are captured to allow automated checks against other relevant information.
5. Take appropriate action to investigate and recover, where applicable, the \$191,336 (\$121,818 + \$69,518) in excess tax credits allowed.

Audit Scope, Objectives, and Methodology

The objectives of our audit were to determine if Labor is ensuring that employers meet Program eligibility requirements and are certified, and that the youth they hire under the Program are eligible for the Program. We also determined if Tax and Finance is ensuring that tax credits are appropriately granted under the Program. Our audit scope was January 1, 2014 through July 2, 2018 for Labor and January 1, 2014 through July 3, 2018 for Tax and Finance.

To achieve our audit objectives, we reviewed relevant laws, policies and procedures, employer files, and electronic data regarding employers and employees. We also interviewed officials from both Labor and Tax and Finance, and met with employer staff during site visits to employers. We became familiar with, and assessed the adequacy of, both Labor's and Tax and Finance's internal controls as they related to our audit objectives. We tested the reliability of data provided on selected business and personal tax returns for the three calendar years 2014 through 2016, and of Program data about employers and employees, and found it to be reliable.

To determine whether businesses certified by Labor were eligible for the Program, we selected a replicated random sample of 30 businesses (10 from each year) from the 2,903 businesses certified by Labor for the three calendar years ending December 31, 2016. Although this was a random sample, the results cannot be projected to the population as a whole.

To determine if selected youth were eligible for the Program, we first selected a sample of 11 employers who claimed the Program tax credit on one or more of their income tax returns for the three calendar years 2016, 2015, and 2014. The population of these tax returns totaled 1,305, including 232 business income tax returns and 1,073 personal income tax returns. From the business tax returns, we judgmentally selected six employers who claimed high tax credit amounts and were not a national or multi-state business. In selecting them, we also considered geographic location in an effort to cover multiple parts of the State. From the personal tax returns, we judgmentally selected two employers who claimed the largest tax credit amounts. Finally, we selected three additional employers based on risk factors we identified during the audit, such as tax returns that did not include the form claiming the tax credit or that included inconsistent information.

We then selected a judgmental sample of 359 employees from the 770 employees claimed by the 11 employers. Our selection was based on factors such as the year of the income tax return and the number of employees claimed by the employer. For each employee, we reviewed available employee records, such as payroll and employment records. Because this was a judgmental sample, the results can't be projected to the population as a whole.

We conducted our performance audit in accordance with generally accepted government auditing standards. Those 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 objectives.

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 threats to organizational independence under generally accepted government auditing standards. In our opinion, these functions do not affect our ability to conduct independent audits of program performance.

Authority

The audit was performed 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.

Reporting Requirements

We provided a draft copy of this report to Labor and Tax and Finance officials for their review and formal written comment. We considered their comments in preparing this final report and have included them in their entirety at the end of the report. In responding to our draft report, Labor disagreed with two of our three recommendations, citing concerns about burdening businesses and youth with additional documentation requirements. Labor agreed with the third, and has taken steps to implement it. Our rejoinders to certain comments are included in the report's State Comptroller's Comment. Tax and Finance acknowledged the need to improve aspects of the Program, and indicated it is already taking steps to implement both of our recommendations.

Within 90 days after final release of this report, as required by Section 170 of the Executive Law, the Commissioners of Labor and Tax and Finance 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.

Agency Comments - Department of Labor

Roberta Reardon
Commissioner

New York State Department of Labor
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November 1, 2018

Mr. Stephen Goss
Office of the State Comptroller
110 State Street, 11th Floor
Albany, NY 12236

Dear Mr. Goss:

Below, are the Department of Labor's responses to your draft report dated October 5, 2018, regarding the audit of the Department of Labor, New York Youth Jobs Program 2017-S-69. Your letter summarized recommendations from your office's ongoing examination of New York Youth Jobs Program from January 1, 2014 through July 2, 2018.

Recommendations and Responses:

Below are the Comptroller's recommendations and the Department's response:

Comptroller's Recommendations

- 1. Re-evaluate the employer Program application to determine whether, and how, to capture information such as employee advancement and benefit opportunities.**

Department's Response

The Business Certification application is based on input obtained from businesses through the Department's on-going and extensive business contact and outreach. This was used to evaluate the merit in capturing information beyond the minimum necessary to achieve the purpose of the program, such as employee advancement and benefit opportunities as the Comptroller recommends. It was determined such information does not have bearing on whether to certify a business to achieve the purpose of the Program and the additional burden on businesses could deter business participation. Therefore, the Business Certification application is deliberately designed to capture the minimum information necessary to achieve the purpose of the program while making the application process as simple as possible for individual businesses.

2. Provide and publicize Program-specific definitions for underemployment and unemployment and align them with Program requirements.

Department's Response

The clarification requested in this recommendation improves the Youth Certification application. Therefore, the Youth Certification application has been revised to provide and publicize program-specific definitions for underemployment and unemployment and align them with Program requirements.

3. Develop risk-based procedures to ensure that only eligible youth are certified for the Program. Steps may include using records from Tax and Finance or other sources to verify applicant information on a sample basis.

Department's Response

The Program's risk-based procedures to certify youth are designed to be as stringent as necessary to ensure only eligible youth participate in the Program, without discouraging youth participation in the Program. Implementation of additional risk-based procedures to verify information such as age and residence as the Comptroller recommends, will deter youth participation as "at-risk" youth are typically unable to provide such source documentation. This assessment is based on the Department's extensive experience with collecting such information from at-risk youth.

Additionally, there is no administrative funding for the Program. Given the volume of youth applications received by the Department each year (e.g., 54,561 youth applications for calendar years 2014 through 2016), the Department is not able to support the additional staff hours needed to develop additional risk-based procedures to verify youth eligibility (while not deterring youth participation). Furthermore, records from Tax and Finance do not provide documentation necessary to verify youth eligibility, so this is not a viable option.

*
Comment
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If you have any comments, please contact Michael Vaccaro, Director Internal Audit (518) 457-9076.

Sincerely,



Roberta Reardon

Cc: Mario Musolino
Karen Coleman
Michael Vaccaro



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*See State Comptroller's Comment, Page 19.

Agency Comments - Department of Taxation and Finance



OFFICE OF TAX POLICY ANALYSIS

SCOTT V. PALLADINO

Deputy Commissioner

November 1, 2018

Mr. Stephen Goss
Office of the State Comptroller
Division of Corporate Accountability
110 State Street, 11th Floor
Albany, NY 12236

Re: New York Youth Works Program

Dear Mr. Goss:

The Office of the State Comptroller (OSC) examined the Department of Labor (DOL) and the Department of Taxation and Finance (DTF) controls and oversight over the New York Youth Jobs Program for the audit period beginning on January 1, 2014 through July 3, 2018. This letter responds to Draft Report 2017-S-69 and its audit findings and recommendations as they relate to DTF. Thank you for the opportunity to comment on this report.

During the audit period, DTF and DOL recognized the need to strengthen the administration of the Youth Jobs program, including many of the procedures identified in the draft report. As a result, DTF, in conjunction with DOL, recommended administrative improvements that were ultimately included in the SFY 2018-19 Enacted Budget (Part R of Chapter 59 of the Laws of 2018). Beginning in 2019, the process for receiving Youth Jobs credits will now involve the following three steps:

- Employers may submit applications to participate in the program to DOL. If approved, the employer will receive a preliminary certificate of eligibility from DOL that will state the maximum amount of tax credit that the employer may be allowed to claim and the program year for which the credit may be claimed.
- Qualified employers will be required to submit an annual report to DOL on or before January 31st of the calendar year after the payment of wages to a certified youth. The report must show that the employer has satisfied all eligibility requirements and must provide all the information necessary for DOL to compute a final credit amount.
- If DOL approves the report and eligibility for the credit, it will issue a final certificate of tax credit to the qualified employer. Qualified employers claiming the credit must attach the final certificate of tax credit issued by DOL to their tax returns.

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These changes will improve DTF's ability to ensure that Youth Jobs credit claims are accurate and are approved only for program-eligible youth.

The statutory changes also clarify that a qualified employer may claim a credit for an additional six-month period of employment only for qualified employees who are employed for six consecutive months beyond the initial six-month employment period. DTF has posted instructions and examples to clarify how a qualified employer can claim the credit for the initial six-month period. DTF has also posted instructions to clarify how a qualified employer should prorate hours worked when establishing full-time or part-time status for employees who began employment on other than the first of the month.

The draft report recommends that DTF take appropriate actions, where applicable, to recover \$191,336 from taxpayers that potentially were ineligible for claimed credits. DTF recognized during the audit period that \$69,518 in credits were paid out erroneously; those credits have been repaid in full. DTF will pursue all appropriate avenues to recoup any additional credits that may have been improperly claimed.

DTF would like to thank the OSC auditors for their professionalism during the conduct of this audit and for the comprehensive review performed.

Sincerely,



Scott Palladino

State Comptroller's Comment

1. Youth eligibility requirements exist to provide assurance that participants meet Program criteria as stated in law and regulation, yet Labor's verification at the time of our audit was generally a limited confirmation of just applicant age eligibility. This results in the Program being vulnerable to enrolling youth who don't meet eligibility requirements and who are then claimed by employers for tax credits to which the employers are not entitled. The recommendation is that Labor develop steps to verify applicant eligibility information on a sample basis only. Records available from Tax and Finance could, in fact, help confirm employment eligibility on a sample basis, which was one of the requirements we found was potentially not met for 79 of the 359 employees whose records we reviewed. We do not believe implementing such a step would be unduly onerous or discourage youth participation.