



State Education Department

Rainbow Rhymes Learning Center

Report 2009-S-84



Thomas P. DiNapoli

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State of New York Office of the State Comptroller

Division of State Government Accountability

August 6, 2010

Mr. David Steiner
Commissioner
State Education Department
89 Washington Ave, Room 111
Albany, NY 12234

Dear Mr. Steiner:

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 of the State Education Department entitled *Rainbow Rhymes Learning Center*. This audit was performed pursuant to the State Comptroller's authority under 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*



State of New York Office of the State Comptroller

EXECUTIVE SUMMARY

Audit Objective

The objective of our audit was to determine whether certain payments made by the State Education Department (Department) to Rainbow Rhymes Learning Center were appropriate and adequately supported.

Audit Results - Summary

The Department, whose mission is to raise the knowledge, skill and opportunity for New York State residents, uses various contractors to assist in these endeavors. One such contractor, Rainbow Rhymes Learning Center (Rainbow), entered a contract for \$988,110 to provide certain educated-related programs (Programs) on behalf of the Department. Department contractors are required to use the awarded grant monies only for Program purposes and they must maintain documentation to support their proper use.

As of March 7, 2008, Rainbow had been paid \$785,267 on this contract. We reviewed the support for \$618,602 of these payments, made during the period September 2, 2004 through October 19, 2007, and found \$473,815 in reported expenses that were either not adequately supported, not Program appropriate or claimed for a period which Rainbow was not entitled to request reimbursement.

For example, Rainbow billed the Department for salary payments to its Director that were already reimbursed by another State agency. Rainbow was also reimbursed \$35,424 for non Program-related expenditures.

Rainbow operated its Program-funded after school center for approximately 18 months before it obtained the required School Age Child Care license. Thus, Rainbow was not legally qualified to operate, or seek reimbursement for, the Program at that time. Rainbow was paid \$256,206 during this unlicensed period.

Rainbow was contracted to provide after school services to 300 children, and family literacy service to 75 families. However, on average, Rainbow only provided after school services to 27 children at any point in time. No family literacy services were provided.

We attribute the above-noted deficiencies to ineffective oversight by Department officials.

Our audit report contains three recommendations addressing these deficiencies. Department officials agree with all three of our recommendations.

This report, dated August 6, 2010, is available on our website at: <http://www.osc.state.ny.us>.

Add or update your mailing list address by contacting us at: (518) 474-3271 or

Office of the State Comptroller

Division of State Government Accountability

110 State Street, 11th Floor

Albany, NY 12236

Introduction

Background

The mission of the New York State Education Department (Department) is to raise the knowledge, skill and opportunity for New York State residents. The Department uses various contractors to assist it in these endeavors. One such contractor, Rainbow Rhymes Learning Center (Rainbow), was awarded a contract for \$988,110 to provide certain education-related programs (Programs) on behalf of the Department.

In a prior audit of certain grants awarded by the Office of Children and Family Services (OCFS) to selected New York City-based child care centers (Centers), (Report 2006-S-33, issued July 2, 2008), we found many Centers, including Rainbow, misused the government funds they received and did not provide all contracted services. As such, we assessed Rainbow to be a high-risk organization and decided to determine whether the Department funds provided to Rainbow were also misused.

The Program was established to provide opportunities for communities to establish or expand their community learning centers by:

- Providing opportunities for academic enrichment to help students, who may attend low-performing schools, meet State and local academic achievement standards in core academic subjects, such as, reading and mathematics;
- Offering students a broad array of additional services, programs and activities designed to reinforce and complement the regular academic program of participating students; and
- Offering families of students served by community learning centers opportunities for literacy and related educational development.

Providers which serve children under the age of 13 must obtain a School Age Child Care (SACC) registration from OCFS. The registration process ensures the provider's Program meets SACC requirements pertaining to buildings and equipment, discipline, fire protection and safety, sanitation, staff background checks and clearances, staff to child ratios, staff credentials, staff training and supervision of children and youth. The registration process must be completed prior to the provider's provision of services and any claim(s) for Program funds. As of March 7, 2008, Rainbow was paid \$785,267 of the contract award.

Audit Scope and Methodology

We audited selected Department grant payments to Rainbow Rhymes Learning Center to determine whether they were appropriate and adequately supported. Our audit scope period was September 2, 2004 through October 19, 2007.

To accomplish our objectives, we reviewed applicable laws, contracts, and the Department’s annual performance reports. We interviewed relevant Department officials and staff at sampled grantees. We conducted site visits to the grantee to verify the receipt of selected items and services procured with grant monies. We also reviewed grantee student attendance rosters and obtained facility licensing information from the OCFS.

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 objectives. We believe that the evidence we obtained during our audit 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 organizational independence under generally accepted government auditing standards. In our opinion, these management functions do not affect our ability to conduct independent audits of program performance.

Authority

The audit was performed pursuant to the State Comptroller’s authority as set forth in Article V, Section 1 of the State Constitution and Article II, Section 8 of the State Finance Law.

Reporting Requirements

We provided a draft copy of this report to Department officials for their review and comment. Their comments were considered in preparing this final report and are included in their entirety at the end of the report.

In response to our draft report, Department officials stated that they agreed with each of our recommendations and outlined their plans to implement them.

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

**Contributors to
the Report**

Major contributors to this report include Frank Patone, Donald Geary, Randy Partridge, and Joseph Robilotto.

Audit Findings and Recommendations

We reviewed a sample of paid Rainbow claims, totaling \$618,602, and found that \$473,815 in reported expenses were either not adequately supported, not Program appropriate or were claimed for a period which Rainbow was not entitled to request reimbursement. We also found that Rainbow did not provide significant contract deliverables.

Personal Service Expenditures

According to the Department's Fiscal Guidelines for Federal and State Aided Grants (Guidelines), time and effort records for each individual employed in the project must be maintained. These records should include: name of individual, title of position, period of employment, and total amounts paid, as well as the basis for allocating costs to Federal or State projects. In addition, where federal monies are involved, the distribution of salaries and wages to awards (funded Programs) must be supported by personnel activity reports. These reports must be maintained by employees whose compensation is charged in whole or in part directly to awards; must be signed by the individual employee or supervisory official certifying that the distribution of activity represents a reasonable estimate of the actual work performed; and must be prepared at least monthly and coincide with one or more pay periods.

We found that Rainbow did not document Program-related staff effort as required. Rainbow officials did not establish a time and effort system to allocate and document the time spent by its employees working on the funded Program, nor did Rainbow officials certify reported staff effort. As such, we cannot confirm the \$258,038 in Program payroll costs charged to the Department are appropriate.

We also found the Department reimbursed Rainbow \$12,500 for wages Rainbow's owner paid to herself for the period April 19, 2004 through June 30, 2004. However, Rainbow's payroll records show that the owner earned only \$8,217 during this period resulting in an overpayment of \$4,283. Moreover, Rainbow had previously billed OCFS \$10,000 for wages paid to her for the same time period. Thus, the owner's salary was already paid for and the entire \$12,500 should be returned to the Department.

Non-Personal Service Expenditures

The Guidelines require that documentation supporting contract payments be maintained by the contractor for at least six years after the contractor grantee receives its last contract payment. The documentation must adequately support contract-related payments and demonstrate that the contractor grantee adhered to the terms and conditions of the grant and performed the contracted deliverables.

Rainbow was unable to provide us with adequate supporting documentation for several of its non-personal service expenditures including payments for consultants, supplies, materials, and fringe benefits. Rainbow was reimbursed \$53,371 for these unsupported expenditures. For example, Rainbow paid a total of \$9,000 to one consultant for whom there was no contract agreement or invoices to support the propriety of these payments. In addition, the Department reimbursed Rainbow \$1,320 for 4,000 miles of employee-related travel without a corresponding travel voucher or itinerary. The only support for this expenditure was a sheet of paper denoting 4,000 miles at 33 cents per mile.

We also identified expenditures totaling \$35,424 reimbursed to Rainbow but clearly unrelated to the funded Program. For example, these charges include rest cots, a block shelf, and a five section locker for Rainbow's day care center operations; and a laptop computer we were told was at the owner's personal residence, as well as, tuition and registration fees for the owner's children to participate in jujitsu and junior gym at a local college.

**Program
Deliverables**

Rainbow's contract with the Department required it to provide an after school program (Program) for students enrolled at Public School 87 (PS87) and the Dr. Daniel Hale Williams Middle School 180 (MS180). The Program was to be housed both at Rainbow and the Butler Memorial United Methodist Church (UMC), both located in the Bronx. Rainbow's contract also required that a Family Literacy Program be offered to the parents who have children enrolled in the Program. The contract indicated that 200 children would be served at Rainbow Monday through Thursday from 3 p.m. to 6:30 p.m., on Saturdays from 9 a.m. to 2 p.m., and during the summer. Neither Fridays nor specific summer days and hours are mentioned in the contract documents. The contract did indicate that an additional 100 children would be served at the UMC Monday through Friday from 3:00 p.m. to 7:00 p.m., and during the summer - once again silent on the summer days and hours. The Family Literacy Program was to serve 75 families at the UMC.

Based on our physical observations and review of relevant records, we found that for the period January 1, 2004 through June 30, 2007:

- Rainbow did not provide any after school services at the Rainbow facility;
- No Family Literacy Services were offered at UMC;
- No children from MS180 participated in the Program; and
- Rainbow did not operate a summer program or offer Program-services on Saturdays.

In addition, UMC, on average, served only 27 children per day and, more importantly, operated without a license for 18 months. During this unlicensed period Rainbow was paid \$256,206 of which \$141,724 is included in the unsupported and inappropriate expenses noted above. However, we also conclude that the remaining \$114,482 paid to rainbow during this unlicensed period should not have been paid as Rainbow was not legally authorized to provide the contracted services.

**Program
Monitoring**

We attribute the above-noted deficiencies to ineffective oversight by Department officials. Despite the Department's fiscal responsibilities to ensure that the grant monies spent by the grantee are supported and Program-appropriate, the Department's primary control for approving vouchers has been to confirm that the grantee does not exceed its approved budget line items and budget categories. Department staff had not reviewed and assessed support-related documents, such as vendor invoices and contracts, or physically observed the actual services provided. Had Department officials performed these necessary oversight responsibilities, they would have identified the reported deficiencies earlier on and taken the appropriate corrective action.

Recommendations

1. Recover the \$473,815 in unsupported and inappropriate Rainbow claims identified in this report.
2. Review the \$166,665 in payments to Rainbow (\$785,267 - \$618,602) that we did not include in our audit. Recover those payments that are neither supported nor appropriate.
3. Develop and implement a monitoring system that would help ensure that contract-related payments are supported and appropriate, and that all contract-related services are provided. If significant contracted services are not being provided, revise contract dollars to address the actual number of children and families served.

Agency Comments



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

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January 13, 2010

Mr. Frank Patone
Audit Director
Office of the State Comptroller
Division of State Government Accountability
123 William Street, 21st Floor
New York, New York 10038

Dear Mr. Patone:

The following are the New York State Education Department's (Department) responses to the recommendations contained in the Office of the State Comptroller's draft audit report (2009-S-84) on *State Education Department: Rainbow Rhymes Learning Center*.

Recommendation 1: Recover the \$473,815 in unsupported and inappropriate Rainbow claims identified in this report.

We agree with this recommendation. We will make every effort to attempt to recover the payments from Rainbow Rhymes Learning Center.

Recommendation 2: Review the \$166,665 in payments to Rainbow (\$785,267 - \$618,602) that we did not include in our audit. Recover those payments that are neither supported nor appropriate.

We agree with this recommendation. We will attempt to contact Rainbow Rhymes Learning Center and examine the supporting documentation to determine the propriety of payments made.

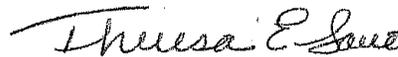
Recommendation 3: Develop and implement a monitoring system that would help ensure that contract-related payments are supported and appropriate, and that all contract-related services are provided. If significant contracted services are not being provided, revise contract dollars to address the actual number of children and families served.

The New York State Education Department (NYSED) is making every effort to improve its oversight and monitoring of 21st Century Community Learning Centers (21st CCLC) grants and grant contracts. Described below are the components of NYSED's monitoring system that helps ensure payments are supported and appropriate, and services are being provided.

- NYSED program staff will have conducted 15 monitoring site visits of 21st CCLCs by the end of the 2009-2010 school year and plan to conduct 20 visits during the 2010-2011 school year. Sixty percent of visits will be to sub-recipients that are community-based or not-for-profit organizations as these organizations constitute over 60 percent of 21st CCLC sub-recipients. A standardized monitoring protocol is used. If the program is not being operated consistent with the contract or if other programmatic or fiscal irregularities are identified, NYSED works with the program to resolve them, as needed. If the concerns are serious enough, NYSED will review the terms of the contract in light of the issues identified. Subsequent actions taken could include requiring the program to submit a corrective action plan, or in extreme cases modification, amendment or termination of the contract.
- The Annual Performance Report (APR) is the USDOE web-based data collection system for 21st CCLCs. It includes yearly data on student achievement, student behaviors, hours of operation, staffing and activities. NYSED staff review the APR for each of the 21st Century grantees for verification of program implementation. If the report identifies programmatic irregularities, NYSED staff will contact the sub-recipients to resolve the concerns. If the report identifies questions of the level of services being provided, NYSED will review the contract in light of the performance data and take appropriate actions. Actions taken could include requiring the submission of a corrective action plan and in extreme circumstances modification, amendment or termination of the contract.
- As of January 2010, all 21st CCLC sub-recipients must submit to NYSED a semi-annual program report that includes information pertaining to student attendance, fiscal spend-down, School-Aged Child Care licensing status, professional development efforts and progress toward meeting stated program objectives. Reports will be due in January and June of each year of funding. NYSED program staff will follow up with sub-recipients if/when discrepancies are identified. With regard to School-Aged Child Care licensing, for the last year, NYSED has been requiring programs to submit a copy of the license to be maintained in the program files.
- In addition, NYSED staff conduct at least 30 telephone interviews with 21st Century program sub-recipients and provides training sessions twice a year on topics including fiscal requirements.

Should you have any questions regarding this letter, please contact Mr. Robert Jaffarian at (518) 474-5520.

Sincerely,



Theresa E. Savo

c: Commissioner Steiner
John B. King
Robert Jaffarian
James Conway