



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

Division of State Government Accountability

Compliance With the Reimbursable Cost Manual

State Education Department Building Blocks Developmental Preschool, Inc.



Report 2017-S-1

October 2017

Executive Summary

Purpose

To determine whether the costs reported by Building Blocks Developmental Preschool, Inc. (Building Blocks) on its Consolidated Fiscal Reports (CFRs) were properly calculated, adequately documented, and allowable under the State Education Department's (SED) guidelines, including the Reimbursable Cost Manual (RCM). The audit covered expenses reported on Building Blocks' CFR for the fiscal year ended June 30, 2015, and certain expenses reported on Building Blocks' CFRs for the two fiscal years ended June 30, 2014.

Background

Building Blocks is an SED-approved not-for-profit special education provider located in Commack, New York. Building Blocks provides preschool special education services to children with disabilities who are between three and five years of age. Building Blocks is reimbursed for preschool special education services through rates set by SED. These reimbursement rates are based on financial information, including costs, that Building Blocks reports to SED on its annual CFR. To be eligible for reimbursement, reported costs must comply with the RCM requirements. For the three fiscal years ended June 30, 2015, Building Blocks reported over \$16 million in reimbursable costs on its CFRs for the four rate-based preschool special education programs (Programs) it operated.

Key Findings

For the three fiscal years ended June 30, 2015, we identified \$56,966 in ineligible costs that Building Blocks reported on its CFRs for the Programs. These ineligible costs included: \$53,073 in non-reimbursable lease costs, \$3,497 in non-reimbursable consultant costs, and \$396 in non-reimbursable food costs.

Key Recommendations

To SED:

- Review the disallowances identified by our audit and, if warranted, make the necessary adjustments to the costs reported on Building Blocks' CFRs and to Building Blocks' tuition reimbursement rates.
- Remind Building Blocks officials of the pertinent SED requirements that relate to the deficiencies we identified.

To Building Blocks:

- Ensure that costs reported on annual CFRs fully comply with SED's requirements, and communicate with SED to obtain clarification as needed.

Other Related Audits/Reports of Interest

[JCC of Mid-Westchester: Compliance With the Reimbursable Cost Manual \(2016-S-21\)](#)

[North Country Kids, Inc.: Compliance With the Reimbursable Cost Manual \(2016-S-53\)](#)

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

Division of State Government Accountability

October 6, 2017

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

Ms. Donna Charbonneau
Executive Director
Building Blocks Developmental Preschool, Inc.
29 Pinewood Drive
Commack, NY 11725

Dear Ms. Elia and Ms. Charbonneau:

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 costs submitted by Building Blocks Developmental Preschool, Inc. to the State Education Department for the purpose of establishing preschool special education tuition reimbursement rates used to bill public funding sources that are supported by State aid payments, entitled *Compliance With the Reimbursable Cost Manual*. The audit was performed 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.

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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This report is also available on our website at: www.osc.state.ny.us

Background

Building Blocks Developmental Preschool, Inc. (Building Blocks), a not-for-profit organization located in Commack, New York, is authorized by the State Education Department (SED) to provide, among other programs, preschool special education services to children with disabilities who are between three and five years of age. During the audit period, Building Blocks operated four (rate-based) preschool special education programs: Preschool Special Class – over 2.5 hours per day; Preschool Special Class – 2.5 hours per day; Preschool Integrated Special Class – 2.5 hours per day; and Preschool Special Education Itinerant Teacher (SEIT) services (collectively referred to as the Programs). The Programs served 269 children in Nassau and Suffolk counties.

The counties that use Building Blocks' preschool special education services pay tuition to Building Blocks using reimbursement rates set by SED. The State, in turn, reimburses the counties 59.5 percent of the tuition that the counties pay. SED sets the special education tuition rates based on financial information, including costs, reported by Building Blocks on the annual Consolidated Fiscal Report (CFR) that it submits to SED. Costs reported on the CFR must comply fully with the guidelines in SED's Reimbursable Cost Manual (RCM) regarding the eligibility of costs and documentation requirements, and must meet the reporting requirements prescribed in the Consolidated Fiscal Reporting and Claiming Manual (CFR Manual). For the three fiscal years ended June 30, 2015, Building Blocks reported over \$16 million in reimbursable costs for the Programs on its CFRs.

Audit Findings and Recommendations

According to the RCM, costs reported on the CFR are reimbursable if they are reasonable, necessary, directly related to the special education program, and adequately documented. For the three fiscal years ended June 30, 2015, we identified \$56,966 in other than personal service costs that Building Blocks reported on its CFRs that did not comply with the RCM's requirements for reimbursement. The ineligible costs included \$53,073 in improperly allocated lease costs, \$3,497 in non-program-related consultant costs, and \$396 non-reimbursable food costs.

Non-Reimbursable Lease Costs

For the three fiscal years ended June 30, 2015, we identified \$53,073 in lease costs related to the Programs that were not eligible for reimbursement. The ineligible costs included \$43,916 in lease expenses related to the SEIT program and \$9,157 in building lease expenses for agency administration.

SEIT Services

According to the RCM, property-related costs require SED's prior written approval. For the three years ended June 30, 2015, SED did not approve Building Blocks to provide SEIT services on site. Further, according to the State Education Law, SEIT is an approved program provided on an itinerant basis. As such, SEIT services are intended to be provided at off-site locations, such as a day care center. SEIT services may only be provided at the site of the approved provider if prior SED written approval was granted for student-specific extenuating health and safety reasons. For the three years ended June 30, 2015, Building Blocks claimed \$43,916 in lease costs on its CFRs for SEIT services provided on site. Building Blocks' Executive Director indicated the SEIT services were delivered on site to accommodate students enrolled in other programs that Building Blocks operated. However, officials did not obtain SED approval to provide services on site, nor was there evidence of extenuating health or safety reasons that would warrant on-site delivery of SEIT services. Therefore, the \$43,916 in lease costs are not reimbursable.

Agency Administration

According to the RCM, agency administration costs are costs not directly related to a specific program but attributable to an entity's overall operation. The RCM requires the use of the ratio value method to allocate such costs. For the year ended June 30, 2015, Building Blocks claimed \$62,704 in non-direct administrative lease costs as direct costs to the Programs on its CFRs. Building Blocks did not allocate these administrative lease costs to the Programs using the ratio value method prescribed by the RCM. After applying the ratio value method to allocate these costs, we determined Building Blocks overallocated \$9,157 in administrative lease costs to the Programs.

Non-Program-Related Consultant Costs

According to the RCM, costs will be considered for reimbursement provided such costs are directly related to the special education program. For the year ended June 30, 2015, Building Blocks claimed \$3,497 on its CFR for actuarial and pension consulting costs that were incurred for the benefit of its separate nursery school program. These costs were not directly related to the Programs and, consequently, are not reimbursable.

Non-Reimbursable Food Costs

According to the RCM, the cost of food for staff is not reimbursable. For the year ended June 30, 2015, we identified \$396 in food costs for staff that Building Blocks claimed on its CFR. These costs are not reimbursable.

Recommendations

To SED:

1. Review the disallowances identified by our audit and, if warranted, make the necessary adjustments to the costs reported on Building Blocks' CFRs and to Building Blocks' tuition reimbursement rates.
2. Remind Building Blocks officials of the pertinent SED requirements that relate to the deficiencies we identified.

To Building Blocks:

3. Ensure that costs reported on annual CFRs fully comply with SED's requirements, and communicate with SED to obtain clarification as needed.

Audit Scope, Objective, and Methodology

We audited costs that Building Blocks reported on its CFR for the fiscal year ended June 30, 2015, and certain costs reported on Building Blocks' CFRs for the two fiscal years ended June 30, 2014. The objective of our audit was to determine whether the reported costs were allowable, properly calculated, and adequately documented in accordance with applicable SED requirements.

To accomplish our objective and assess internal controls related to our objective, we reviewed the RCMs that applied to the years we examined, as well as the CFR Manual and its related appendices. We became familiar with Building Blocks' internal controls as they related to costs that Building Blocks reported on the CFR. We also interviewed Building Blocks' personnel to obtain an understanding of its practices for reporting costs on the CFR. We reviewed Building Blocks' CFR for the fiscal year ended June 30, 2015 and relevant financial records for the audit

period. We obtained accounting records and supporting information to assess whether certain costs claimed by Building Blocks on the CFR that were considered high risk and reimbursable in limited circumstances (such as SEIT facility costs and food) were allowable, properly calculated, and adequately documented. Based on exceptions found in our initial review, we expanded our review to include certain costs reported for the two fiscal years ended June 30, 2014.

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 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 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 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; Article II, Section 8 of the State Finance Law; and Section 4410-c of the State Education Law.

Reporting Requirements

We provided a draft copy of this report to SED and Building Blocks 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 the report. In SED's response, officials agreed with the audit recommendations and indicated the actions they will take to address them. In Building Blocks' response, officials disagreed with our proposed audit disallowance related to lease costs for SEIT services. However, SED officials agree with the proposed audit disallowance. Our rejoinders to this matter and certain other Building Blocks 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.

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.

Exhibit

**Building Blocks Developmental Preschool, Inc.
Schedule of Submitted and Disallowed Program Costs
for the Three Fiscal Years Ended June 30, 2015**

Program Costs	Amount per CFR	Amount Disallowed	Amount Remaining	Notes to Exhibit
Personal Services	\$14,163,401	\$0	\$14,163,401	
Other Than Personal Services	2,110,962	56,966	2,053,996	A-E
Total Program Costs	\$16,274,363	\$56,966	\$16,217,397	

Notes to Exhibit

The following Notes refer to specific sections of the RCM that we used as a basis for our recommended disallowances. We summarized the applicable sections to explain the basis for each disallowance. We provided the details supporting our recommended disallowances to SED and Building Blocks officials during the course of the audit.

- A. RCM Section I.9: Agency administration is defined as those expenses which are not directly related to a specific program, but are attributable to the overall operation of the agency.
- B. RCM Section III.1.M.(3): For CFR filers (except Office of Children and Family Services Residential Facilities), agency administration costs shall be allocated to all programs operated by the entity based on the Ratio Value Method of allocation.
- C. RCM Section I.1.B.(1): Program and fiscal issues that require prior written approval of the Commissioner's designees include but are not limited to: education program expansion requiring additional staff, property related costs, classroom equipment, etc. when the cost is expected to be reimbursed fully or partially through the tuition rate. Both program and fiscal designee written approval are required.
- D. RCM Section II: Generally, costs will be considered for reimbursement provided such costs are reasonable, necessary, directly related to the special education program, and are sufficiently documented.
- E. RCM Section II.22.C: Costs of food provided to any staff, including lunchroom monitors, are not reimbursable.

Agency Comments - State Education Department



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

DEPUTY COMMISSIONER
Office of Performance Improvement and Management Services
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September 28, 2017

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, 2017-S-1, Compliance with the Reimbursable Cost Manual: Building Blocks Developmental Preschool, Inc. (Building Blocks).

Recommendation 1: Review the disallowances identified by our audit and, if warranted, make the necessary adjustments to the costs reported on Building Blocks' CFRs and to Building Blocks' tuition reimbursement rates.

We agree with this recommendation. Specifically, regarding the disallowance for the property-related Special Education Itinerant Service (SEIS) costs, SED agrees with the OSC disallowance and would further clarify that even if Building Blocks had sought SED approval of the space used to deliver SEIS, SED would not deem the space eligible for reimbursement as part of the special education rate for this itinerant service. SED 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: Remind Building Blocks officials of the pertinent SED requirements that relate to the deficiencies we identified.

We agree with this recommendation. SED will continue to provide technical assistance whenever requested and will strongly recommend the Building Blocks officials take advantage of our availability to help them better understand the standards for reimbursement as presented in Regulation and the Reimbursable Cost Manual (RCM). Furthermore, Consolidated Fiscal Report (CFR) training is available online on SED's webpage. SED recommends that all individuals signing the CFR certification statements, namely Executive Directors and Certified Public Accountants, complete this training. At the direction of the Board of Regents, the Department intends to require that this training be mandatory and will require individuals to verify that they have completed the training.

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

Yours truly,

Sharon Cates-Williams
Deputy Commissioner

cc: Thalia Melendez
Christopher Suriano
Suzanne Bolling

Agency Comments - Building Blocks Developmental Preschool, Inc.



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August 22, 2017

VIA ELECTRONIC EMAIL

Andrea Inman, Audit Director
Office of the State Comptroller
Division of State Government Accountability
110 State Street, 11th Floor
Albany, NY 12230

**RE: State Education Department
Building Blocks Developmental Preschool, Inc.
Compliance with the Reimbursable Cost Manual
Audit #2017-S-001
Draft Report**

Dear Ms. Inman:

We have reviewed the aforementioned Draft Report concerning the expenses submitted by Building Blocks on its Consolidated Fiscal Reports (CFRs) for the fiscal year ending June 30, 2015, with expanded audit review of certain costs reported in the two prior fiscal years ending June 30, 2014, and provide the following comments on select findings presented therein.

Lease Costs

SEIT Services

While Building Blocks acknowledges that recently published guidance from the NYSED strongly encourages the provision of Special Education Itinerant Services (SEIS) at child care setting locations, the same guidance specifically authorizes the provision of such services "at the site of the approved provider" in certain situations. Building Blocks believes the circumstances present just such an exception to the general rule.

In the audited years, Building Blocks implemented certain Individualized Education Plans (IEPs) which specifically identified the Building Blocks location as the location/setting of service. Building Blocks was compelled to implement the IEPs as directed, under penalty of both state and federal law, and to incur all reasonable costs associated with those services - - including the facility/lease costs the auditors seek here to disallow.

Building Blocks would suffer an unfair hardship were these reasonable costs to be disallowed, as proposed, having implemented the IEPs in good faith, and in accordance with the

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Comment
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*See State Comptroller's Comments, page 15.

Andrea Inman
August 22, 2017
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terms of its county service contracts, NYSED approval letters, and all applicable rules, regulations or guidance documents governing the provision of services.

We also note that the guidance upon which the auditors’ based their finding (specifically as relates to prior written approval) was not published until October, 2015 -- well after the conclusion of the audited years.

Accordingly, we respectfully request that the auditors reconsider their findings, based upon appropriate application of governing law and guidance.

Agency Administration

While Building Blocks does not disagree with the auditors’ assertion that the allocation of certain lease costs deemed to be administration costs may have been improved upon through the use of an alternative approach, we must clarify that we believe we followed the guidance of the Reimbursable Cost Manual in preparation of the CFR regarding rental of property. Treatment of this expense was based on a reasonable interpretation of Item 41.B.(4) which states “The share of rental expense allocated to programs funded by Article 81 and/or Article 89 is based on documented and reasonable criteria, such as square footage utilization, when more than one program is operated in a rented facility.” Building Blocks applied documented and reasonable criteria with respect to the methodology. We maintained, on an annual basis, a floor plan of the School which indicated the square footage of the programs which operated in that space. The School used actual program square footage for each program as the basis of the allocation for agency total rental costs in the amount of \$404,879, of which \$9,157 has been deemed to be an over allocation. Building Blocks will apply the ratio value method to allocate lease costs – agency administration moving forward.

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Consultant Costs

Building Blocks does not challenge the auditors’ finding that \$3,497 in actuarial and pension consultant costs were inadvertently reported as SED program costs. Building Blocks’ fiscal management has strengthened internal controls to assure the appropriate allocation of such costs in the future.

Food Costs

Building Blocks does not challenge the auditors’ finding that incidental expenses totaling \$396 were inadvertently reported as reimbursable costs. Closer scrutiny of all such costs will assure fuller compliance with the requirements of the reimbursable cost manual in the future.

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Andrea Inman
August 22, 2017
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Building Blocks appreciates the opportunity to provide these comments and the professionalism and courtesy extended by the audit staff during the audit process. We take particular note of the auditors' reconsideration of certain preliminary findings upon thoughtful review of the additional analysis provided at the exit conference.

Very truly yours,

GREENBERG TRAURIG, LLP



Pamela A. Madeiros

PAM/mdw

CC: Suzanne Bolling, NYSED
Thalia Melendez, NYSED
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Daniel Towle, OSC

ALB 2047083v1

State Comptroller's Comments

1. As explained on page 5 of this audit report, the circumstances surrounding the provision of SEIT services on site at Building Blocks did not fall within the parameters of the policies set forth by SED. Further, in SED's response to our audit, officials agree with the proposed audit disallowance and stated that even if Building Blocks had sought SED approval of the space used to deliver SEIT services, SED would not have deemed the space eligible for reimbursement. Therefore, we maintain that the \$43,916 in lease costs is not reimbursable.
2. The purpose of the October 2015 Special Education Field Advisory issued by SED was to provide comprehensive guidance on existing policies relating to SEIT services to ensure SEIT providers and others had a common understanding of the State's related laws, regulations, and policies. While we did use this guidance to finalize our audit conclusions, the RCM's instructions pertaining to required SED approvals were already established and in effect for the entirety of our three year audit period.
3. It was not reasonable for Building Blocks to claim \$62,704 in non-direct administrative lease costs as direct costs (using a square footage method) to the Programs on its CFR. The RCM clearly states that agency administration costs shall be allocated to all programs operated by the entity based on the ratio value method of allocation. We maintain that Building Blocks' treatment of these non-direct costs as direct costs was inappropriate. Nevertheless, we are pleased to see that Building Blocks will apply the ratio value method to allocate these costs in the future.