



STATE OF NEW YORK  
**OFFICE OF THE STATE COMPTROLLER**

February 28, 2014

Nirav R. Shah, M.D., M.P.H.  
Commissioner  
Department of Health  
Empire State Plaza  
Corning Tower Building  
Albany, NY 12237

Re: Report 2014-STAT-01A

Dear Dr. Shah:

In conjunction with our Investigations Unit, we examined<sup>1</sup> select payments the Department of Health (Department) made to the American Academy of Pediatrics, District II (AAP) under contract C028275. After identifying questionable payments made under that contract, we expanded our scope to include select payments under contracts C018189 and C022937. During the period February 16, 2006 through August 13, 2013, the Department paid AAP approximately \$1.5 million under these contracts for expenses related to various immunization initiatives. We sought to determine whether the expenses were bona fide and made in accordance with the contracts.

To date, we found that the Executive Director of AAP falsely certified and submitted to the Department 16 Standard Vouchers and 1 Claim for Payment (together referenced as "vouchers") as "just, true and correct; that no part thereof has been paid except as stated and that the balance is actually due and owing" which our examination revealed to contain material false information related to charges for Continuing Medical Education (CME) credits, program materials, hotel expenses, fringe benefits allegedly paid to the Executive Director and his Administrative Assistant, and wages reportedly paid to the AAP webmaster. In six instances, the Executive Director submitted false third-party vendor documents in support of inflated charges on the AAP invoices – including four documents he created or altered. As a result of these fraudulent certifications and documents, AAP received at least \$87,070.40 to which it was not entitled.

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<sup>1</sup>We performed our examination in accordance with the State Comptroller's authority as set forth in Article V, Section 1 of the State Constitution, as well as Article II, Section 8, and Article VII, Section 111 of the State Finance Law.

Based upon our examination, on February 28, 2014, George Dunkel, the Executive Director of the AAP, was arrested and charged with one count of *Grand Larceny in the Second Degree* (a class C felony) and four counts of *Offering a False Instrument for Filing in the First Degree* (a class E felony).

This examination is ongoing and we will keep you informed of our findings as we progress. At this time, we are reporting our results to date.

### CME Credits

Under the terms of its contracts, the AAP agreed to supply CME credits to conference attendees. CME credits are issued only through authorized third-party vendors. In order to support payment by the State, the Executive Director submitted 14 vouchers claiming \$27,750.00 in charges that the AAP had purportedly paid to third-party vendors for these CME credits.

We obtained evidence from two authorized third-party vendors that demonstrates the AAP invoices included \$22,950.00 in false and inflated charges for these CME credits.

- To support a portion of these inflated charges, the Executive Director altered two invoices from a CME provider to increase the expenses by \$2,400.00.
- For the remaining \$20,550.00, the Executive Director billed the Department for CME charges the AAP never paid or incurred.

### Program Materials

The Executive Director submitted three AAP invoices that included \$10,359.48 in inflated charges for brochures, envelopes, mailing, and/or postage (program materials). In support of these inflated charges, the Executive Director submitted to the Department:

- One vendor invoice for \$7,500.00 for services the vendor confirmed was never provided. Therefore, the AAP never incurred or paid for this alleged expense.
- One altered vendor invoice for \$5,284.69 in program materials to support a payment of \$5,000.00 to the AAP. We obtained the actual vendor invoice which demonstrated that only \$3,133.17 in expenses were actually charged and paid by AAP for program materials. The vendor confirmed that the AAP was billed for only \$3,133.17 and that the bill the Executive Director submitted to the State was not

authentic. This caused the AAP to receive \$1,866.83 more than it was entitled to (\$5,000.00 billed by AAP less \$3,133.17 in actual expenses).

- One vendor estimate in the amount of \$6,420.00 for bookmarks to support a payment of \$6,420.00 to the AAP. We obtained the actual vendor estimate which demonstrated it was for only \$5,420.00 and was dated one day prior to the \$6,420.00 estimate the Executive Director submitted to the Department for payment. Additionally, the vendor provided the actual invoice related to the purchase which demonstrated only \$5,427.35 in expenses were charged and paid by AAP for bookmarks. This caused AAP to receive \$992.65 to which it was not entitled.

#### Hotel Costs

The Executive Director certified one voucher that included \$5,360.62 in inflated charges for hotel costs associated with an immunization summit in May 2009. In support of these inflated charges, the Executive Director provided an invoice allegedly from the hotel for \$31,200.00. We obtained a copy of the actual invoice directly from the hotel and found it included charges for only \$25,839.38. A representative from the hotel confirmed that the AAP was billed for only \$25,839.38 and that the bill submitted to the State was not authentic. We concluded the invoice was altered to increase the amount for hotel services by \$5,360.62.

#### Fringe Benefits

The Executive Director certified 17 vouchers that included at least \$41,000.30 in inflated charges for fringe benefits related to the hours he and his Administrative Assistant allegedly provided for various activities under the contracts.

- Based on a review of AAP records, including bank statements and payroll records, along with interviews with associates of AAP who have knowledge of its finances, the AAP paid the Executive Director as an independent contractor and did not provide or pay for any fringe benefits. Therefore, the AAP was not entitled to the \$36,947.50 that the Executive Director billed the Department for his alleged fringe benefits.
- The AAP charged the Department fringe benefits for the Administrative Assistant at 25 percent of her alleged hourly wages, which the Executive Director represented as \$30.00 or \$40.00 on AAP invoices. Our examination of AAP payroll records showed the Administrative Assistant's actual hourly wages ranged from \$25.24 to \$28.48.

Therefore, the Executive Director overstated the Administrative Assistant's hourly wages by \$4.76 to \$14.20. This caused the Department to pay at least \$4,052.80 for fringe benefits that were never paid or incurred for the Administrative Assistant, thus, were not owed to AAP.

#### Webmaster Wages

The Executive Director certified six vouchers that included \$7,400.00 in hourly wage expenses for a webmaster. We interviewed the AAP webmaster and learned he provided his services to the AAP free of charge and has never received any payment for hourly work. Therefore, the AAP was not entitled to receive \$7,400.00 for webmaster wages that were never paid or incurred.

We will continue to work with the Office of the Attorney General as part of the Comptroller and Attorney General's Joint Task Force on Public Integrity. We will continue to evaluate these and other expenditures under the contracts and will share our findings with you in a separate report.

We thank you, the management and staff of the Department of Health for the courtesies extended to our auditors and ask for your continued cooperation as we continue our investigation.

Sincerely,

Bernard J. McHugh  
Director of State Expenditures

cc: Darren Miller, Assistant Attorney General, OAG  
Charlotte Breeyear, Contracts Bureau Director, OSC  
Diane Christensen, Audit Director, DOH  
Nelson Sheingold, Counsel for Investigations, OSC