



STATE OF NEW YORK
OFFICE OF THE STATE COMPTROLLER

September 29, 2015

Howard Zucker, M.D.
Commissioner
Department of Health
Empire State Plaza
Corning Tower Building
Albany, NY 12237

Re: Report 2015-BSE1-02

Dear Dr. Zucker:

In conjunction with our Division of Investigations and the Office of the Attorney General, we examined¹ approximately \$1.5 million in select payments the Department of Health (Department) made to the American Academy of Pediatrics, District II (AAP) for various immunization initiatives under contracts C028275, C018189 and C022937, collectively valued at nearly \$2.35 million. We sought to determine whether the expenses were bona fide and made in accordance with the contracts.

A. Results of Examination

We found the Department paid the AAP \$497,024.86 in expenses that were not bona fide or made in accordance with the contract. This includes \$252,009.81 for expenses never incurred, \$9,695.23 for expenses not allowed under the contracts, and \$235,319.82 for expenses which cannot be substantiated due to lack of supporting evidence.

As a result of our examination, George Dunkel, the Executive Director of the AAP, was arrested on February 28, 2014, 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). On September 5, 2014, Mr. Dunkel pled guilty to Offering a False Instrument for Filing in the First Degree (a class E felony) and paid \$111,044 in restitution to the State.

We recommend the Department recover the remaining \$385,980.86 from the AAP (\$497,024.86 in inappropriate payments less \$111,044 restitution paid by Mr. Dunkel).

¹ We performed our examination in accordance with the State Comptroller's authority 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.

We shared a draft report with the Department and considered their comments (Attachment A) in preparing this final report. Officials agrees with the findings and stated that they will; seek recovery of funds from AAP, ensure appropriate staff take OSC Contract Monitoring training and other related trainings, and implement a formal voucher trace process.

B. Background and Methodology

The Department's Immunization Bureau receives grants from the Center for Disease Control and Prevention (CDC) for outreach activities that provide information on immunizations to pediatric providers and the public. To carry out these immunization initiatives, the DOH entered into contracts with the AAP.

We examined approximately \$1.5 million in select payments made during the period February 16, 2006 through August 13, 2013 from the Department to the AAP under contracts C018189, C022937, and C028275. Our objective was to determine if these payments were for expenses incurred in accordance with the work plans and were free of fraud, waste and abuse.

To accomplish our objective, we examined the documentation the AAP provided to support expenses as well as AAP bank records. We interviewed various AAP employees, third-party companies and individuals the AAP claimed to have paid. We also obtained documentation from third parties to confirm the actual amounts paid. We issued subpoenas to the AAP and other appropriate parties to ensure we obtained and evaluated all relevant documentation. Finally, we interviewed relevant Department employees to gain an understanding of the expectations under these contracts and the Department's process for reviewing AAP claims for payment.

C. Details of Findings

We found that overall, Department officials did not provide appropriate oversight to ensure the AAP's vouchers included only actual and allowable expenses. While staff obtained evidence to support the occurrence of the training program, they failed to gather and validate documentation to support the legitimacy of expenses claimed by the AAP. As a result, the Department staff did not identify that the AAP's Executive Director repeatedly submitted requests for the AAP to be reimbursed for expenditures which were not incurred, were not allowable under the contract, or may not have been incurred.

The following charts detail \$252,009.81 in expenses never incurred, \$9,695.23 in expenses not allowed under the contracts, and \$235,319.82 in expenses which cannot be substantiated due to lack of supporting evidence.

Expenses Never Incurred – \$252,009.81

Category	Amount	Reason
Salary	\$102,604.71	AAP inflated the hourly rates that consultants and employees were paid.
Consultant and Employee Fringe Benefits	50,848.80	AAP billed for fringe benefits for consultants who did not receive fringe benefits, and also overstated fringe benefits for employees who received them.
Fringe Benefits - NY State Targeted Improvement in Immunization Practices Program	29,446.82	AAP billed for fringe benefit expenses which were never incurred or paid.
Lodging and Tuition for Conference Attendees	26,150.00	AAP billed for more people than attended conferences.
Continuing Medical Education Credits	22,950.00	AAP falsified and inflated dollar amounts on invoices, and billed for education costs that were not incurred.
Program Materials and Mailing	12,609.48	AAP altered and inflated dollar amounts on invoices, as well as billed for services which were never provided.
Webmaster Expenses	7,400.00	AAP billed for webmaster services which were provided for free.
Total	\$252,009.81	

Expenses Not Allowed Under the Contracts – \$9,695.23

Category	Amount	Reason
Travel And Honoraria	\$4,648.98	AAP billed for conference travel for AAP employees not allowable under the contracts, and, where travel was allowable, billed at rates that exceeded the contract amounts.
Salaries	2,996.25	AAP billed for more employees' hours allegedly worked than allowable under the contracts.
Program Materials And Mailing	1,150.00	AAP billed more for program materials and mailing than allowable under the contracts.
Audio Visual Equipment	900.00	AAP billed for AV equipment when there was no allowance for this item in the contract.
Total	\$9,695.23	

Unsubstantiated Expenses – \$235,319.82

Category	Amount	Reason
Salaries	\$148,464.04	AAP did not provide evidence to support employees worked on contract objectives for the hours billed.
Speaker Travel and Honoraria	42,215.07	AAP did not provide evidence to support these expenses were incurred.
Program Materials and Mailing	29,472.63	AAP did not provide evidence to support these expenses were incurred.
Employee Fringe Benefits	12,667.45	AAP did not provide evidence to support actual fringe benefits incurred, or to support employees' worked on contract objectives for the billed hours upon which the fringe benefits were calculated.
Breakfast Meeting Hotel	2,161.08	AAP did not provide evidence to show these expenses were incurred.
Audio Visual Equipment	339.55	AAP did not provide evidence to show these expenses were incurred.
Total	\$235,319.82	

Department officials agreed with the above findings, indicated they would seek supporting evidence from the AAP to substantiate the expenses, and will seek reimbursement from the AAP where there is not sufficient, appropriate evidence to support amounts paid. Where substantiated expenses exceed budgeted amounts, Department officials will make appropriate contract modifications to allow the expenses. At the Department's request, we provided our audit documentation to assist in the recovery effort.

As a result of our examination, Department officials reported that they have undertaken efforts to: ensure appropriate staff take the Office of the State Comptroller's Contract Monitoring and other related trainings; meet with voucher review staff to train them on contract budgets and allowable costs; establish risk-based criteria to flag specific expenses for additional review and verification; implement a formal voucher verification program where full back-up documentation may be requested, and; have certain staff attend monthly Department meetings to stay current on contract monitoring requirements.

Recommendations

1. *From the total \$252,009.81 paid to the AAP for expenses never incurred, recover the remaining \$140,965.81 which has yet to be paid back to the State (\$252,009.81 less \$111,044 restitution paid by George Dunkel).*
2. *Recover up to \$9,695.23 paid to the AAP for expenses not allowed under the contracts where AAP does not provide sufficient, appropriate evidence to support payment.*

3. *In the absence of sufficient, appropriate evidence to support legitimacy and relevance to contract objectives, recover \$235,319.82 in payments for unsubstantiated expenses.*
4. *Ensure Department staff obtain, sustain and demonstrate the knowledge, skills and ability necessary to effectively monitor contracts and ensure future payments are just, due and owing prior to payment.*
5. *Require vendors to provide documentation to support expenses billed, as this may deter certain types of fraud and may also provide the Department the information necessary to validate a request for reimbursement with a third party.*

We thank the management and staff of the Department for the courtesies and cooperation extended to our auditors. Since your response to our draft report is in agreement with the recommendation, there is no need for further response. If you chose to provide a response, we would appreciate receiving it by October 29, 2015 indicating any actions planned to address the recommendations in this report.

Sincerely,

Bernard J. McHugh
Director of State Expenditures

Enc: Attachment A

cc: Diane Christensen, DOH
Nelson Sheingold, OSC
Charlotte Breeyear, OSC

**Department of Health
Comments on the
Office of the State Comptroller's
Draft Audit Report 2015-BSE1-02 entitled,
"Examination of American Academy of Pediatrics"**

The following are the Department of Health's (Department) comments in response to the Office of the State Comptroller's (OSC) Draft Audit Report 2015-BSE1-02 entitled, "Examination of American Academy of Pediatrics (AAP)."

Recommendation #1

From the total \$252,009.81 paid to the AAP for expenses never incurred, recover the remaining \$140,965.81, which has yet to be paid back to the State (\$252,009.81 less \$111,044 restitution paid by George Dunkel).

Response #1

The Department agrees with this recommendation and will seek recovery of funds from AAP. We request OSC provide the related audit documentation to assist in our recovery effort.

Recommendation #2

Recover up to \$9,695.23 paid to the AAP for expenses not allowed under the contracts where AAP does not provide sufficient, appropriate evidence to support payment.

Response #2

The Department agrees with this recommendation related to expenses that the Department would have allowed via the contract budget modification process. The Department will seek supporting evidence from AAP for these expenses, and will seek recovery of funds for expenses for which sufficient, appropriate evidence is not provided. We request OSC provide the related audit documentation to assist in our recovery effort.

Recommendation #3

In the absence of sufficient, appropriate evidence to support legitimacy and relevance to contract objectives, recover \$235,319.82 in payments for unsubstantiated expenses.

Response #3

The Department agrees with this recommendation, will seek supporting evidence from AAP for these expenses, and will seek recovery of funds for expenses for which sufficient, appropriate evidence is not provided. We request OSC provide the related audit documentation to assist in our recovery effort.

Recommendation #4

Ensure Department staff obtain, sustain and demonstrate the knowledge, skills and ability necessary to effectively monitor contracts and ensure future payments are just, due and owing prior to payment.

Response #4

The Department agrees with this recommendation. The Department will ensure that appropriate staff take OSC Contract Monitoring Training and other related trainings. Appropriate staff includes administrative and fiscal staff and other staff who perform contract management functions.

Approximately 300 staff members across the Department have completed the full-day OSC contract monitoring training. Additionally, 300 Department staff members have completed Department developed training on the Office of Management and Budget Super Circular. This training was specific for contract managers and emphasized what costs are allowable in reimbursement contracts.

In addition, administrative and fiscal staff attend monthly Department of Health Administrative Community of Practice meetings to stay current on contract monitoring requirements and to learn best practices from staff across several Department Divisions.

Also, Bureau leaders meet with contract managers and voucher review staff to conduct training on allowable costs and contract monitoring practices.

Recommendation #5

Require vendors to provide documentation to support expenses billed, as this may deter certain types of fraud and may also provide the Department the information necessary to validate a request for reimbursement with a third party.

Response #5

The Department agrees with this recommendation. We have implemented a formal voucher trace process whereby full back-up documentation is requested from a set of contractors for specific quarterly or monthly vouchers. Bureau leaders are also establishing risk-analysis criteria by which staff can flag specific expenses for additional review and verification.