



New York State Comptroller  
**THOMAS P. DiNAPOLI**

# These Our Treasures, Inc.: Compliance With the Reimbursable Cost Manual

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State Education Department

Report 2020-S-60 | December 2021

Spotlight on Education



# Audit Highlights

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## Objective

To determine whether the costs reported by These Our Treasures, Inc. (TOTS) on its Consolidated Fiscal Reports (CFRs) were reasonable, necessary, directly related to the special education programs, and sufficiently documented pursuant to the State Education Department's (SED) Reimbursable Cost Manual (RCM) and the Consolidated Fiscal Reporting and Claiming Manual (CFR Manual). The audit focused primarily on expenses claimed on TOTS' CFR for the fiscal year ended June 30, 2017 and certain expenses claimed on its CFRs for the 2 fiscal years ended June 30, 2016.

## About the Program

TOTS is a New York City-based non-for-profit organization authorized by SED to provide preschool special education services to children with disabilities who are between the ages of 3 and 5 years. During our audit period, TOTS operated preschool special education half-day and full-day Special Class programs. For the purposes of this report, these programs are collectively referred to as the SED preschool cost-based programs. TOTS also operated an SED preschool special education 1:1 Aide program; however, payments for services under this program were based on fixed fees, as opposed to the cost-based rates established through CFR-reported financial information. In addition, TOTS operated an Infant/Toddler Early Intervention program and received monetary grants from public sources.

During the 2016-17 school year, TOTS served approximately 68 preschool students with disabilities at its one location in the Bronx. The New York City Department of Education (DOE) refers students to TOTS based on clinical evaluations and pays for TOTS' services using rates established by SED. The rates are based on the financial information that TOTS reports to SED on its annual CFRs. SED reimburses the DOE 59.5% of the statutory rate it pays to TOTS. For the 3 fiscal years ended June 30, 2017, TOTS reported approximately \$5 million in reimbursable costs for the SED preschool cost-based programs.

## Key Findings

For the 3 fiscal years ended June 30, 2017, we identified \$182,856 in reported costs that did not comply with the requirements in the RCM and/or CFR Manual, as follows:

- \$93,163 in personal service costs, including \$50,318 in overallocated salary costs, \$27,539 in salaries claimed for time that was not recorded on employee time sheets, \$861 in salary paid in excess of the employee's salary scale, and \$14,445 in fringe benefits associated with these ineligible salary costs.
- \$89,693 in other than personal services costs, including \$84,017 in undocumented building improvement depreciation costs and \$5,676 in other non-reimbursable depreciation costs.

We recommend that SED disallow the \$182,856 in reported costs that we identified.

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## Key Recommendations

### To SED:

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

### To TOTS:

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



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

December 8, 2021

Betty A. Rosa, Ed.D.  
Commissioner  
State Education Department  
State Education Building  
89 Washington Avenue  
Albany, NY 12234

Nicoletta DiNapoli  
Executive Director  
These Our Treasures, Inc.  
2778 Bruckner Boulevard  
Bronx, NY 10465

Dear Dr. Rosa and Ms. DiNapoli:

The Office of the State Comptroller is committed to helping State agencies, public authorities, and local government agencies manage government resources efficiently and effectively. By so doing, it provides 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, entitled *Compliance With the Reimbursable Cost Manual*, of our audit of the expenses submitted by These Our Treasures, Inc. to the State Education Department for the purpose of establishing the preschool special education tuition reimbursement rates used to bill public funding sources that are supported by State aid payments. 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,

*Division of State Government Accountability*

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# Glossary of Terms

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<b>Term</b>	<b>Description</b>	<b>Identifier</b>
CFR	Consolidated Fiscal Report	<i>Key Term</i>
CFR Manual	Consolidated Fiscal Reporting and Claiming Manual	<i>Policy</i>
DOE	New York City Department of Education	<i>Agency</i>
OTPS	Other than personal service	<i>Key Term</i>
RCM	Reimbursable Cost Manual	<i>Policy</i>
SED	State Education Department	<i>Auditee</i>
TOTS	These Our Treasures, Inc.	<i>Service Provider</i>

# Background

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These Our Treasures, Inc. (TOTS) is a New York City-based non-for-profit organization authorized by the State Education Department (SED) to provide preschool special education services to children with disabilities who are between the ages of 3 and 5 years. During our audit period, TOTS operated preschool special education half-day and full-day Special Class programs (Programs 9115 and 9100, respectively). For the purposes of this report, these programs are collectively referred to as the SED preschool cost-based programs. During the 2016-17 school year, TOTS served approximately 68 preschool students with disabilities at its one location in the Bronx.

In addition to the SED preschool cost-based programs, TOTS operated an SED preschool special education 1:1 Aide program (Program 9230); however, payments for services under this program were based on fixed fees, as opposed to the cost-based rates established through financial information reported on Consolidated Fiscal Reports (CFRs). Further, TOTS operated an Infant/Toddler Early Intervention program (Program 9300) and received monetary grants from public (Programs 9805 and 9806) sources.

The New York City Department of Education (DOE) refers students to TOTS based on clinical evaluations and pays for TOTS' services using rates established by SED. The rates are based on the financial information that TOTS reports to SED on its annual CFRs. To qualify for reimbursement, TOTS' expenses must comply with the criteria in SED's Reimbursable Cost Manual (RCM) and the Consolidated Fiscal Reporting and Claiming Manual (CFR Manual), which provide guidance to special education providers on the eligibility of reimbursable costs, the documentation necessary to support these costs, and cost allocation requirements for expenses related to multiple programs and entities. SED reimburses the DOE 59.5% of the statutory rate it pays to TOTS.

For the 3 fiscal years ended June 30, 2017, TOTS reported approximately \$5 million in reimbursable costs for the SED preschool cost-based programs. This audit focused primarily on expenses that TOTS claimed on its CFR for the fiscal year ended June 30, 2017 and certain expenses that TOTS claimed on its CFRs for the 2 fiscal years ended June 30, 2016.

# Audit Findings and Recommendations

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According to the RCM, costs will be considered for reimbursement provided they are reasonable, necessary, directly related to the special education program, and sufficiently documented. For the 3 fiscal years ended June 30, 2017, we identified \$182,856 in reported costs that did not comply with SED's requirements for reimbursement. These ineligible costs included \$93,163 in personal service costs and \$89,693 in other than personal service (OTPS) costs (see Exhibit).

Strong internal controls are critical to the overall health of an organization. These controls help to safeguard assets and ensure reliable financial reporting and compliance with regulatory requirements. We attributed the disallowances detailed in this report to weaknesses in TOTS' internal controls over its compliance with SED's requirements.

## Personal Service Costs

Personal service costs, which include all salaries and fringe benefits paid or accrued to employees on the service provider's payroll, must be reported on the CFR as either direct care costs (e.g., teachers' salaries) or non-direct care costs (e.g., administrators' salaries). For the 3 fiscal years ended June 30, 2017, TOTS reported approximately \$4.2 million in personal service costs for the SED preschool cost-based programs. We identified \$93,163 in personal service costs that did not comply with the RCM's and/or the CFR Manual's requirements for reimbursement.

## Excessive Allocation

According to the RCM, costs must be reasonable, necessary, directly related to the special education program, and sufficiently documented. Any expenditures that cannot be charged directly to a specific program must be allocated across all programs and/or entities benefited by the expenditure. For example, salaries of employees who perform tasks for more than one program and/or entity must be allocated among all programs and/or entities for which they work. Entities must use allocation methods that are fair and reasonable.

Actual hours of service are the preferred statistical basis on which to allocate salaries and fringe benefits for shared staff who work on multiple programs. Entities must maintain appropriate documentation reflecting the hours used in this allocation. Acceptable documentation may include payroll records or time studies. Appendix L of the CFR Manual gives the minimum standards for an acceptable time study. Among other criteria, the weeks selected must be equally distributed among the months of the cost reporting period (e.g., weeks 3 and 4 in March, weeks 2 and 3 in June, weeks 3 and 4 for September, and weeks 1 and 2 in December). Additionally, the time study must be contemporaneous with the costs to be allocated. We identified \$61,475 in allocated expenses that did not comply with SED's reimbursement requirements, as discussed next.

We found the time studies conducted by TOTS for three employees for 2016-17 did not meet the CFR Manual's minimum standards for an acceptable time study. For

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example, the weeks selected for the school's Principal were unequally distributed, as the first 11 days were never studied for any month. Time studies for the other two employees were missing the dates that were studied. In addition, the time studies were never approved by employees, supervisors, or the payroll department. Although these approval fields were included in the time studies, they were not completed.

The school's Principal was also incorrectly classified as an Individualized Education Program Coordinator on the 2016-17 CFR. Our review of this employee's personnel files and the personnel files of other employees indicated that this employee worked as the Principal of TOTS. In addition, personnel files of Early Intervention program employees stated that this individual was their supervisor, which further demonstrated the Principal's significant dedication to the Early Intervention program. For 2016-17, TOTS allocated \$92,683 of the Principal's \$101,667 salary (91%) to the SED preschool cost-based programs and \$7,817 (8%) to the Early Intervention program; the remaining \$1,167 (1%) was paid for with federal grants.

We reallocated the Principal's salary using the average of the SED preschool cost-based programs' full-time equivalent percentage for students and the SED preschool cost-based programs' full-time equivalent percentage for employees working under the Principal. After applying this method, we determined that only 71% of the Principal's salary, or \$72,485—rather than 91% (\$92,683)—should have been allocated to the SED preschool cost-based programs. Therefore, we recommend that SED disallow \$20,198 (\$92,683 - \$72,485) in salary expenses that were overallocated, as well as the associated \$4,441 in fringe benefits. We analyzed the compensation costs of the other two employees and found that \$5,948 of their salaries and associated fringe benefits were overallocated to the SED preschool cost-based programs. We recommend that SED disallow \$30,587 (\$20,198 + \$4,441 + \$5,948).

TOTS officials did not agree that the Principal was incorrectly classified. However, our review of the personnel files indicates otherwise. TOTS officials also did not agree that the time studies did not meet the CFR Manual's minimum standards for an acceptable time study. However, TOTS' failure to include the first 11 days (more than one third of each month) in any month studied shows the weeks selected were not equally distributed among the months of the cost reporting period, as the CFR Manual requires. Therefore, the time studies conducted for the Principal do not meet the minimum standards for an acceptable time study. In addition, since the employee, supervisor, and payroll department approval fields were never filled out, we do not have any assurance that the time study was prepared, and approved, contemporaneously with the costs to be allocated.

We also found that TOTS overallocated the Principal's compensation costs to the SED preschool cost-based programs for 2014-15 and 2015-16. We applied the same employee/student full-time equivalent percentage method used for 2016-17 and determined that \$25,242 (\$14,050 for 2014-15 and \$11,192 for 2015-16) in salary was overallocated. Additionally, \$5,646 (\$3,145 for 2014-15 and \$2,501 for 2015-16) of the Principal's fringe benefits were overallocated. We recommend that \$30,888 (\$25,242 + \$5,646) in salary and fringe benefits be disallowed.

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## Other Ineligible Personal Service Costs

According to the RCM, compensation costs must be based on approved, documented payrolls. Payroll must be supported by employee time records prepared during, not after, the time period for which the employee was paid. Additionally, entities operating approved programs shall develop employer–employee agreements with written salary, wage, and payment for services scales and issue them to employees. We identified \$15,547 in reported 2016-17 costs that were unallowable because they did not comply with reimbursable cost guidelines. These include:

- \$12,994 in salaries claimed for time that was not recorded on employee time sheets. Of this amount, \$8,978 was for employer Flexible Spending Account contributions claimed as salary expense; these contributions were already claimed for reimbursement as fringe benefits.
- \$861 in salary paid in excess of the employee’s salary scale.
- \$1,692 in fringe benefits associated with the ineligible salaries noted above (excluding the \$8,978 employer Flexible Spending Account expenditures).

We requested 2014-15 and 2015-16 salary and payroll records of selected employees for whom we identified ineligible salaries in 2016-17. We reviewed the records to determine if the same type of non-reimbursable salary costs was claimed in the previous 2 years. Based on our review, we found that \$14,545 (\$576 for 2014-15 and \$13,969 for 2015-16) was for salaries claimed for time that was not recorded on employee time sheets. Additionally, \$1,596 (\$62 for 2014-15 and \$1,534 for 2015-16) in fringe benefits associated with these salary costs were not reimbursable. We recommend that SED disallow these costs, totaling \$31,688 (\$15,547 + \$14,545 + \$1,596), because they did not comply with the guidelines for reimbursement.

## Other Than Personal Service Costs

For the 3 fiscal years ended June 30, 2017, TOTS reported approximately \$786,492 in OTPS expenses for its SED preschool cost-based programs. To determine whether these expenses complied with SED’s requirements for reimbursement, we judgmentally selected samples of expenses, totaling \$216,206, that were claimed under the SED preschool cost-based programs. We identified \$89,693 in expenses that did not comply with SED’s reimbursement requirements.

## Unsupported Depreciation Expenses

The RCM states that costs must be reasonable, necessary, directly related to the special education program, and sufficiently documented. The RCM also states that entities operating approved programs should retain all pertinent accounting, allocation, and enrollment/attendance records supporting reported data directly or indirectly related to the establishment of tuition rates for 7 years following the end of each reporting year. Information relating to the acquisition of fixed assets, equipment, land or building improvements, and any related financing arrangements and grants

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must be retained as long as the facility is used by any education program the provider operated if this period exceeds 7 years.

Additionally, the RCM states that, for building improvements, records must include the date that work was completed; a description of the improvement, including location (i.e., floor, rooms); the cost; the program(s) that benefited; the share of costs allocable to each program; and the basis for allocation.

## **Building Improvements**

TOTS reported \$50,177 in building improvement depreciation costs on its 2016-17 CFR. However, TOTS officials did not provide invoices to support \$34,517 of this amount. Further, officials did not indicate on the depreciation schedule the vendor's name, acquisition date, improvement description, and location for \$32,430 of the \$34,517. In addition, we noted that TOTS used non-SED grant funds to pay for another \$1,077 of building improvement depreciation costs. We recommend that SED disallow \$27,177 in building improvement depreciation costs allocated to the SED preschool cost-based programs because these costs were undocumented or paid for with non-SED grant funds.

We also requested supporting documentation for the \$92,841 in building improvement depreciation costs reported on the CFRs for the 2 fiscal years ended June 30, 2016. Officials did not provide invoices to support \$69,034 of these costs. Further, officials did not indicate on the depreciation schedules the vendor's name, acquisition date, improvement description, and location for \$64,860 of the \$69,034. Therefore, we recommend that SED disallow \$57,663 (\$29,933 for 2014-15 and \$27,730 for 2015-16) in undocumented building improvement depreciation costs allocated to the SED preschool cost-based programs for the 2 fiscal years.

TOTS officials indicated that they had difficulty finding supporting documentation for building improvements purchased in earlier years.

## **Equipment**

We found that \$1,180 in equipment depreciation costs were allocated to the SED preschool cost-based programs on the 2016-17 CFR, even though TOTS used non-SED grant funds to pay for these costs. Further, TOTS reported on its 2016-17 Federal Form 990 (*Return of Organization Exempt From Income Tax*) that equipment had been fully depreciated. TOTS also claimed reimbursement for fully depreciated equipment in the 2 fiscal years ended June 30, 2016. We recommend that SED disallow \$4,853 (\$1,340 for 2014-15, \$2,333 for 2015-16, and \$1,180 for 2016-17) in ineligible equipment depreciation costs.

TOTS officials provided a depreciation reconciliation between the 990 forms and CFRs, but it did not support the equipment depreciation costs claimed on the CFRs.

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## Recommendations

### To SED:

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

### To TOTS:

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

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The objective of our audit was to determine whether the costs reported by TOTS on its CFRs were reasonable, necessary, directly related to the special education program, and sufficiently documented pursuant to SED guidelines. The audit focused primarily on expenses claimed on TOTS' CFR for the fiscal year ended June 30, 2017 and certain expenses claimed on its CFRs for the 2 fiscal years ended June 30, 2016.

To accomplish our objective, we reviewed the RCM, the CFR Manual, TOTS' Employee Handbook, TOTS' CFRs, and relevant financial and program records for the audited period. In addition, we evaluated the internal controls over the costs claimed on, and the schedules prepared in support of, the CFRs submitted to SED. We also interviewed TOTS' officials to obtain an understanding of their financial and business practices and their practices for reporting costs on the CFR. We also conducted a virtual walk-through of TOTS program spaces and observed TOTS officials while they took space measurements. In addition, we reviewed personnel and payroll records of all 54 employees whose salaries were claimed for reimbursement under the SED preschool cost-based programs on the 2016-17 CFR. We also selected judgmental samples of reported fringe benefit and OTPS costs to determine whether they were supported, program related, and reimbursable. Specifically, we reviewed costs that were considered high risk and reimbursable in limited circumstances based on prior audit report findings. Our sample selections were based on the relative materiality of the various categories of costs reported and their associated levels of risk. Our sample was not designed to be projected to the entire population of reported costs.

# Statutory Requirements

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## 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 Education Law.

We conducted our performance audit in accordance with generally accepted government auditing standards. These 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 during our audit 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. 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.

## Reporting Requirements

We provided a draft copy of this report to SED and TOTS officials for their review and formal comment. Their comments were considered in preparing this final report and are included at the end of it. In their response, SED officials agreed with our recommendations and indicated they will continue to provide technical assistance to TOTS officials whenever requested and will strongly recommend TOTS officials avail themselves of SED's assistance to better understand the rules for cost reporting and criteria for cost reimbursement. In their response, TOTS officials disagreed with some of our conclusions. Our responses to certain TOTS comments are included in the report's State Comptroller's Comments.

Within 180 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 the recommendations were not implemented, the reasons why.

# Exhibit

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**These Our Treasures, Inc.**  
**Summary of Submitted and Disallowed Program Costs**  
**for Fiscal Years 2014-15, 2015-16, and 2016-17**

<b>Program Costs</b>	<b>Amount Claimed on CFR</b>	<b>Amount Disallowed</b>	<b>Amount Remaining</b>	<b>Notes to Exhibit</b>
Personal Services				
Direct Care	\$3,430,835	\$81,277	\$3,349,558	A-C, E, F,
Agency Administration	789,415	11,886	777,529	H-J
<b>Total Personal Services</b>	<b>\$4,220,250</b>	<b>\$93,163</b>	<b>\$4,127,087</b>	
Other Than Personal Services				
Direct Care	\$582,127	\$85,230	\$496,897	A, D, G
Agency Administration	204,365	4,463	199,902	
<b>Total Other Than Personal Services</b>	<b>\$786,492</b>	<b>\$89,693</b>	<b>\$696,799</b>	
<b>Total Program Costs</b>	<b>\$5,006,742</b>	<b>\$182,856</b>	<b>\$4,823,886</b>	

# Notes to Exhibit

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The following Notes refer to specific sections of SED's RCM and the CFR Manual used to develop our recommended disallowances. Unless otherwise specified, all notes refer to all 3 years reviewed. We summarized the applicable sections to explain the basis for each disallowance. We provided the details supporting our recommended disallowances to SED and TOTS officials during the course of our audit.

- A. RCM Section II – Generally, costs will be considered for reimbursement provided such costs are reasonable, necessary, directly related to the special education program, and sufficiently documented.
- B. RCM Section II.13.A.(1) (July 2014 Edition) – Entities operating approved programs shall develop employer–employee agreements with written salary scales and issue them to employees.
- C. RCM Section II.13.A.(1) (July 2015 and July 2016 Editions) – Entities operating approved programs shall develop employer–employee agreements with written salary, wage, or payment for services scales and issue them to employees.
- D. RCM Section III.1 – Section 200.9 (d) of the Commissioner of Education's Regulations requires entities operating approved programs to retain all pertinent accounting, allocation, and enrollment/attendance records supporting reported data directly or indirectly related to the establishment of tuition rates for 7 years following the end of each reporting year. Information relating to the acquisition of fixed assets, equipment, land or building improvements, and any related financing arrangements and grants must be retained as long as the facility is used by any education program the provider operates if this period exceeds 7 years. Costs will not be reimbursable on field audit without appropriate written documentation of costs.
- E. RCM Section III.1.A – Compensation costs must be based on approved, documented payrolls. Payroll must be supported by employee time records prepared during, not after, the time period for which the employee was paid.
- F. RCM Section III.1.B – Actual hours of service are the preferred statistical basis on which to allocate salaries and fringe benefits for shared staff who work on multiple programs. Entities must maintain appropriate documentation reflecting the hours used in this allocation. Acceptable documentation may include payroll records or time studies. Guidelines for acceptable time studies for CFR filers are provided in Appendix L, "Acceptable Time Studies," of the CFR Manual.
- G. RCM Section III.1.L – Building improvement records must include the date that work was completed; a description of the improvement, including location (i.e., floor, rooms); the cost; the program(s) that benefited; the share of costs allocable to each program; and the basis for allocation. Detailed bills from the person or business performing the work are acceptable records.
- H. RCM Section III.M.(1)(i) – Any expenditures that cannot be charged directly to a specific program must be allocated across all programs and/or entities benefited by the expenditure. For example, salaries of employees who perform tasks for more than one program and/or entity must be allocated among all programs and/or entities for which they work.
- I. RCM Section III.M.(2) – Entities operating programs must use allocation methods that are fair and reasonable, as determined by the Commissioner's fiscal representatives. Such allocation methods, as well as the statistical basis used to calculate allocation percentages, must be documented and retained for each fiscal year for review upon audit for a minimum of 7 years.

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J. CFR Manual Appendix L (Page 45.1) – Providers with personnel who work in more than one program should allocate their salary to the proper cost center during the normal accounting cycle based on actual time and attendance records. If this does not occur, the service provider must complete a time study for each employee who works in more than one program. Following are criteria for an acceptable time study. These criteria are the minimum standards. If necessary, a service provider can expand the length of the time study.

- A minimally acceptable time study must encompass at least 2 weeks per quarter of the cost reporting period.
- Each week selected must be a full week (Monday to Friday, Monday to Saturday, or Sunday to Saturday).
- The weeks selected must be equally distributed among the months of the cost reporting period (e.g., weeks 3 and 4 in March, weeks 2 and 3 in June, weeks 3 and 4 in September, and weeks 1 and 2 in December).
- No two consecutive quarters may use the same weeks for the study (e.g., weeks 1 and 2 in March and June).
- The time study must be contemporaneous with the costs to be allocated. Thus, a time study conducted in the current cost reporting year may not be used to allocate the costs of prior or subsequent cost reporting years.
- The time study must be provider specific.

# Agency Comments - State Education Department

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

EXECUTIVE DEPUTY COMMISSIONER  
518) 473-8381  
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October 13, 2021

Mr. Kenrick Sifontes  
Audit Director  
Office of the State Comptroller  
Division of State Government Accountability  
59 Maiden Lane, 21<sup>st</sup> Floor  
New York, NY 10038

Dear Mr. Sifontes:

The following is the New York State Education Department's (SED) response to the draft audit report, 2020-S-60, These Our Treasures, Inc. (TOTS) - Compliance with the Reimbursable Cost Manual.

Recommendation 1:

"Review the recommended disallowances identified by our audit and make the necessary adjustments to the costs reported on TOTS' CFRs and to TOTS' tuition reimbursement rates, as warranted."

We agree with this recommendation. 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 TOTS 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 TOTS officials avail themselves of our assistance to help them better understand the rules for cost reporting and criteria for cost reimbursement as presented in the CFR, Regulation and the Reimbursable Cost Manual (RCM). Furthermore, SED will alert TOTS of online CFR training that is available on SED's webpage. SED recommends that all individuals signing the CFR certification statements, namely the Executive Director and Certified Public Accountant, complete this training. This training is a requirement for preschool special education providers upon approval and reapproval.

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If you have any questions regarding this response, please contact Brian Zawistowski, Assistant Director of the Rate Setting Unit, at (518) 474-3227.

Sincerely,



Sharon Cates-Williams

c: Phyllis Morris  
Christopher Suriano  
Suzanne Bolling  
Brian Zawistowski  
James Kampf  
Jerry Nestleroad  
Jeanne Day

# Agency Comments - These Our Treasures, Inc.

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These Our Treasures, Inc.  
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October 15, 2021

VIA ELECTRONIC MAIL

Mr. Kenrick Sifontes  
Audit Director  
Office of the New York State Comptroller  
Division of State Government Accountability  
59 Maiden Lane 21<sup>st</sup> Floor  
New York, NY 10038

Dear Mr. Sifontes:

Re: These Our Treasures-Report 2020-S-60

This letter will serve as our response to the Draft Audit Report issued to These Our Treasures, Inc. (“TOTS”) by the Office of the New York State Comptroller (“OSC”). We wish to extend our appreciation for the time and review of our previous comments in order that the audit report reflects an accurate representation of audit findings which are supported by relevant regulations and guidance.

This response will include our continued objection to some items which remain in the Report 2020-S-60 which are based on subjective interpretation of guidance. In addition, TOTS will highlight identified calculations that OSC must correct in the 2020-S-60 Draft Disallowance Schedule as well amplification of previously and newly submitted documentation that supports TOTS’ position.

[Comment 1](#)

## **OSC Finding: Personal Service Costs: Excessive Allocation**

TOTS is not in agreement with the OSC’s interpretation of the regulatory guidance that is being cited for the proposed disallowance of staff as well as other requirements OSC is indicating are necessary to be a valid time study. TOTS contends adherence to the Reimbursable Cost Manual (“RCM”) and Consolidated Fiscal Reporting Manual (“CFR”) standards.

### **OSC Incorrect Time Study Interpretation**

The OSC states that the basis for invalidation of select time studies is based on CFR guidance contained in Appendix L. **Per Appendix L of the CFR Manual** “The weeks selected must be equally distributed among the months of the cost reporting period, e.g., week 3 and 4 in March, week 2 and 3 in June, week 3 and 4 in September, and week 1 and 2 in December.”

Page 1 | 7

TOTS used the exact weeks and quarters indicated in the CFR Manual Appendix L *example*, except for usage of 2016 QTR 4 Week 3 vs Qtr 4 Week 1 (CFR Appendix L *example*). This represents an 88% adherence to the CFR Manual *example*.

[Comment 2](#)

The CFR manual only states, per the above excerpt, that the weeks must be equally distributed. OSC is interpreting the time study to be unequally distributed due to the first 11 days not being studied. The OSC interpretation and resulting conclusion on allowability is not included in the Appendix L Manual.

[Comment 3](#)

TOTS notified OSC in the preliminary report, that one employee was not employed in the 4<sup>th</sup> quarter, which would render the OSC unequally distributed interpretation invalid for that one employee, if the OSC conclusion was based on regulatory guidance, of which it is not.

[Comment 4](#)

In addition, OSC is concluding that CFR and/or RCM indicates that time studies are required to be approved by employees, supervisors or the payroll department, despite the absence of the OSC stated requirement in the available guidance. This should not be justification for OSC non-reliance and non-usage of valid time studies because it is not written or published in the CFR Manual or RCM and therefore must not be utilized as an audit protocol.

[Comment 5](#)

**OSC Incorrect PTC Classification**

TOTS is not in agreement with the OSC conclusion that TOTS' Individualized Education Program ("IEP") Coordinator was incorrectly classified. The employee in question was originally hired at TOTS to be an IEP Coordinator and performed multiple roles due to staff shortages through the years. TOTS is not in agreement that the documentation examined by the OSC provides sufficient justification to support the OSC conclusion.

[Comment 6](#)

**OSC Incorrect Employee/Student Full Time Equivalent Percentage Method**

TOTS identified in the preliminary report, an OSC calculation error in student days for the 9300 program. This calculation error was corrected in Report 2020-S-60 by the OSC. However, upon review of Report 2020-S-60 TOTS noted that OSC additionally revised the student days for Program 9115 from the original information provided to TOTS in the preliminary report. The OSC revised calculation for Program 9115 incorrectly recorded the Student Days from SED-1 care days for the 9115 Program for the years 2016/17, 2015/16 and 2014/15. The Program 9115 is a half day (2.5 hrs.) classroom and the Student FTEs reported on the CFR were reported correctly as a .50 FTE prorated and therefore it is not correct for the OSC to adjust again by .50 FTE.

[Comment 7](#)

Please see necessary corrections identified below:

Adjustment of Calculation of FY 2014-15 Student Ratios Summer and School year for Programs 9100 and 9115 Based on TOTS Response to Preliminary Findings- TOTS Correction												
SOURCE	Program 9100		Program 9115				Program 9300			Total		
	School year (10 months)	Summer (2 months)	Program hours	Student FTE	School year (10 months)	Summer (2 months)	Program hours	Student FTE	School year (10 months)	Summer (2 months)	School year (10 months)	Summer (2 months)
FY 2014-15 CFR line 110 schedule SED-1 care days	4237	555	2.5	1	2425	618	2.5	0.5	1800	300	8462	1473
Percentage of total	50.07%	37.68%			28.66%	41.96%			21.27%	20.37%	100%	100%

Adjustment to Calculation of FY 2015-16 Student Ratios Summer and School year for Programs 9100 and 9115 Based on TOTS response to Preliminary Findings- TOTS Correction												
Source	Program 9100		Program 9115				Program 9300			Total		
	School year (10 months)	Summer (2 months)	Program hours	Student FTE	School year (10 months)	Summer (2 months)	Program hours	Student FTE	School year (10 months)	Summer (2 months)	School year (10 months)	Summer (2 months)
FY 2015-16 CFR line 110 schedule SED-1 care days	4823	750	2.5	1	1364	377	2.5	0.5	1800	300	7987	1427
Percentage of total	60.39%	52.56%			17.08%	26.42%			22.54%	21.02%	100%	100%

Adjusted Calculation of FY 2016-17 Student Ratios Summer and School year for Programs 9100 and 9115 Based on TOTS response to Preliminary Findings-TOTS Correction												
SOURCE	Program 9100		Program 9115			Program 9300			Total			
	School year (10 months)	Summer (2 months)	Program hours	Student FTE	School year (10 months)	Summer (2 months)	Program hours	Student FTE	School year (10 months)	Summer (2 months)	School year (10 months)	Summer (2 months)
FY 2016-17 CFR line 110 schedule SED-1 care days	7090	725	2.5	1	0	218	2.5	0.5	2520	330	9610	1273
Percentage of total	73.78%	56.95%			0.00%	17.12%			26.22%	25.92%	100%	100%

- Confidential Attachment: Exhibit A - NYCOAG Submitted Templates Evidencing .50 FTE Proration on CFR Report

**OSC Finding: Personal Service Costs: Other Ineligible Personal Service Costs**

**OSC FY 15/16 Timecards**

The following section will provide OSC requested documentation for the restoration of hours for indicated employees in addition to highlighting corrections which are necessary for OSC to implement.

1) **Building Closed Request of Documentation**-Business Office Staff:

Employee #1: The hours for the requested documentation on the OSC excel documentation represents 35 hours paid to the employee during the week of 8/31/2015 – 9/4/2015 when the school building was closed and the employee was eligible to receive compensation per the Staff Policy & Procedure Handbook. The administrative calendar for 2015/16 is submitted for review. **Hours to Restore Based on Supporting Documentation: 35**

Employee #2: The hours for the requested documentation on the OSC excel documentation represents 35 hours paid to the employee during the week of 8/31/2015 – 9/4/2015 when the school building was closed and the employee was eligible to receive compensation per the Staff Policy & Procedure Handbook. The administrative calendar for 2015/16 is submitted for review. **Hours to Restore Based on Supporting Documentation: 35**

Employee #3: The hours for the requested documentation on the OSC excel documentation represents 25 hours paid to the employee during the week of 8/31/2015 – 9/4/2015 when the school building was closed and the employee was eligible to receive compensation per the Staff Policy & Procedure Handbook. The administrative calendar for 2015/16 is submitted for review. **Hours to Restore Based on Supporting Documentation: 25**

Comment 8

- Confidential Attachment: Exhibit B - Index of Employees
- Confidential Attachment: Exhibit C - 2015-2016 Administrative Calendar 8-31-15 - 9-4-15 (Previously Sent to OSC on 8/9/21)
- Confidential Attachment: Exhibit D - TOTS' Staff Policy & Procedure Handbook (Previously Sent to OSC on 12/11/20)

2) **Building Closed Request of Documentation**-Director, Coordinators/Supervisors and Direct Program Staff:

Employee #4: In the 2020-S-60 Draft Disallowance Schedule, the OSC inserted the caption "Missing weeks of 8/17/2015-8/31/2015 (3) and 77 Hours" on the manual timesheet for this employee.

The hours that OSC inserted (77) are incorrect and should be 105 hours (15 days) which were paid to the employee during the weeks of 8/17/2015 – 9/4/2015 when the school building was closed and the employee was

eligible to receive compensation per the Staff Policy & Procedure Handbook. **Hours to Restore Based on Supporting Documentation: 105**

[Comment 9](#)

- Confidential Attachment: Exhibit B - Index of Employees
- Confidential Attachment: Exhibit E - 2015-2016 School Calendar 8-17-15 - 9-4-15 (Previously Sent to OSC on 8/9/21)
- Confidential Attachment: Exhibit D - TOTS' Staff Policy & Procedure Handbook (Previously Sent to OSC on 12/11/20)

**3) OSC Corrections Necessary Identified in the Preliminary Response for Correction**

Employee #5: TOTS identified in the preliminary response the following calculation errors that must be made to OSC worksheets.

OSC Incorrect Maximum Days Worked: For this employee, Column C “scheduled work hours per employee personnel record” requires correction to reflect the correct scheduled hours based on the employment dates. The maximum days must be adjusted to account for LWOP (Leave without pay) hours in which the employee was not compensated on 6/27/16 and 6/28/16. Accounting for employment commencing 6/13 with the LWOP, the total maximum days calculate to 12 (14-2 LWOP).

- Confidential Attachment: Exhibit B - Index of Employees
- Confidential Attachment: Exhibit F - 2015-2016 Employee #5 Time Cards Backup (Previously Sent to OSC on 7/26/21)

OSC Incorrect Total Weeks Worked: The OSC is incorrectly using 14 days, as noted above, to calculate column C but only uses 2 weeks to calculate column F (salary per employee personnel file) which is incorrect. When the OSC information is corrected to include 12 work days for column C and F, there is no disallowance for employee #5.

The OSC schedules must be corrected to reflect the below:

	<i>Column C</i>			<i>Column F</i>		
	Hours per Day	Maximum Days Worked	Scheduled work hours per employee personnel record (Hours/Day X Max Days)	Max Weeks in Fiscal Year	Total Weeks Worked	Salary per employee personnel record (\$65,000 X Weeks Worked/Max Weeks)
Per OSC	7.00	14.00	98.00	52.00	2.00	2,500.00
Corrected per TOTS	7.00	12.00	84.00	52.00	2.40	3,000.00

Employee #1: The following is a correction that must be made to the OSC 2020-S-60 Draft Disallowance Schedule to account for memorandums that support employee #1 Vacation Pay for FY 15/16 to be included in “Salary per employee personnel record” total amount. When the above information is corrected, along with other corrections identified for the employee, there is no disallowance for employee #1.

[Comment 10](#)

- Confidential Attachment: Exhibit B - Index of Employees

- 
- Confidential Attachment: Exhibit G - 2015-2016 Employee #1 Vacation Pay Memo (Previously Sent to OSC on 8/9/21)

4) **TOTS Supporting Documentation for Hours**

Employee #3: The following represents OSC requested documentation to support for PTO time (11/3/2015, 11/25/2015 and 1/13/2016) and Sick Leave time. The last day requested by the OSC for employee #3 was for Sick Leave on 12/7/2015. **Hours to Restore Based on Supporting Documentation: 17**

- Confidential Attachment: Exhibit B - Index of Employees
- Confidential Attachment: Exhibit H - 2015-2016 Employee #3 PTO Request (Previously Sent to OSC on 8/11/21)

Employee #4: The following represents OSC requested documentation to support for PTO time (7/20/2015) and Sick Leave time. The last two days requested by the OSC for employee #4 were for Sick Leave on 1/11/2016 and 2/5/2016. **Hours to Restore Based on Supporting Documentation: 21**

- Confidential Attachment: Exhibit B - Index of Employees
- Confidential Attachment: Exhibit I - 2015-2016 Employee #4 PTO Request (Previously Sent to OSC on 8/11/21)

Employee #2: The following represents OSC requested documentation to support for PTO time (8/6/2015, 8/7/2015, 8/26/2015 and 9/18/2015) and Sick Leave time. The remaining four days requested by the OSC for employee #5 were for Sick Leave on 11/5/2015, 12/15/2015, 1/21/2016 and 2/1/2016. **Hours to Restore Based on Supporting Documentation: 55.75**

[Comment 10](#)

- Confidential Attachment: Exhibit B - Index of Employees
- Confidential Attachment: Exhibit J - 2015-2016 Employee #2 PTO Request (Previously Sent to OSC on 8/11/21)

**OSC FY 14/15 Timecards**

1) **Building Closed Request of Documentation**-*Business Office Staff*:

Employee #3: The total hours for the requested documentation on the OSC excel documentation represents 25 hours paid to the employee during the week of 8/25/2014 - 8/29/2014 when the school building was closed and the employee was eligible to receive compensation, per the Staff Policy & Procedure Handbook. The administrative calendar for 2014/15 is submitted for review. **Hours to Restore Based on Supporting Documentation: 25**

[Comment 11](#)

- Confidential Attachment: Exhibit B - Index of Employees
- Confidential Attachment: Exhibit K - 2014-2015 Administrative Calendar 8-25-14 - 8-29-14 (Previously Sent to OSC on 8/9/21)

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- Confidential Attachment: Exhibit D - TOTS' Staff Policy & Procedure Handbook (Previously Sent to OSC on 12/11/20)

## 2) **TOTS Supporting Documentation for Hours**

**Employee #3:** The following represents OSC requested documentation to support PTO time (9/25/2014). **Hours to Restore Based on Supporting Documentation: 5**

- Confidential Attachment: Exhibit B - Index of Employees
- Confidential Attachment: Exhibit L - 2014-2015 Employee #3 PTO Request (Previously Sent to OSC on 8/11/21)

**Employee #4:** The following represents OSC requested documentation. We have attached the excluded schedules which were provided to the OSC on 8/9/2021, as well as PTO time (12/18/2014) and Sick Leave time.

- Confidential Attachment: Exhibit B - Index of Employees
- Confidential Attachment: Exhibit M - 2014-2015 Employee #4 Missing Week 10-20-14 – 10-24-14 (Previously Sent to OSC on 8/9/21)
- Confidential Attachment: Exhibit N - 2014-2015 Employee #4 PTO Request (Previously Sent to OSC on 8/9/21)

The remaining seven days requested by the OSC for employee #4 were for Sick Leave on 1/30/2015, 2/4/2015, 2/5/2015, 2/6/2015, 3/13/2015, 3/24/2015 and 4/20/2015. When the above information is corrected, there is no disallowance for employee #4. **Hours to Restore Based on Supporting Documentation: 88.83**

[Comment 10](#)

### **OSC Finding: Other Than Personal Service Costs: Unsupported Depreciation Expenses**

#### **Building Improvements**

TOTS is not in agreement with the total disallowance which OSC states TOTS documentation “*was insufficient as it did not include the dates the building improvement work was completed.*” In this section OSC recommended disallowance of \$115,707 which equals 53% of the findings listed in Report 2020-S-60.

TOTS has occupied and serviced special education children for over 30 years in the current location at 2778 Bruckner Blvd, Bronx, NY. Many of the invoices that OSC indicated that TOTS had difficulty finding supporting documentation dated as far back as 1986 and were being depreciated and recorded as an expense throughout the years.

Since 1986, TOTS has had an independent audit and has been in compliance with the submission of Financial Statements and CFR Reports. The additions to the depreciation schedule, related to capitalized improvements, have been audited by an independent Certified Public Accountant for each of the years back to 1986.

TOTS understands **The RCM Section II General Requirements 1. (L) Building Improvements** statements on records. However, to recommend disallowance based on the current availability of these invoices does not appear to be fair and reasonable.

[Comment 12](#)

TOTS is not in agreement that all of our bills did not include the dates the building improvements were completed. Upon further review we have previously submitted bills in which it is clear that TOTS has detailed bills from the person or business performing the work, which per the RCM, are acceptable records.

[Comment 13](#)

**Equipment**

TOTS is not in agreement with the OSC statement, "Further, TOTS reported on its 2016-17 Federal Form 990 (*Return of Organization Exempt From Income Tax*) that equipment had been fully depreciated." Upon further review, it was noted that the Land, Building and Equipment description, both in the Form 990 and the Financial Statement Notes (Page 9), erroneously recorded that the Equipment had been fully depreciated, when in fact the remaining Book Value for equipment was \$1,920. The depreciation for the equipment in the amount of \$1,546 is correct as reported.

[Comment 14](#)

Fixed Asset	Correct Per CFR	Correct Per CFR	Correct Per CFR	CFR	990 & FS	990 & FS
	Cost	Acc Dep	Book Value	Depreciation	Book Value	Correction
Leasehold Improvements	1,297,876	1,141,258	156,618	50,178	158,538	(1,920)
Equipment	297,388	295,468	1,920	1,546	0	1,920

- Confidential Attachment: Exhibit O - Reconciliation of Depreciation (Previously Sent to OSC on 8/11/2021)

TOTS wishes to thank the OSC for your anticipated review of our comments and supporting documentation. In addition, we trust that all the corrections that were identified will be considered and adjusted in the final Report 2020-S-60. TOTS appreciates the OSC recommendations and guidance provided on improving our systems.

Please let us know of any clarifications or questions you may have.

Sincerely,



Carol Khoury  
Chief Financial Officer

# State Comptroller's Comments

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1. We disagree that the disallowances are based on subjective interpretation of guidance. We disallowed reported costs that did not comply with SED's requirements for reimbursement. We reviewed calculations and documentation provided by TOTS officials and modified our report, as appropriate.
2. TOTS officials acknowledge they did not fully adhere to the example in the CFR Manual.
3. TOTS not including the first 11 days (more than one third of each month) in any month studied causes the weeks selected to be not equally distributed among the months of the cost reporting period, as required by the CFR Manual.
4. We did not accept the time studies provided for this employee because they were missing the dates that were studied. Therefore, we have no assurance the time studies were contemporaneous with the costs to be allocated, as required by the CFR Manual.
5. The primary basis for not accepting the time studies was due to unequal distribution and missing dates that were studied. Also, we noted that TOTS included employee, supervisor, and payroll department approval fields in the time studies. However, these fields were not completed.
6. Our review of this employee's personnel files and the personnel files of other employees indicated that this employee worked as the Principal of TOTS, not as the IEP Coordinator for the 3 fiscal years in our scope.
7. We agree with TOT's correction regarding program 9115 and modified our report, as appropriate.
8. We disagree that TOTS should be reimbursed for salary associated with 95 hours (35+35+25) for three employees. These employees did not provide services that directly benefited audited programs 9100 and 9115 while the building was closed.
9. While we agree with TOTS that it should be 105 hours instead of 77 hours, we disagree that TOTS should be reimbursed for these hours as this employee did not provide services that directly benefited audited programs 9100 and 9115 while the building was closed.
10. We reviewed the additional documentation provided by TOTS officials and modified our report, as appropriate.
11. We disagree that TOTS should be reimbursed for these hours as this employee did not provide services that directly benefited audited programs 9100 and 9115 while the building was closed.
12. As stated in the RCM Section III.1, information relating to the acquisition of fixed assets, equipment, land or building improvements and any related financing arrangements and grants must be retained as long as the facility is used by any education program the provider operates if this period exceeds 7 years.
13. We modified our report to allow the portion of the depreciation costs for building improvements supported by detailed bills provided by TOTS, as appropriate.
14. As TOTS stated, both the form 990 and financial statement notes recorded that the equipment had been fully depreciated. Although TOTS stated that these records were erroneous, they did

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not provide any documentation to support that equipment was not fully depreciated. In addition, for fiscal year 2017, TOTS inappropriately included depreciation costs for equipment that was purchased with non-SED grant funds.

# Contributors to Report

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