



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

Division of State Government Accountability

Compliance With the Reimbursable Cost Manual

Important Steps, Inc. State Education Department



Report 2010-S-32

June 2012

Executive Summary

Purpose

To determine whether the costs reported by Important Steps, Inc. (Important Steps) on the Consolidated Fiscal Report (CFR) were properly calculated, adequately documented, and allowable under the Reimbursable Cost Manual (Manual). The audit covers the fiscal year ended June 30, 2008.

Background

Important Steps, Inc. (Important Steps), located in the Bronx, provides special education itinerant teacher (SEIT) and related services to about 276 children ages three through five years. The New York City Department of Education (DoE) pays Important Steps using reimbursement rates established by the State Education Department (SED). The rates are based on claimed expenses that Important Steps submits in its annual consolidated fiscal reports (CFR). During fiscal year 2007-08, the SEIT program at Important Steps had 69 employees and received \$5.7 million in State support.

Key Findings

We identified \$244,874 in claimed costs (See Exhibit A) that we recommend be disallowed. These costs were either unnecessary, unreasonable, unallowable, or undocumented, and some were incurred for the personal benefit of officials at Important Steps, as follows:

- \$65,541 in workers compensation payments on behalf of independent contractors and an additional \$91,330 on behalf of certain employees who were paid for work they performed as independent contractors.
- \$38,827 in corporate income tax expenses that were charged to the SEIT program.
- \$19,050 in vehicle-related costs. Important Steps officials did not maintain usage logs to document the way these vehicles were used, as required.
- \$12,002 in depreciation expense in connection with renovations and major repairs made to the Important Steps office. These renovations and repairs had not been pre-approved by SED, as required. An additional \$3,855 in office renovations had not been competitively bid, as required.
- \$11,107 in purchases for which there was no supporting documentation.
- \$3,162 was used to purchase items that were installed at the personal residence of Important Steps' Executive Director.

Key Recommendations

- SED should review the exceptions identified by our audit and determine necessary adjustments to Important Steps' tuition reimbursement rates.
- Important Steps should ensure that the reporting of reimbursable expenses complies with SED requirements.

Other Related Audits/Reports of Interest

[Integrated Treatment Services: Compliance with the Reimbursable Cost Manual \(2009-S-37\)](#)

[Henry Viscardi School: Compliance with the Reimbursable Costs Manual \(2009-S-70\)](#)

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

Division of State Government Accountability

June 22, 2012

Dr. John B. King Jr.
Commissioner
State Education Department
89 Washington Avenue
Albany, NY 12234

Ms. Janet Reznik
Executive Director
Important Steps, Inc.
2447 Eastchester Rd, 2nd Floor
Bronx, NY 10469

Dear Dr. King and Ms. Reznik:

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 funded services and 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 Important Steps, Inc.: Compliance with the Reimbursable Cost Manual. This audit was performed pursuant to the State Comptroller's authority as set forth in Article V, Section 1, of the State Constitution and Article II, Section 8, of the State Finance Law.

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 draft report, please feel free to contact us.

Respectfully submitted,

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

Table of Contents

Background	4
Audit Findings and Recommendations	5
Personal Service Costs	5
Other than Personal Service Costs	5
Personal Use of State Funds	5
Independent Contractors, Vehicle Usage, and Missing Invoices	6
Equipment	6
Property	6
Agency Administration Costs	7
Recommendations	7
Audit Scope and Methodology	7
Authority	8
Reporting Requirements	8
Contributors to This Report	10
Exhibit	11
Notes to Exhibit	12
Agency Comments - SED	13
Agency Comments - Important Steps, Inc.	15
State Comptroller's Comments	20

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

Background

Important Steps, Inc. (Important Steps), a corporation organized under the laws of the State of New York, is located in the Bronx and provides special education itinerant teacher and related services, such as speech and occupational therapy. Important Steps serves children between three and five years of age. The New York City Department of Education pays tuition and fees to Important Steps using rates established by SED. SED establishes these rates based on financial information that Important Steps presents in its annual consolidated fiscal reports (CFR) filed with SED. During fiscal year 2007-08, Important Steps had 69 full-time employees and received \$5.7 million in State support.

SED officials review the costs and revenues reported on the CFR and then enter that data into their rate-setting system. Once calculated, the rates are subject to the review and approval of the New York State Division of the Budget. SED issued the Reimbursable Cost Manual (Manual) to provide guidance on the eligibility of costs, as well as the allocation of non-direct care costs. All costs reported on the CFR must comply fully with the Manual.

Audit Findings and Recommendations

Personal Service Costs

Personal service costs, which include all taxable salaries and fringe benefits paid or accrued to employees on the agency payroll, must be reported on the CFR as either direct care costs (teachers' salaries) or non-direct care costs (administrators' salaries). According to the Manual, costs are considered for reimbursement if they are reasonable, necessary, directly related to the education program, and sufficiently documented. The Manual states that fringe benefit costs paid on behalf of independent contractors or consultants are not reimbursable.

We found that Important Steps officials paid \$65,541 in workers compensation costs on behalf of independent contractors. Officials at Important Steps advised us that they paid these costs because the contractors did not have their own insurance. However, the Manual prohibits the payment of workers compensation costs for independent contractors.

Other than Personal Service Costs

The Manual provides guidance on what costs are eligible for reimbursement and what documentation is required to properly support such costs when reported on the CFR. According to the Manual, the costs of contracted services, repairs, and staff travel directly related to the program are reimbursable. In addition, program administration expenses associated with the rental, lease, and depreciation of equipment and property are also reimbursable. However, certain types of costs such as personal expenses are not reimbursable. We recommend SED disallow a total of \$129,307 in other than personal service costs that did not comply with the Manual.

Personal Use of State Funds

The disallowed costs noted above include \$2,782, categorized on the CFR as Repairs and Maintenance, paid to an out-of-State vendor. Important Steps' Executive Director told us she had purchased a number of trees that were later milled, processed, and turned into shelving and baseboards for Important Steps' office in the Bronx. However, when we queried the vendor, we were told that his nursery was paid \$2,782 to supply and install four blue spruce trees, one maple tree, 16 bushes, one birch tree, mulch, soil, and driveway gravel at a local private residential property. We subsequently determined that this property was owned by, and was the personal residence of, the Executive Director.

We also recommend that SED disallow \$380 that was categorized as Depreciation Expense - Equipment on the 2007-08 CFR. This amount represents 10 percent of the \$3,800 spent to purchase flooring, carpeting, and tiles for bedrooms, a kitchen, living and dining rooms, and a bathroom from another out-of-State vendor. Important Steps' Executive Director explained that these items were delivered to her out-of-State residence, but were subsequently transported to

and installed in Important Steps' office in the Bronx. She also told us that the vendor has stores in New York and had sent an employee from one of those stores to Important Steps' Bronx office to measure the space and install the items. We contacted the vendor and the subcontractor. The vendor told us his business has no stores in New York City. The subcontractor who performed the installations told us his records show the items were installed at an out-of-State home. We determined that this out-of-State home is the same location at which the trees and other items were installed.

Independent Contractors, Vehicle Usage, and Missing Invoices

The Manual states that the cost of independently-contracted services is reimbursable only when the paid contractors providing services are not officers or employees of the entity. We recommend SED disallow \$91,330 paid to two independent contractors who were also full-time employees of Important Steps. The two contractors provided the same services they provided as employees.

The Manual allows for the reimbursement of vehicle costs as long as vehicle usage is documented in logs in which the date, time of travel, destination, mileage, purpose of travel, and the name of the traveler are documented. We recommend SED disallow \$8,577 of these costs because Important Steps' officials did not maintain vehicle logs.

All purchases must be supported with canceled checks, as well as with invoices listing the items purchased, and the dates when purchases and payments were made. We recommend SED disallow ten purchases totaling \$10,381 because officials at Important Steps were unable to provide invoices to support these expenditures.

Equipment

The Manual requires that three bids be solicited when purchasing equipment, furniture, and fixtures that cost \$1,000 or more and have a useful life of more than two years. Officials at Important Steps could not provide evidence that five purchases of furniture and equipment, totaling \$60,588, were the result of a competitive procurement process. Therefore, we recommend that SED disallow a total of \$3,855 - the associated depreciation reported as an expense on their 2007-08 CFR. (Note: An additional \$380 in depreciation costs were previously disallowed in the Personal Use of State Funds section of this report.)

Property

According to the Manual, proposals for renovations, alterations, or major repairs must first be submitted to SED for review and comment. We found that Important Steps expended \$61,675 for renovations and/or major repairs without first submitting proposals to SED for review and comment. These renovations included flooring, paving, and communications. We recommend SED disallow the \$12,002 in depreciation expense reported on the 2007-08 CFR for these items.

Agency Administration Costs

Agency administration costs are expenses not directly related to a specific program, but attributable to the overall operation of the provider. These costs include salaries and fringe benefits of employees who primarily perform management and/or support functions. Agency administrative costs also include general maintenance and overhead expenses. Expenditures that cannot be charged directly to a specific program (i.e., SEIT) must be allocated across all programs benefited by the expenditure. During fiscal year 2007-08, officials at Important Steps allocated 61 percent of its agency administrative costs to the SEIT program. We recommend SED disallow administrative costs totalling \$50,026 as follows:

- \$38,827 in corporate income tax expenses because the Manual does not allow for reimbursement of Federal, State, and local income taxes or any related penalties and interest.
- \$10,473 in reported vehicle expenses that could not be supported by a vehicle usage log.
- \$726 in telephone, office supplies, and staff travel expenses not supported with invoices.

(Please refer to Exhibit A for more information regarding submitted expenses, allowed amounts, disallowances, and the reasons for the disallowances. The details of our adjustments were provided to Important Steps and to SED officials for their review and comment.)

Recommendations

To SED:

1. Review our proposed disallowances resulting from our audit, and make the appropriate adjustments to the costs reported on the CFR. Reduce future payments to Important Steps, as appropriate.

To Important Steps:

2. Comply with the Manual's program cost eligibility and documentation requirements.

Audit Scope and Methodology

We audited the SEIT costs reported by Important Steps on its CFR for the fiscal year ended June 30, 2008. The objective of our audit was to determine whether the costs reported by Important Steps had been calculated properly and documented adequately, and were allowable pursuant to SED's Manual.

To accomplish our objectives, we reviewed Important Steps' financial records, including audit documentation maintained by Important Steps' independent certified public accountant. We interviewed Important Steps' officials, staff, and their certified public accountant, as well as SED

officials. To complete our audit work, we selected and reviewed a judgmental sample of costs reported by Important Steps. In selecting our sample, we took into account the relative materiality and risk of the various costs reported by Important Steps. The scope of audit work on internal control focused on gaining an understanding of the procurement and disbursement procedures related to personal and other than personal service expenditures. We identified certain control deficiencies that were significant to the audit's objectives. These deficiencies are discussed in the appropriate sections of our audit report.

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 objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

In addition to being the State Auditor, the Comptroller performs certain other constitutionally and statutorily mandated duties as the chief fiscal officer of New York State. These include operating the State's accounting system; preparing the State's financial statements; and approving State contracts, refunds, and other payments. In addition, the Comptroller appoints members to certain boards, commissions, and public authorities, some of whom have minority voting rights. These duties may be considered management functions for purposes of evaluating organizational independence under generally accepted government auditing standards. In our opinion, these management functions do not affect our ability to conduct independent audits of program performance.

Authority

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

Reporting Requirements

We provided a draft copy of this report to SED and Important Steps' officials for their review and comment. Their respective comments are attached in their entirety at the end of this report.

SED officials agree with our findings and recommendations and informed us that they plan to implement them. However, Important Steps, through its attorneys, while agreeing with certain findings, asserts that our report contains factual inaccuracies and believes that the examiners misapplied or misconstrued certain principles outlined in the Manual. We address Important Steps' concerns in the State Comptroller's Notes.

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 if the recommendations were not implemented, the reasons why. We also request that officials of Important Steps advise the State Comptroller of actions taken to implement the recommendations addressed to them, and where such recommendations were not implemented, the reasons why.

Contributors to This Report

Frank Patone, Audit Director
Kenrick Sifontes, Audit Manager
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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

Important Steps, Inc.
Schedule of Submitted and Allowed Program Costs
For Fiscal Year July 1, 2007 through June 30, 2008

	Amount Per CFR	Amount Disallowed Per Audit	Amount Allowed Per Audit	Notes to Exhibit
Personal Services - Salaries	\$1,829,611	\$0	\$1,829,611	
Fringe Benefits	\$339,999	\$65,541	\$274,458	E
Other Than Personal Services	\$3,400,802	\$129,307	\$3,271,495	A - D,G,H
Administrative Costs	\$120,907	\$50,026	\$70,881	F,G,H
Total Program Costs	\$5,691,319	\$244,874	\$5,446,445	

Notes to Exhibit

The Notes shown below refer to specific sections of the Reimbursable Cost Manual upon which we have based our adjustment. We have summarized the applicable section to explain the basis for the disallowance. Details of the transactions in question were provided to SED and Important Steps officials during the course of our audit.

- A. Section I - Costs must be reasonable, necessary, program related and sufficiently documented.
- B. Section I.9 A.1 - Proposals for renovations, alterations or major repairs must be submitted to the SED for review and comment.
- C. Section I.9 A.2 - Three bids must be provided for the proposed purchase of equipment, furniture and fixtures for items that cost more than \$1,000 and have a useful life of more than two years. In addition, items having a unit cost of \$1,000 or more must be capitalized. Group purchases of similar items (i.e. furniture, small tools, etc.) or separate purchases of similar items in the same fiscal year totaling \$1,000 or more should be treated as a single purchase.
- D. Section I.15 A - The cost of consultant services are reimbursable provided that paid consultants providing services to students with disabilities are not officers or employees of the entity, employees of the State Education Department, employees of municipalities, or employees of other private schools who positions are funded wholly or in part by State or local taxpayer funds.
- E. Section I.15 E - Fringe benefit costs for independent contractors or consultants are not reimbursable.
- F. Section I.54 B - Payments for Federal, State, and local income taxes or any related penalties and interest are not reimbursable.
- G. Section II.A 4 - All purchases must be supported with invoices listing items purchased and indicating the date of the purchase, date of payment, as well as the cancelled check.
- H. Section II.A 10 - Vehicle use must be documented with individual vehicle logs that include at a minimum: the date, time of travel, to and from destinations, mileage between each, and purpose of travel and name of traveler. If the vehicle was assigned to an employee, also list the name of the employee to whom it was assigned.

Agency Comments - SED



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

DEPUTY COMMISSIONER
Office of Performance Improvement and Management Services
O: 518.473-4706
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February 6, 2012

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

Dear Mr. Patone:

The following is the New York State Education Department's (SED) response to the draft audit report (2010-S-32) of Important Steps, Inc.: Compliance with the Reimbursable Cost Manual. As you know, the Department annually publishes the Reimbursable Cost Manual and provides training to schools in CFR reporting. In addition, SED staff are always available for one-on-one technical assistance.

SED is in agreement to all of the identified audit exceptions and will make the necessary adjustments to Important Steps' tuition reimbursement rates. We understand that the audit scope was one year and did not include non-rate based programs such as Early Intervention and Preschool Related Services.

Recommendation 1:

SED should review the exceptions identified by our audit and determine necessary adjustments to Important Steps' tuition reimbursement rates

We agree with this recommendation. The Department has reviewed the exceptions and will make necessary adjustments to Important Steps' tuition reimbursement rates.

If you have any questions regarding this response, please contact Ann Marsh, Director of the Rate-Setting Unit, at amarsh@mail.nysed.gov or (518) 473-2020.

Sincerely,

Sharon Cates-Williams

c: Ann Marsh

bc: Commissioner King
Valerie Grey
James Conway
Mary Kogelman

Agency Comments - Important Steps, Inc.



Pamela A. Madeiros
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February 15, 2012

VIA ELECTRONIC & OVERNIGHT MAIL

Kenrick Sifontes
Audit Manager
New York State Office of the State Comptroller
123 William Street, 21st Floor
New York, New York 10038

Re: Important Steps, Inc., // 2010-S-32 //
Compliance with the Reimbursable Costs Manual

Dear Mr. Sifontes:

We have reviewed the draft audit findings dated January 2012 as referenced above. We appreciated the opportunity to discuss the information contained in the preliminary draft during our meeting with your audit team, and to confirm receipt of certain clarifying materials. As we discussed, and as set out in our response to the Office's "preliminary audit findings" dated October 8, 2010, we have identified certain factual inaccuracies in the draft for which we have provided clarification, together with certain instances in which we believe specific principles contained within the Reimbursable Cost Manual (RCM) may have been misapplied or misconstrued. A summary of that discussion, the issues raised and our responses are outlined below. Accordingly, we reassert the challenges shared in our October 8, 2010 response, as applicable.

Executive Summary

We appreciate and acknowledge revisions made to the Executive Summary (formerly Background) to correct errors in fact.

We also find the presentation of the Draft itself much improved, the layout much more concise and the content more refined.

We must, however, take objection to inclusion of the section within the Executive Summary entitled "Other Related Audits/Reports of Interest". The audit under consideration was an audit of Important Steps, Inc., only. The scope of the audit was limited to Important Steps, Inc., only. Accordingly, the Draft of the audit should likewise be limited to Important Steps, Inc., and

Kenrick Sifontes
February 15, 2012
Page 2 of 5

only Important Steps, Inc., as directed by the "Understanding the Audit Process" pamphlet which accompanied Mr. Sossei's May 10, 2010 Notice of Audit. We respectfully request the removal of that identified section as inappropriate, unauthorized, subjective and highly suggestive.

*
Comment
1

We also object to certain phraseology in the section entitled, "Key Findings"; more specifically, the assertion that "(certain) costs were...incurred for the personal benefit of officials at Important Steps..." (page 1). As the Purpose section clearly states, the audit objective was to "determine whether costs reported...on the (CFR)...were properly calculated, adequately documented and allowable under the (RCM)...(emphasis added)."

*
Comment
2

Audit findings are constrained to the audit purpose and the requirements of the RCM - - reasonableness, allowance, documentation and necessity.

Accordingly, we respectfully request the deletion of any suggestion in the Draft to "personal benefit", as noted above and throughout the Draft. Any such suggestion is speculative, subjective and undoubtedly unsupported.

Audit Findings and Recommendations

Personal Service Costs

We do not challenge the Draft finding relating to worker's compensation costs. Accordingly, the 2008-09 CFR has been corrected to exclude these costs. Subsequent CFRs also reflect more appropriate reporting.

Personal Use of State Funds

We restate our objection to any suggestion of "personal use" as unsubstantiated and speculative. The scope of the audit was limited to testing whether reported costs were "reasonable, necessary, program related and sufficiently documented" as highlighted in the Draft's own "Notes to Exhibit" (page 12). Any other phraseology is inappropriate and should be deleted from the Draft.

*
Comment
2

As to the specifics of the "narrative" around purchased lumber, we challenge the factual accuracy of the representation purported to have been made by the "lumber vendor". The Executive Director concedes that both personal and business related purchases are made through the vendor. However, it would appear that the vendor may be confused as to this particular purchase. We are unable to confirm this misunderstanding until the Spring when the vendor re-opens his seasonal business. Moreover, we invite OSC auditors to perform a visual inspection of the Executive Director's "personal residence" to confirm no such trees or bushes have been planted, as the Audit would suggest.

*
Comment
3

Kenrick Sifontes
 February 15, 2012
 Page 3 of 5

We also invite the auditors to recall walking upon the very flooring and carpeting which the Draft suggests was not program-related. The Executive Director denies having stated that the carpet vendor had stores in New York, as suggested by the Draft, but confirms that the vendor was chosen as the most cost-effective and competitive price.

Independent Contractors, Vehicle Usage, and Missing Invoices

Important Steps does not challenge the Draft finding relating to the failure to maintain vehicle logs. Important Steps has strengthened internal protocols to assure compliance with the RCM.

However, we challenge the Draft finding that “two contractors provided the same service (they) provided as employees”. The RCM does not prohibit variation in the nature of the relationship personnel may have with the agency - - whether an employment relationship and/or independent contract relationship. The RCM does not prohibit an individual, therefore, from being engaged both as a part-time employee and an “independent contractor” - - a mere labor classification distinction. The RCM does, however, discourage more than 1 FTE of combined “engagement” regardless of the labor classification. Importantly, neither IR nor MC were engaged for in excess of 1 FTE. As the attached documents reflect (Attachments #1 and #2), both were engaged in a part-time employment capacity (W2) when services were provided in the specific office/Bronx community sites.¹ Both were engaged as independent contractors for services at sites in boroughs other than the Bronx - - the traveling expenses being appropriate reflected in the terms of the independent contract agreement. It is this difference in service expectations which prompted the difference in classification.

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 Comment
 4

Again, the RCM does not prohibit a two-prong classification, so long as documentation is maintained to support, as here, the provision of the service within the 1 FTE restriction.

We suggest that the true objective of the RCM provision purported to govern this situation is to prohibit, for example, full-time management personnel such as comptrollers from also being engaged as ‘independent consultants’ to provide, for example, fiscal consultant services more appropriately provided within the 40 hour week as an employed comptroller. We suggest that the cited RCM reference did not contemplate any such restriction on SEIT teachers, as is the case here. The sound public policy against “paying twice for the same service” reflected in our comptroller example, is simply not present in the case of SEIT teachers. The teacher is not receiving compensation for independent contract services which could have/should have been provided while the teacher was acting as an employee.

We request the Draft disallowance be re-instated.

¹ Important Steps asserts the confidentiality of the information contained within Attachments #1 and #2, including teacher and student identifying information. Accordingly, the contents of Attachments #1 and #2 should be kept confidential and not made available to the public.

* See State Comptroller’s Comments, on page 20.

Kenrick Sifontes
February 15, 2012
Page 4 of 5

We renew specifics of our challenge to the Preliminary Report as set out below:

Contracted Direct Care

We challenge the audit finding that Important Steps failed to comply with provisions of the RCM governing the reimbursement of consultant services costs. We believe the auditors may have misapplied RCM principles and definitions; more specifically, that the certain prohibition against paid consultants providing services to approved programs and also being officers / employees of that program, SED or municipal employees or employees of other private schools (15A(3)) turns on the definition of a "consultant" which "includes independent accountants, lawyers and other independent contractors" (15A(3)). Reference is then made in the same provision to Section I, Item 39 (A) on Purchase of Services which clarifies that "independent contractors" are individuals/entities which provide very specific services such as garbage pick-up, upkeep of grounds, data processing, payroll processing, temporary office work, security and pest extermination (39(A)).

A separate provision distinguishes those "independent contract" services from education, health and mental health services which an approved preschool program such as Important Steps appropriately may purchase. Those clinical and education services are not "independent contract" services as related to "consultant" services, but are, in fact, fully reimbursable (39(B)).

The individuals identified in this finding were, in part, engaged by Important Steps as "independent contractors" - a description of the relationship distinguishable from an employment relationship, but not, however, the equivalent of a "consultant".

We have confirmed our understanding of this issue with April Wojtkiewicz of PSRU who invited the auditors to contact her directly for clarification of this RCM principle.

Accordingly, expenses of \$91,330 associated with MC (\$60,000) and IR (\$31,330) should be allowed and removed from the findings report (page 5).

Equipment

We do not challenge the Draft finding relating to equipment expenses. Accordingly, the 2008-09 CFR has been corrected to exclude these costs, and subsequent CFRs reflect the appropriating reporting. In addition, Important Steps has strengthened its competitive procurement processes to assure compliance with the RCM.

Property

We renew our challenge to the suggestion that all proposals for renovation and repairs be submitted to NYSED for review and comment. The aggregate expense of slightly over \$60,000 for the replacement of "flooring, paving and communications" falls squarely within the provisions of section 42 of the RCM governing Repairs and Maintenance which clearly recognizes "costs

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Comment
5

*
Comment
6

Kenrick Sifontes
February 15, 2012
Page 5 of 5

incurred necessary for maintenance, repair or upkeep of property" as reimbursable without prior submission to or comment by SED.

Agency Administration Costs

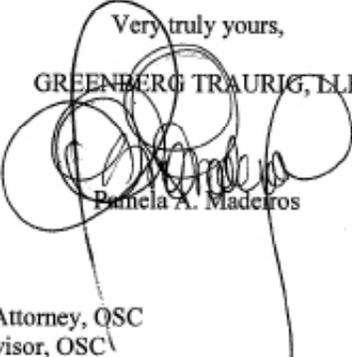
We do not challenge the Draft finding relating to corporate income tax expenses. Accordingly, the 2008-09 CFR has been corrected to exclude these costs. Subsequent CFRs also reflect more appropriate reporting.

.....

We respectfully request the reinstatement of costs and expenses herein identified as allowable under the RCM. We appreciate the opportunity to provide these comments and response.

Very truly yours,

GREENBERG TRAURIG, LLP



Pamela A. Maderos

PAM/kac
Enclosures

cc: Al Brooks, Associate Attorney, OSC
Stephen Lynch, Supervisor, OSC
Jeffrey Marks, On-Site Auditor, OSC

1,533,521v3 2-15-12122492010100

GREENBERG TRAURIG, LLP ■ ATTORNEYS AT LAW ■ WWW.GTLAW.COM

State Comptroller's Comments

1. The "Other Related Audits/Reports of Interest" section of our Executive Summary is directed to the addressees and the general public as a policy of OSC.
2. Our report findings are factual statements of what we identified during the audit – not necessarily, and often not, a "rephrasing" of our audit objectives. The Executive Director personally benefited from State funds as they were used to enhance her personal property.
3. Our report narratives are documented in, and supported by, our working papers which are available for inspection by Important Steps. OSC performed a visual inspection of the property along with the vendor. He pointed out the trees, bushes, mulch and soil that he installed.
4. We disagree. The Manual states that consultant and other independent contractor costs are not reimbursable when they are employees or officers of the entity. The SED also concurs with the finding.
5. Our interpretation of the Manual requirements is consistent with that of the SED.
6. These costs were recorded as capital improvements – not repairs and maintenance, on Important Steps books of record. Therefore, SED approval is required.