



STATE OF NEW YORK
OFFICE OF THE STATE COMPTROLLER

October 11, 2016

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

Re: Report 2016-BSE4-COLA-001

Dear Dr. Zucker:

Our Office examined¹ a \$15,538 cost of living adjustment (COLA) payment for fiscal year 2013-2014 made by the Department of Health (DOH) to the Child Center of New York (CCNY) under contract C026159 with the AIDS Institute. The objective of our examination was to determine whether the COLA payment was properly spent in accordance with the COLA Guidance for Submitting Claims that DOH issued for 2013 through 2014 (2013-14 COLA guidance). This is the first in a series of reports related to our examination of COLA payments.

A. Results of Examination

DOH overpaid \$5,756 out of \$15,538, or almost 37 percent, for the COLA reimbursement, including: \$5,258 for expenses lacking sufficient, appropriate supporting evidence; \$136 that was not allowable under the contract associated with the COLA; and \$362 for expenses that were not allocable to the contract. In addition, we found \$1,970 in noncompliant payments for expenses incurred but not paid within the applicable budget year.

We shared a draft report with DOH officials and considered their comments (Attachment A) in preparing this final report. DOH officials generally agreed with our recommendations and will work with CCNY to obtain additional documentation for the unsupported personal services costs.

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.

B. Background and Methodology

Each fiscal year, DOH submits the amount of COLA funds recommended for each eligible contract with a not-for-profit contractor to the Division of Budget (DOB) for approval. Once approved by DOB, the program area responsible for administering the contract within DOH sends a letter to each contractor notifying them of the amount of COLA funds available for each contract along with DOH's COLA guidance describing expenses eligible for reimbursement. To receive COLA funds, the contractor submits a completed Budget Statement and Report of Expenditures, which includes a signed certification that it will use these funds for the recruitment and retention of staff or other critical non-personal service expenses.

DOH's COLA guidance for fiscal year 2013-14 did not require the contractors to pay for expenses prior to submitting the claim for payment. DOH paid for the 2013-14 COLA in advances based on contractors' spending plans. Contractors were required to document all expenses paid with COLA funds and provide supporting documentation to DOH only upon request. Beginning with the 2014-15 fiscal year, DOH has required contractors to pay for expenses prior to submitting the claim for payment and to provide appropriate supporting documentation.

Under contract C026159 between the DOH AIDS Institute and CCNY, CCNY provides AIDS prevention services for young people. As the program area responsible for contract C026159, the DOH Aids Institute is responsible for monitoring the COLA funds and verifying those funds were spent in accordance with COLA guidance.

To accomplish our objectives, we reviewed DOH's COLA guidance, contract terms and conditions, claim for payment, invoices, cancelled checks and other supporting documentation relevant to our examination. In addition, we interviewed DOH officials and CCNY staff.

C. Details of Findings

CCNY requested \$5,258 in COLA funds for salary adjustments, fringe benefits and staff training. However, CCNY did not provide evidence to support the expenses claimed for payment, despite several requests from our auditors. Absent sufficient, appropriate evidence to support these expenses, CCNY is not entitled to the funds.

According to the 2013-14 COLA guidance, DOH may reimburse contractors for critical non-personal service expenses allowable under the contract. However, we found that the DOH AIDS Institute paid CCNY \$136 for training expenses for two employees who did not perform any services under contract C026159.

In addition, DOH paid CCNY for 100 percent of the expenses for training an employee who only worked on the contract approximately 21 percent of the time. Consequently, the COLA should have covered 21 percent of the training expenses. This resulted in an overpayment of \$362.

DOH's 2013-14 COLA guidance required the contractor to have incurred and paid expenses between April 1, 2013 and March 31, 2014. We found CCNY incurred \$1,970 for office technology expenses during the budget year but did not pay for them until July 9, 2014. DOH officials agreed the expenses did not comply with the COLA guidance, however, since this would otherwise have been an appropriate use of COLA funding, they do not plan to recover the funds. This issue should be alleviated in future years since DOH now requires contractors to demonstrate they have incurred and paid for COLA expenses before requesting reimbursement.

Recommendations

- 1) *Recover \$5,756 overpaid to CCNY for expenses which did not meet the DOH COLA guidance.*
- 2) *Ensure any future expenses claimed for COLA payments comply with DOH's COLA guidance for the applicable budget year, including ensuring that expenses claimed are incurred and paid within the correct budget year.*

We thank the management and staff of the Department of Health and the AIDS Institute for the courtesies and cooperation extended to our auditors. Since your response to the draft report is generally in agreement with this report, there is no need for a further response unless you feel otherwise. If you choose to provide a response, we would appreciate it by November 10, 2016.

Sincerely,

Bernard J. McHugh
Director of State Expenditures

Enc: Attachment A
Attachment B

cc: Diane Christensen, Director of Internal Audit



**Department
of Health**

ANDREW M. CUOMO
Governor

HOWARD A. ZUCKER, M.D., J.D.
Commissioner

SALLY DRESLIN, M.S., R.N.
Executive Deputy Commissioner

September 15, 2016

Mr. Bernard J. McHugh, Director
Office of the State Comptroller
Bureau of State Expenditures
110 State Street
Albany, New York 12236-0001

Dear Mr. McHugh:

Enclosed are the Department of Health's comments on the Office of the State Comptroller's Draft Audit Report BSE4-2016-COLA-001 on COLA payments made to the Child Center of New York.

Thank you for the opportunity to comment.

Sincerely,

Sally Dreslin, M.S., R.N.
Executive Deputy Commissioner

Enclosure

cc: Michael Nazarko
Marybeth Hefner
Carol Sherman
Johanne Morne
Valerie White
Douglas Manion
Diane Christensen
Lori Conway

**Department of Health
Comments on the
Office of the State Comptroller's
Draft Audit Report BSE4-COLA-001**

The following are the Department of Health's (Department) comments in response to the Office of the State Comptroller's (OSC) Draft Audit Report BSE4-COLA-001.

Recommendation

Recover \$7,726 overpaid to CCNY for expenses which did not meet the DOH COLA guidance.

Response

This audit was an examination of the 2013-14 Cost of Living Adjustment (COLA) payment made to The Child Center of New York (CCNY) related to contract C026159.

Results of examination:

1	\$5,258	Expenses lacking sufficient, appropriate supporting evidence	\$1,121 to cover extra hours worked by Program Coordinator; \$3,264 to cover extra hours worked by Assistant Program Coordinator; \$748 in associated Fringe, \$124 for Staff Training
2	\$1,970	Expenses incurred but not paid within applicable budget period	\$1,110 for 2 laptops, \$860 for software and installation costs
3	\$136	Expenses not allowable under the contract associated with the COLA	Staff training for individuals not on the contract
4	\$362	Allocated improperly	Staff Training not allocated properly
	\$7,726	TOTAL	

For items #1, #3, and #4 in the table above, the Department is in agreement with the findings. The Department will send a letter to the contractor questioning these costs and requesting reimbursement, but allowing the contractor to provide additional documentation should they be able to document the validity of the expenses.

For item #2 in the table above, the Department agrees that the practice of making a payment 100 days after the end of the 2013-2014 COLA period is not acceptable. However, the Department would not seek to recover these funds, because it was a valid expense for the contract. It was incurred within the COLA period, and eventually paid in full. The Department will inform the contractor that this practice is not acceptable and that it is an audit finding. Also the AIDS Institute will seek an explanation of why it occurred. Currently, the AIDS Institute does not contract with this agency.

* Comment 1

*See State Comptroller Comments, Attachment B

State Comptroller's Office Comment on Auditee Response

1. DOH officials agreed the expenses did not comply with the COLA guidance; however, since this would otherwise have been an appropriate use of COLA funding, they do not plan to recover the funds. We agree with DOH's comments and have adjusted the amount to be recovered. In addition, we added a recommendation for DOH to ensure all future COLA expenses meet the COLA guidelines.