



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

Division of State Government Accountability

Financial Oversight of the Advantage After School Program

Office of Children and Family Services



Report 2016-S-39

February 2018

Executive Summary

Purpose

To determine whether the Office of Children and Family Services (OCFS) has adequate controls in place to ensure that money provided to selected community organizations is spent in accordance with program guidelines and whether these controls are functioning as intended. The audit covers the period November 15, 2012 through December 13, 2016.

Background

New York State created the Advantage After School Program (Program) in 2000 to provide high-quality youth development opportunities to school-age children and youth during the hours directly after school. Research indicates that children who participate in quality after-school programs have higher school attendance and academic achievement, and are less likely to be involved in risky behaviors during after-school hours. The Program offers educational, recreational, and cultural age-appropriate activities and encourages active participation among children, youth, and parents in the design and delivery of activities. Providers must describe how they will meet program outcomes and target measures. Providers must also provide an annual budget and their Maximum Average Daily Attendance (MADA), which is defined as the maximum number of children expected to be served in the Program on any day during the year. OCFS administers the Program through its Division of Child Care Services' Advantage After School Program Unit. As of September 1, 2016, OCFS had contracts with 137 providers to operate programs at 176 sites serving about 17,000 children and youth across the State. State funding for the Program was \$19.3 million and \$22.3 million in State fiscal years 2015-16 and 2016-17, respectively.

Key Finding

- We found that OCFS has some appropriate controls to limit Program contract spending, including a maximum cost per child of \$1,375 and a maximum allowable contract budget, which is calculated by multiplying providers' MADAs by the \$1,375 maximum per child. OCFS reimbursements to Program providers did not exceed the maximum contract budget. However, there is a risk that providers can exceed the maximum cost per child if they serve significantly fewer children than their MADA but do not reduce their expenditures proportionally. If the attendance we observed at selected providers during a sample time period was typical of the contract period, the expenditures per child on five contracts ranged from \$1,981 to \$5,332.

Key Recommendation

- Use available information, such as average attendance on quarterly reports, contract expenditure data, and attendance reviewed during Program Manager visits, to identify contracts with an increased risk of exceeding the maximum cost per child and/or serving significantly fewer children than their MADA. For contracts with increased risk, implement steps to monitor contract service levels and spending, and take appropriate corrective action, which may include redirecting future funds to other sites or providers.

Agency Response

In its response to the draft report, OCFS takes issue with our audit methodology and resulting findings; “partially agrees” with one of the two recommendations; and disagrees with the other one. Throughout its response, OCFS finds fault with our samples because they were not randomly selected and are not representative of the program as a whole, and incorrectly implies that random selection is the only valid sampling method. OCFS also states that the audit results “cannot and should not be used to form a statistically valid conclusion regarding the entire population.” OCFS’ objections are baseless for two reasons. First, selecting samples based on assessed risk is an acceptable and appropriate sampling methodology, permitted under generally accepted government auditing standards with which this audit complied. We intentionally selected the sample of 17 contracts based on risks we assessed, which we describe in our report. Second, our report does not state that our sample is representative of, or applicable to, the contract population, nor do we project findings across the population.

OCFS also states that our method to determine program attendance was flawed, and suggests we should have determined attendance by reviewing quarterly reports. However, the quarterly reports are self-reported by providers; as such, we believe reviewing on-site records at provider sites is a more reliable test.

Additionally, OCFS states that the Program does not tie contract funding to contractor attendance performance indicators. Yet this is the point of our finding: that by failing to consider MADA and/or maximum cost per child, OCFS is not taking advantage of valuable information that can help it assess provider risk. Although OCFS limits a provider’s budget based on the established maximum cost per child of \$1,375 and the provider’s estimated MADA, a provider can still exceed the per-child maximum if it serves significantly fewer children than the MADA. Providers who serve fewer children than proposed should have lower costs. However, some providers who serve a significantly lower number of children than their MADA do not have an associated decrease in expenditures. This raises the risk that State funds are not being used in an efficient manner and increases the risk of fraud, waste, and abuse. With limited resources, OCFS needs to focus its efforts based on risk. However, OCFS appears not to understand this approach, instead using its limited resources to focus on *all* providers regardless of risk, thereby reducing the resources available to monitor those at higher risk. For instance, OCFS states that it takes steps to verify reported attendance information and assist providers to maintain anticipated levels of attendance. However, OCFS did not provide any evidence of such steps for the five programs we identified as having attendance levels below 50 percent of the MADA during the period we tested, despite the fact that these providers were all at high risk related to attendance. Moreover, since an employee of a Program provider was recently convicted of submitting false claims for salary reimbursements under the Program, it is now imperative that OCFS evaluate the effectiveness of its current controls and take appropriate corrective action. Failure to do so may leave OCFS vulnerable to further fraudulent activities.

Although OCFS disagrees with our first recommendation, it describes its contractor monitoring practices, which are generally consistent with our recommendation. OCFS agrees to implement our second recommendation, but questions the underlying findings. Our recommendation is based on internal control weaknesses in OCFS’ payment process.

Other Related Audits/Reports of Interest

[State Education Department/Office of Children and Family Services/Office of Mental Health/Department of Health: Cost Reporting of Programs Operated by Gateway-Longview, Inc. \(2012-S-17\)](#)

[State Education Department: Grant Payments to SCO Family of Services for the Extended School Day Program \(2012-0052\)](#)

State of New York
Office of the State Comptroller

Division of State Government Accountability

February 13, 2018

Ms. Sheila Poole
Acting Commissioner
Office of Children and Family Services
52 Washington Street
Rensselaer, NY 12144-2834

Dear Ms. Poole:

The Office of the State Comptroller is committed to helping State agencies, public authorities, and local government agencies manage their 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 of our audit entitled *Financial Oversight of the Advantage After School Program*. 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 report, please feel free to contact us.

Respectfully submitted,

Office of the State Comptroller
Division of State Government Accountability

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State Government Accountability Contact Information:

Audit Director: Stephen Goss

Phone: (518) 474-3271

Email: StateGovernmentAccountability@osc.state.ny.us

Address:

Office of the State Comptroller
 Division of State Government Accountability
 110 State Street, 11th Floor
 Albany, NY 12236

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

Background

New York State created the Advantage After School Program (Program) in 2000 to provide high-quality youth development opportunities to school-age children and youth during the hours directly after school. Research indicates that children who participate in quality after-school programs have higher school attendance and academic achievement, and are less likely to be involved in risky behaviors during after-school hours. The Office of Children and Family Services (OCFS) administers the Program, including providing oversight and monitoring, through its Division of Child Care Services' Advantage After School Program Unit.

The Program offers a range of educational, recreational, and cultural age-appropriate activities that integrate what happens in the school day with less formal learning experiences, and encourages active participation among children, youth, and parents in the design and delivery of activities. Programs operate five days per week during the regular school year and may have evening hours, particularly when serving older adolescents.

Programs are designed around four required program outcomes and three performance targets. The program outcomes are as follows:

- Improving social, emotional, academic, and vocational competencies of school-age children and youth;
- Preventing and reducing the incidence of out-of-wedlock adolescent pregnancies;
- Reducing other negative youth behaviors such as bullying, violence, and crime; tobacco, alcohol, and substance abuse; disengagement from school; school suspension and truancy; and health-compromising behaviors; and
- Providing parents with a safe after-school environment for children and youth.

The three performance targets – Child Performance, Youth Involvement/Attendance, and Parent/Guardian Involvement – are measures that relate to the achievement of the four program outcomes.

OCFS uses a Request for Proposals (RFP) process to solicit proposals to participate in the Program from not-for-profit community and faith-based organizations (providers). Proposals must describe how the providers will meet the program outcomes and target measures, and must provide an annual operating budget that includes personal services, non-personal services (such as those for consultants and equipment), and work plans that include information about how the Program will be administered. OCFS reviews and approves the budgets and work plans. Providers must also determine and provide their Maximum Average Daily Attendance (MADA), which is defined as the maximum number of children expected to be served in the Program on any given day during the year. The maximum annual funding the Program allows per child is \$1,375, and the maximum funding a provider can receive is its MADA multiplied by \$1,375. For example, if a provider's MADA is 100, the maximum amount of the OCFS Program award would be \$137,500 annually.

Program funds must be used to deliver services and activities to Program participants. These

services include staff training, program scheduling, recruiting youth, and encouraging parent participation. Funds may not be used for expenses such as transportation for program participants, use of school space, or incentives to promote participation (e.g., movie tickets).

With OCFS approval, providers may receive an advance of 25 percent of the annual funding amount. Subsequently, within 15 days of the end of each monthly claiming period, they submit claims to OCFS for reimbursement. The claims include a basic allocation among cost categories (e.g., personal services, equipment, supplies), but providers are not required to submit supporting information for claimed expenses. Generally, claims are only denied if providers request reimbursement for items not included in their budget. In certain circumstances when actual costs differ from the projected costs in the approved contract budget, providers must submit a Budget Spending Adjustment request to their assigned OCFS Program Manager. For example, a provider is required to submit this request when revisions result in an increase or decrease in any non-personal services cost category by 10 percent or more of the approved budget amount for the category. Additionally, providers must submit quarterly reports for each site they operate describing actual activities completed for the quarter, and must include their actual average daily attendance for each month.

Four Program Managers provide technical assistance to providers and conduct on-site Program reviews, with a goal of reviewing each provider every two years. These on-site reviews include reviewing documents, such as the Program Policy and Procedures Manual and the emergency procedure, and reviewing enrollment and daily or weekly attendance records.

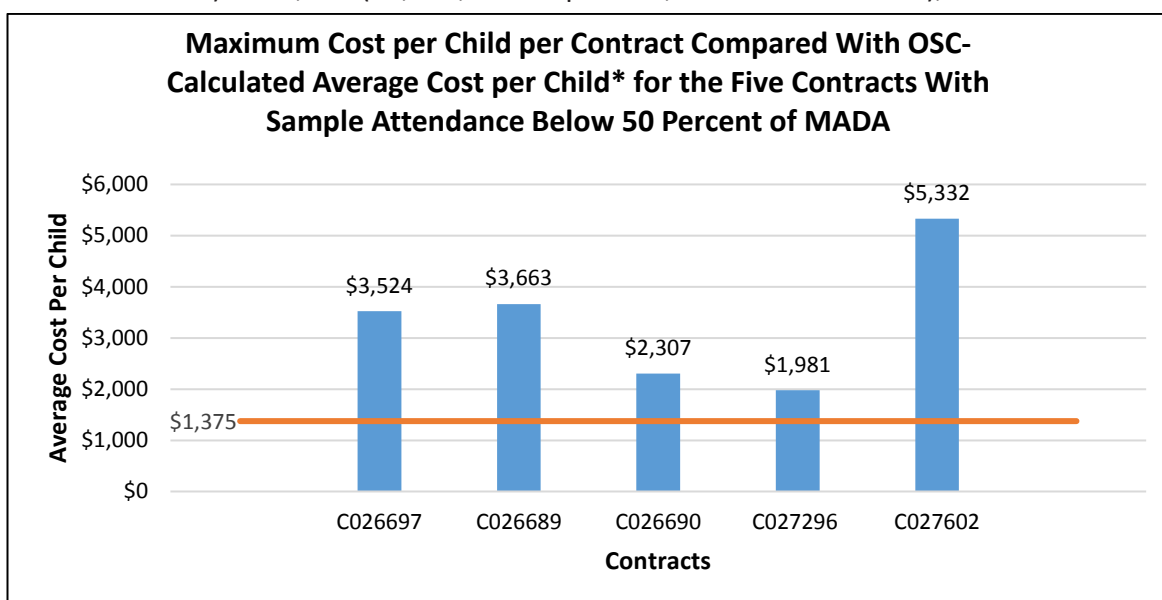
Contracts are awarded for a five-year period and are renewed annually for the same amount each year, subject to available funding. The most recent RFP was issued in 2014 for contracts for the period 2014-2019. OCFS allows up to two contracts per provider per RFP, and providers may operate up to two program sites per contract. As of September 1, 2016, OCFS reported having contracts with 137 providers to operate Advantage After School Programs at 176 sites serving about 17,000 children and youth across the State. State funding for the Program was \$19.3 million and \$22.3 million in State fiscal years 2015-16 and 2016-17, respectively.

Audit Findings and Recommendations

We found that OCFS has some appropriate controls to limit Program contract spending, including a maximum cost per child and a maximum allowable contract budget. OCFS reimbursements to Program providers did not exceed the maximum contract budget. However, OCFS needs to improve its monitoring to help ensure that contract expenditures do not significantly exceed the \$1,375 maximum cost per child. We found there is a risk that providers can exceed the maximum cost per child if they serve significantly fewer children than their MADA but do not reduce their expenditures proportionally. Our tests identified some contracts that served less than 50 percent of the MADA during a sample period. If the attendance we observed was typical of the contract period, the expenditures per child of some contracts would have ranged from \$1,981 to \$5,332, exceeding the maximum cost per child by significant amounts. In addition, there is a risk that the amount of funds authorized, including some unspent funds, may exceed what certain contracts need, especially for those providers with low sample attendance. These funds could potentially be used to expand services to reach additional children. We also found that some providers were reimbursed for expenses that lacked support or were otherwise ineligible for reimbursement.

Program Attendance and Maximum Cost per Child

We reviewed a sample of 17 contracts, 14 of which were funded at the maximum amount (i.e., the MADA \times \$1,375). The remaining three contracts were funded just below the per-child maximum, at amounts ranging from \$1,298 to \$1,363. In our review of attendance levels for a sample period between 15 and 24 days for 10 of 17 contracts operating at 12 sites, we found a significant risk that actual spending per child exceeded the maximum for five contracts. Sample attendance levels for these five contracts were below 50 percent of the MADA. If these levels were typical of attendance during the entire contract period, the cost per child using actual expenditures would exceed the \$1,375 maximum by significant amounts, ranging from \$1,981 (\$606, or 44 percent, over the maximum) to \$5,332 (\$3,957, or 288 percent, over the maximum), as shown below.



* Based on sample attendance applied to tested contract periods.

These high costs per child occurred even though four of the five contracts had not fully spent their authorized funds, including three that left between 14 and 51 percent unexpended. The remaining contract spent all of its authorized funds.

In contrast, average sample attendance as a percentage of MADA for the other five contracts exceeded 50 percent, and exceeded 90 percent for two of the five. The following table illustrates how the sample attendance percentage and the percentage of funds spent influence the cost per child. When these two percentages are relatively similar to each other, the cost per child generally approximates the maximum of \$1,375. For example, for two contracts (C027309 and C026702), the sample attendance percentages (93 and 62 percent, respectively) were similar to the percentages of funds spent (97 and 59 percent, respectively). Because attendance and spending were relatively similar in these two cases, the resulting average cost per child was only slightly more or slightly less than the maximum, at \$1,443 and \$1,303, respectively. Conversely, when the percentage of funds spent significantly exceeds the attendance percentage, the cost per child significantly exceeds the maximum. For example, for contract C026698, sample attendance was 51 percent, far below the 91 percent of authorized funds spent, and resulted in a cost per child of \$2,471, exceeding the maximum allowed by \$1,096, or 80 percent.

Comparison of Attendance and Contract Spending for the Five Contracts With Sample Attendance Above 50 Percent of MADA

Contract Number	Attendance During Sample Period as a Percent of MADA	Percent of Authorized Funds Spent	Average Cost per Child Based on Sample Period Attendance	Authorized Funds	Amount of Authorized Funds Unspent
C027604	97%	83%	\$1,178	\$137,500	\$23,270
C027309	93%	97%	1,443	440,000	13,003
C026702	62%	59%	1,303	1,155,000	472,419
C027307	57%	72%	1,734	385,000	107,490
C026698	51%	91%	2,471	880,000	79,298
Totals				\$2,997,500	\$695,480

One reason that providers can exceed the maximum cost per child is due to the Program's funding model, which depends heavily on actual Program attendance being reasonably close to the approved MADA. Although OCFS collects some information regarding Program attendance, it may not be effectively using this information to identify financial risks, such as the risk of providers overestimating the number of children they plan to serve and then exceeding the maximum cost per child. OCFS collects quarterly reports from providers that include the average daily attendance for each month. In addition, Program Managers conduct site visits, during which they review attendance for a sample time period. OCFS officials said that the goal is to visit each Program once every two years and, when Program Managers identify low attendance, they will work with the providers to try to increase attendance levels. However, OCFS does little to monitor the quarterly attendance data to identify providers who may be receiving funds they do not need and/or exceeding the maximum cost per child.

Authorized Funds

In addition to the risk that contract expenditures exceed the maximum allowed per child, for some providers' contracts, there is a risk that authorized funds may exceed their need, especially for those provider sites with low sample attendance. As the table on page 8 shows, unspent funds for just the five contracts whose sample MADA exceeded 50 percent totaled nearly \$700,000, or about 23 percent of the funds authorized. For example, for contract C026702, even though the attendance percentage and percentage of funds spent were similar, there was nonetheless more than \$470,000 unspent, or about 41 percent of the authorized funds, at the conclusion of the contract. In another example, the sample attendance percentage for contract C027602 (see graph on page 7) was only 26 percent of its MADA, yet it spent 100 percent of its authorized funds, calling into question whether the entire \$122,627 authorized was needed for this contract. These funds, as well as funds for other contracts in our sample, might potentially be used to expand services to reach additional children in the future. OCFS officials stated that, in the past, they have used unspent funds to extend existing contract terms with providers. While this approach may be beneficial, additional children might be served sooner by pursuing other alternatives, such as funding new providers or new sites.

Claims for Reimbursement

Our review of a judgmental sample of 68 claims totaling \$1.1 million showed that OCFS paid six providers \$38,514 (3 percent) for claimed expenses that were inadequately supported or included errors. Most of these expenses (84 percent) were for personnel costs that lacked documentation about the amounts and/or the methodology for allocating them to the Program. We also identified inadequate segregation of duties at one provider, where one person was solely responsible for the budget, claims submission, and account reconciliation functions for the Program. This lack of segregation of duties increases the risk that Program funds may be improperly used or claimed. OCFS officials stated that they view financial risks to the Program as low, and that it is not beneficial to provide the necessary resources to review claims. Based on our findings, we recommend that OCFS officials include a review of selected approved claims during their existing Program monitoring efforts.

Recommendations

1. Use available information, such as average attendance on quarterly reports, contract expenditure data, and attendance reviewed during Program Manager visits, to identify contracts with an increased risk of exceeding the maximum cost per child and/or serving significantly fewer children than their MADA. For contracts with increased risk, implement steps to monitor contract service levels and spending, and take appropriate corrective action, which may include redirecting future funds to other sites or providers.
2. Based on the identified risk factors, include a review of selected approved claims in existing Program monitoring efforts.

Audit Scope, Objectives, and Methodology

Our audit determined whether OCFS has adequate controls in place to ensure that money provided to selected community organizations is spent in accordance with Program guidelines and whether these controls are functioning as intended. The audit covered the period November 15, 2012 through December 13, 2016.

To accomplish our audit objectives, we reviewed relevant laws, regulations, and OCFS guidance related to the Program. We interviewed OCFS officials to understand their role in Program oversight. In addition, we assessed OCFS' internal controls as they related to oversight of the Program and reviewed contract specifications. We identified 117 active contracts valued at \$94.4 million for 91 providers as of June 2016. We reviewed submitted budgets for each contract and selected a judgmental sample of 17 contracts for nine providers based on various risk factors, such as high administrative costs, equipment purchases, and lack of budget detail. We used OCFS' Contract Management System (CMS) and identified 513 claims totaling \$6.4 million that were submitted for these 17 contracts between November 15, 2012 and November 15, 2016. We judgmentally selected a sample of 68 of these claims (four per contract), totaling \$1.1 million, using similar risk factors as above. We visited the nine providers and reviewed available documentation to determine if the expenses on these claims were adequately supported.

We reviewed providers' information for child attendance for periods ranging from 15 to 24 days between January 4 and December 31, 2016 for 10 of 17 contracts covering 12 program sites. For contracts with multiple sites we treated each site separately. We estimated average daily attendance for the contract by dividing the total number of children in attendance on the days we reviewed by the total number of days reviewed. We compared that average to the MADA to identify contracts that showed a risk of serving significantly fewer children than their MADA. We also calculated a cost per child for the contracts and/or sites in our attendance analysis by dividing the actual reimbursements OCFS paid by the estimated average daily attendance. For two contracts (C026697 and C027296) that each operated more than one site with a different MADA for each site, we prorated actual reimbursements based on the site MADA compared to the overall contract MADA. For example, for a site with a MADA of 100 that was included in a contract with an overall MADA of 160, we treated 62.5 percent of the actual reimbursements (100 divided by 160) as being attributable to that site. We considered contracts with average daily attendance below 50 percent of their MADA to be at significant risk for exceeding the cost per child maximum. We also calculated the amount of funds that were authorized, but not spent, using expenditure reports from CMS.

We conducted our audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform our audits 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 threats to organizational independence under generally accepted government auditing standards. In our opinion, these 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 under 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 OCFS officials for their review and formal written comment. We considered their comments in preparing this final report and have included them in their entirety at the end of the report. Although OCFS disagrees with aspects of our audit methodology, it plans to implement one of the two recommendations.

Within 90 days after final release of this report, as required by Section 170 of the Executive Law, the Commissioner of the Office of Children and Family Services 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.

Contributors to This Report

Stephen Goss, CIA, CGFM, Audit Director
John F. Buyce CPA, CIA, CFE, CGFM, Audit Director
Walter J. Irving, Audit Manager
Sharon Salembier, CPA, CFE, Audit Supervisor
Scott Heid, Examiner-in-Charge
Vicki Wilkins, Examiner-in-Charge
Nancy Hobbs, Senior Examiner
W Sage Hopmeier, Senior Examiner
Jonathan Julca, Senior Examiner
Nicole Tommasone, Senior Examiner

Division of State Government Accountability

Andrew A. SanFilippo, Executive Deputy Comptroller
518-474-4593, asanfilippo@osc.state.ny.us

Tina Kim, Deputy Comptroller
518-473-3596, tkim@osc.state.ny.us

Ken Shulman, Assistant Comptroller
518-473-0334, kshulman@osc.state.ny.us

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.

Agency Comments and State Comptroller's Comments



Office of Children and Family Services

ANDREW M. CUOMO
Governor

SHEILA J. POOLE
Acting Commissioner

November 20, 2017

Stephen Goss
Office of the State Comptroller
Division of State Government Accountability
110 State Street, 11th Floor
Albany, NY 12236

Re: Audit 2016-S-39 Draft Audit Report

In response to the Office of the State Comptroller's (OSC) Draft Audit Report concerning Financial Oversight of the Advantage After School Program, the New York State Office of Children and Family Services (OCFS) has prepared this response.

Under the Advantage After School Program, OCFS contracts with community-based organizations in high-risk communities to provide a broad range of high quality youth development opportunities to school-age children and youth for three hours directly after school. The contracts reviewed as part of the OSC Draft Audit Report were concluded in response to the 2012 and 2014 Request for Proposals (the "RFP"). The language of the two RFPs were substantially similar regarding Maximum Anticipated Daily Attendance (MADA), also referred to as Maximum Average Daily Attendance, performance targets, and contract payments. This response includes the relevant pages from the 2014 RFP for illustrative purposes. In the RFPs, OCFS required bidders to both submit an overall budget for the program and to project an estimated MADA. The MADA was then used to establish the award amount which could not exceed the MADA multiplied by an OCFS specified amount per child (RFP, pg. 4). Bidders were also required to use the MADA to determine the minimum number of staff the program would need (RFP, pgs. 80-81) and to establish projected performance targets that the program intended to achieve by the end of the contract period (RFP, pgs. 19-22). The RFP, and the contracts based upon the RFP, did not identify the MADA as a payment standard.

OSC asserts the purpose of this audit was to determine whether: (i) adequate controls are in place to ensure that funds provided to selected community organizations under the Advantage After School Program are spent in accordance with program guidelines; and (ii) such controls are functioning as intended. The draft audit report includes two recommendations; the first relates to the impact of program attendance on contract payments and the second relates to OCFS's review of the contractors' claims for payment. OCFS disagrees with OSC's presumptions, methodology and findings underlying recommendation 1 and already implements the strategies in OSC's recommendation. OCFS disagrees with the methodology underlying recommendation 2, but nonetheless plans to implement the recommendation.

OSC Methodology and Resulting Findings are Flawed.

As an initial matter, OSC used a flawed methodology to make its findings regarding program attendance and the associated contract costs per child that underlie this recommendation.

First, OSC chose a biased sample of 17 out of 137 contracts that were funded at or close to the MADA; these 17 contracts are not representative of the program as a whole. OSC then further reduced the sample to 10 contracts to develop its findings. By both selecting and using such a small biased sample based on these factors, the results cannot and should not be used as a basis for forming a statistically valid conclusion regarding the entire population.

State Comptroller's Comment – OCFS misunderstands our sample methodology and resulting conclusions. As described fully in the Audit Scope, Objectives, and Methodology section of the audit report, we used a risk-based approach to inform our sample selection, which resulted in a judgmental sample of 17 contracts. Our conclusions relate to the contracts we sampled and are not presented as applying to the entire population. Indeed, risk-based sampling is an important way in which audits add value, by identifying areas that may benefit from improvement efforts.

Second, OSC used a flawed methodology to determine the program attendance and maximum cost per child, for those inappropriately selected contracts, including the information set forth in the chart on page 7. Rather than reviewing existing quarterly reports or actual annual attendance numbers for the judgmentally selected programs during the life of the contracts, OSC chose to look at child attendance for periods ranging from 15 to 24 days during one specific year. OSC then developed estimated annual attendance from this limited data. OSC's resulting "findings" regarding the contractors' actual costs per child based on those estimated annual attendance numbers are merely speculative. OSC acknowledges these limitations in its methodology in several places throughout the audit report. Once on page 1 and twice on page 7, OSC qualifies the finding by saying "If the attendance we observed at selected providers during a sample time period was typical of the contract period..." Even with these flawed methodologies, there were only five contracts where OSC estimated that the annual attendance was significantly below the contractor's projected MADA, and in only one had the program spent all of its authorized contract funds.

State Comptroller's Comment – Our on-site review of attendance records, in combination with auditors' observations during our visits, provided valuable information about Program attendance. We used this information, along with provider expenditure levels, to identify the potential financial effects when Program attendance falls significantly under projected amounts. Unfortunately, OCFS' response neglects to acknowledge the significance of these potential financial risks and the value of using this information, causing us to question the adequacy of its oversight.

Selecting a biased sampling of the programs based on risks and then using an additionally inappropriate sampling of actual attendance for a limited number of days to create "projected" average daily attendance in combination with the small number of contracts identified by the flawed methodology as having potential issues, gives OSC no basis upon which to form a statistically valid conclusion regarding payment issues based on attendance for any individual contract or the entire population of Advantage After School Programs. Furthermore, as explained, the Advantage After School Program does not tie contract funding to contractor's attendance performance indicators. For these reasons, OCFS disagrees with both the findings and the recommendation.

State Comptroller's Comment – OCFS again criticizes our sample methodology and states that it doesn't allow us to form statistically valid conclusions, implying that random statistical samples

are the only valid sampling methodology. We reject this argument because, as we state in Comment 1, we used an appropriate, risk-based sample, and we did not project our findings to the contract population nor did we recommend disallowing payments to providers. Further, we clearly concluded that our sample results indicate there is a risk that providers can exceed OCFS' maximum cost per child.

Current OCFS practices. The draft audit report fails to acknowledge that OCFS existing monitoring practices are adequate and already mirror those set forth in the recommendations.

State Comptroller's Comment – OCFS maintains that its monitoring is sufficient. However, our audit report identifies financial risks to the Program that we believe OCFS can better manage through a risk-based approach and targeted monitoring.

OCFS already monitors programs and uses available information including average attendance on quarterly reports, expenditure data, and attendance reviewed during Program Manager visits, to identify contracts that are serving significantly fewer children than the MADA projected in the application for funding. As previously discussed, OCFS already works with those contractors to modify their programs, where appropriate, in a manner that enables the programs to continue to provide quality programs that meet both the applicable statutory requirements and the additional Advantage After School program quality standards without causing major disruptions to the families being served. These modifications already include, but are not limited to, OSC's suggestion that OCFS redirect future funding to other sites or programs. Also, as stated during the audit and above, programs must be able to supply qualified staff and appropriate resources, including materials and play equipment, to meet their anticipated attendance needs. Failure to provide the minimum number of qualified staff for children present or failure to have sufficient materials and play equipment for children in care would result in the program being found in violation of OCFS SACC regulations. OCFS seeks to avoid unnecessarily reducing funding to programs or closing programs that are relied on by children and families, which would create additional gaps in needed after-school programming in high risk areas of the State.

State Comptroller's Comment – OCFS states that it uses available information to identify contracts that are serving significantly fewer children than the projected MADA. However, effective use of this information would necessarily involve consideration of whether funded contracts are – or potentially will – exceed the maximum cost per child that is determined by OCFS. As written, the response suggests that OCFS does not grasp the concept that its existing practices allow the potential to provide excessive funding to some providers. The response also suggests that the MADA, and/or the maximum cost per child, are parameters that have relatively little meaning in OCFS' financial oversight.

OCFS also notes that the audit report contains conflicting statements regarding OCFS's role in monitoring programs. At the bottom of page 8 OSC states, "*However, OCFS does little to monitor the quarterly attendance data to identify providers who may be receiving funds they do not need and/or exceeding the maximum cost per child.*" This statement is directly contradicted by OSC on page 9 when OSC acknowledges that OCFS monitors the attendance data so as to allow unspent funds to be utilized to extend program terms. As OSC is aware, OCFS has used such funds to extend existing contract terms to avoid program disruption to children and their families.

State Comptroller's Comment – There is a distinction between monitoring that entails assessing

and responding to risks (such as the risk that OCFS expenditures may exceed the maximum cost per child), and merely responding to the reality of unspent provider funds by extending contract terms. The fact that unspent funds may be used to extend contract terms does not make OCFS' assessment and response to financial risks any less necessary. Further, OCFS told us that it extended existing contract terms for provider contracts where exceeding the maximum per-child cost was likely, though it did not provide any information to support its statement. As stated in our recommendation, OCFS should use available information to identify and respond to risks that provider MADAs are intentionally or unintentionally too high, and that providers are exceeding the maximum cost per child.

Response to Recommendation 1

OSC's Recommendation 1: Use available information, such as average attendance on quarterly reports, contract expenditure data, and attendance reviewed during Program Manager visits, to identify contracts with an increased risk of exceeding the maximum cost per child and/or serving significantly fewer children than their Maximum Average Daily Attendance (MADA). For contracts with increased risk, implement steps to monitor contract service levels and spending, and take appropriate corrective action, which may include redirecting funds to other sites and providers.

OCFS Response: OCFS disagrees with OSC's recommendation. As noted above, the MADA is not a payment standard. Therefore, OCFS cannot adopt OSC's recommendation that it identify contracts "exceeding the maximum cost per child" since the contracts do not have a maximum cost per child. Although contractors are required to submit quarterly program reports, including attendance information, to demonstrate how close they are to their performance targets, OCFS does not limit payments to a contractor based on the performance targets for several reasons.

First, there are multiple factors that can impact on the ability of a contractor to achieve and maintain its attendance goals including, lower attendance when a program is new, transient student populations, illness, and the existence of other after-school programs. Second, Advantage After School Programs must be registered by OCFS as school age child care (SACC) programs. As a result, they have to comply with statutory and regulatory SACC requirements relating to health and safety, room sizes, program materials and play equipment, staff qualifications, staff training, and minimum staff/child supervision ratios. Many of these requirements exist irrespective of the number of children they serve making it unfair to strictly tie funding to enrollment. Third, the contractors also must meet four additional Advantage After School Program outcomes specific to their contract funding. These requirements also exist irrespective of the number of children who participate in the program on any specific day. Fourth, personnel and non-personal services costs vary throughout the state. Fifth, OCFS's goal is to establish and maintain quality Advantage After School Programs that are continuously available to the children and their families. It is for these reasons that OCFS does not directly tie reimbursement under the Advantage After School Program contracts to the actual attendance at the programs.

Nor does OCFS limit payment based on the program's reported attendance as compared against the MADA. Rather, the Advantage After School contracts provide that payments are made to the contractors based on monthly financial claim and expense reports setting forth the program's actual expenses in accordance with the budget contained in the contract. Contractors may make revisions to their budgets up to 10 percent of the total contract value without OCFS prior approval but must submit the revisions to OCFS. Payments are tied to these monthly claims and expense

reports, not MADA. With the above controls in place, OCFS provides sufficient oversight of the claims and expenditures of the community organizations operating Advantage Afterschool Programs in accordance with the RFP and contract requirements.

OCFS recognizes that new programs may take a certain period of time to become established. After the first year of operation, OCFS program managers use evaluation tools such as the Site Visit and Progress Rating Report during site visits to, among other things, verify the accuracy of the attendance information reported by the contractor in the quarterly program reports. In addition, while on-site the program managers review attendance logs to further verify the accuracy of the reported quarterly attendance. The program managers compare this information to the program's projected MADA. For those contractors that have significant difficulties attaining or maintaining the anticipated levels of attendance after the first year, OCFS provides technical assistance to help them improve their attendance based. For example, OCFS encourages contractors to work with school administrators to provide information to teachers and families about the program in order to increase attendance. Unfortunately, there are schools that have low attendance levels during the school day which also results in low attendance at after school programs. If a contractor is ultimately unable to come close to and/or maintain its MADA, OCFS works with the contractor to adjust its spending, move resources between programs or extend the length of the program contract.

State Comptroller's Comment – OCFS has misinterpreted our recommendation. We do not recommend that funding be directly tied to actual attendance or that OCFS disallow funding. Further, we understand the Program's intent to provide services for children, and that various factors can affect provider performance and child attendance. However, OCFS' response is disingenuous when it states that the MADA is not a payment standard and that contracts do not have a maximum cost per child. Given that contract payments are based on the MADA multiplied by \$1,375 per child, it is apparent that both the MADA and the cap on cost per child are parameters that OCFS established and that should inform its Program oversight.

Response to Recommendation 2

OSC Recommendation 2: *Based on the identified risk factors, include a review of selected approved claims in existing Program monitoring efforts.*

OCFS Response: OCFS partially agrees with OSC's recommendation. OCFS questions the findings underlying this recommendation for the reason discussed below but agrees to modify its claims review processes as recommended.

OSC did not use a random sample to determine which contracts and claims it would review during this part of the audit. Instead, OSC used a biased sample to determine which contracts were reviewed and then, separately, which of those contractors' claims were reviewed. OSC based both the judgmental sampling of the contracts and the judgmental sampling of the claims on various risk factors, such as high administrative costs, equipment purchases, and lack of budget details. By selecting judgmental samples based on these risk factors, the results cannot and should not be used as a basis for forming a statistically valid conclusion regarding the entire population.

State Comptroller's Comment – OCFS' response reflects a misunderstanding of our sample selection methodology, despite its being fully described in the report's Audit Scope, Objectives, and Methodology section. Our audit report does not purport to have relied on a random sample,

nor did we statistically project our sample results to the entire population of contracts. As explained in Comment 1, we did indeed use a judgmental, risk-based sample in forming the basis for our conclusions, which we present as financial risks that warrant OCFS' attention.

Even with this prejudicial methodology, OSC only found three percent of the claimed expenses it reviewed were inadequately supported or included errors. Nonetheless, OSC makes a sweeping recommendation that OCFS should modify its claims review process for the Advantage After School Program.

State Comptroller's Comment – Our recommendations arose from audit work that revealed the effects, or potential effects, of weaknesses in internal controls. As such, the related recommendation is appropriate. We note that an employee of a Program provider was recently convicted of submitting false claims for salary reimbursements under the Program.

Although OCFS questions the findings underlying this recommendation due to OSC's use of judgmental sampling and the limited number of questionable expenses, OCFS agrees to implement the recommendation to reduce the risk that Advantage After School programs submit inappropriate or unsupported claims. OCFS is establishing a fiscal audit process whereby each Advantage After School Program contractor will be required to submit all backup documentation for one quarter's worth of its claims. The OCFS Division of Child Care Services will dedicate staff to review the backup documentation and compare it to the claimed amounts for completeness, accuracy and consistency with the contract terms.

Other OCFS Concern. OCFS questions the inclusion of the two referenced reports on page 2 of the draft report in the section titled "Other Related Audits/Reports of Interest." Neither of these reports relate to the Advantage After School Program or any other child care services programs funded or overseen by OCFS. Therefore, it is inappropriate for OSC to suggest that they somehow do.

State Comptroller's Comment – The purpose of this section of our report is to refer interested readers to OSC material that is similar in topic or covered population and/or that relates to the audited entity. In this case, both reports we selected were relevant because they related to questioned costs for services provided to children.

Thank you for providing OCFS the opportunity to review and comment on the draft audit report. If you have any questions, please contact Bonnie Hahn at Bonnie.Hahn@ocfs.ny.gov.



Janice M. Molnar, Ph.D.
Deputy Commissioner
Division of Child Care Services