



James A. Conway
Director
Office of Audit Services
Tel. (518) 473-4516
Fax (518) 473-0259
E-mail: jconway@mail.nysed.gov

September 1, 2011

Mr. Dennis M. Walcott
Chancellor
New York City Department of Education
52 Chambers Street
New York, NY 10007

Report: ARRA-0910-21

Dear Mr. Walcott:

This letter is our final report of the New York City Department of Education's (NYCDOE) use of American Recovery and Reinvestment Act (ARRA) funds awarded for the July, 1 2009 – June 30, 2010 school year. The audit was conducted pursuant to the Commissioner of Education's authority under Section 305 of the Education Law. Our audit objectives were to: verify the allowability of amounts expended and the appropriateness of any requests for additional funding, determine if NYCDOE has sufficient financial control systems in place to administer ARRA funds, and assess compliance with pertinent federal requirements for the use of federal funds.

Our audit scope was limited to the Education Stabilization Funds (ESF) (also referred to as State Fiscal Stabilization Funds, (SFSF), Individual Disabilities Education Act (IDEA) 611/619, and Title I for the period July 1, 2009 through June 30, 2010. The total amounts of grants received by NYCDOE were \$555 million for ARRA-ESF, \$144 million for ARRA-IDEA 611, \$4.9 million for ARRA-IDEA 619, and \$330 million for ARRA-Title I.

To accomplish our objectives, we interviewed NYCDOE officials; tested transactions; and reviewed policies/procedures and financial records, which included reports generated by NYCDOE's computerized financial database.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those 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.

The results of this audit have been discussed with District officials and their comments have been considered in preparing this report. The District's response to the draft report is included as Appendix A. See **Auditor's Note** to clarify the issue raised in the District's response.

Audit Results

Allowability and Accuracy of Reported Expenditures

Expenditure Allowability

Districts submit a budget (FS-10) to the State Education Department (Department) prior to the beginning of the grant period and a final expenditure report (FS-10-F) after the end of the grant period. The FS-10 delineates the anticipated costs by specific budget categories and codes. One of the budget categories is purchased services (code 40). Based on the information contained in the Title I FS-10, NYCDOE designated this category for costs of parental involvement, and professional services-curriculum and professional development. Parental involvement is a provision of the Title I grant which requires districts to devote a certain percentage of the grant to activities and programs for the involvement of parents of eligible students.

NYCDOE received ARRA-Title I funds for its 32 districts, non-public schools, and its Division of Business and Administration. Out of the \$4.3 million in other-than-personal service (OTPS) costs for the 32 Title I districts, we selected \$157,665 to audit. We found that NYCDOE charged ARRA-Title I \$1,418 for 80 children and 60 adults to visit the Bronx Zoo as a reward for 100 percent attendance for at least three months. This amount was charged to parental involvement in the FS-10-F. We also found that NYCDOE charged ARRA-Title I \$7,656 for two performances (*Three by Three by Piaclava* and *Gorilla, My Love*) at the Lincoln Center Institute attended mostly by students. These costs were charged to professional services-curriculum and professional development in the FS-10-F. We question the appropriateness of these charges, because they did not meet the approved uses of purchased services as established in the FS-10.

Late Filing of Final Expenditure Reports

Districts use the FS-10-F to report to the Department reimbursable expenditures made by a district in an approved project or grant. These reports are due within 90 days following the end of the grant. The end of the grant period for the ARRA-IDEA grants under audit is June 30, 2010. Therefore, the FS-10-F is due September 30, 2010. We found that NYCDOE was very late in the submission of the FS-10-Fs. Three FS-10-Fs were submitted in December 2010 and one was submitted February 2011.

Financial Control System

We did not find any audit exceptions.

Compliance with Federal Grant Requirements

Time and Effort Requirements

OMB Circular A-87 requires salaries of employees who are charged to federal grants be supported by periodic certifications or personnel activity reports. This requirement applies to all federal grants including ARRA, but does not apply to ARRA-ESF. NYCDOE had a process in place

to certify time and efforts for employees. However, the personnel activity reports for employees who work on multiple cost objectives were not done at least monthly, they did not coincide with one or more pay periods, nor were they signed by the employee as required by A-87.

Section 1512 Reporting

Under Section 1512 of ARRA, recipients of ARRA funds must submit a quarterly report that describes, among other things, how the entity used those funds, including the estimate of the number of jobs created and saved. The quarterly report has two parts, the program narrative, which describes in some detail the use of funds, and the reporting summary, which indicates the number of jobs created and saved. NYCDOE counted part-time employees as if they were full-time as part of the number of jobs created and saved in their Section 1512 quarterly reporting. However, NYCDOE demonstrated that this error caused an overstatement of approximately one half of one percent and thus did not materially affect the quarterly reported number of jobs saved and created.

Cash Management – Minimizing Time between Receipt and Disbursement

Title 34 of the Code of Federal Regulations Part 80.20(b)(7), requires procedures for minimizing the time elapsing between the transfer of funds from the U.S. Treasury and disbursement by grantees and subgrantees be followed whenever advance payment procedures are used.

NYCDOE addressed the requirement of minimizing the time elapsed between receipt and disbursement of ARRA funds, by instituting a “reimbursement-only” procedure. Under that procedure, NYCDOE only submits requests for payment as reimbursement of funds that have already been spent. NYCDOE requested that the Department not provide initial payments and in addition, would not submit claims containing requests for advance funding. However, this procedure only applies to ARRA funds.

For non-ARRA federal grants, NYCDOE continues to receive an initial payment of 20 percent upon approval of grant applications. Although NYCDOE does not have a formal procedure, the timing of the flow of funds lessens the likelihood that there is a significant period of time between receipt and disbursement. In fact, it appears that both the initial payment sent by the Department and requests for additional funding (FS-25’s) submitted by NYCDOE occur well into the grant period. Our analysis of 2009-10 grant projects showed that over 72 percent of initial payments were made after January 1, 2010, six months after the beginning of the grant period. Similarly, over 99 percent of FS-25’s were paid after February 1, 2011, seven months after the beginning of the period. Thus, in most cases the expenditures have already been incurred.

Cash Management – Interest Earned

Title 34 of the Code of Federal Regulations Part 80.21 paragraph (i) states that grantees and subgrantees shall promptly, but at least quarterly, remit interest earned on advances to the Federal agency. Grant payments from the Department are made to the City of New York Department of Finance (Finance Department) and not to NYCDOE directly. Grant payments received, along with other funds of New York City, are held in a non-interest bearing account where the balance sweeps overnight to an investment account. According to Finance Department officials, the investment account earned an average rate of return of .955 percent during the audit period of July 1, 2009 through June 30, 2010. The Finance Department has custody of all NYCDOE funds at all times and issues all payments on behalf of NYCDOE after receiving payment information.

NYCDOE does not have a process to calculate and remit interest earned on federal funds in excess of \$100 annually. We were unable to determine how much, if any, of the interest earned on the investment account is attributable to federal grant funds.

Recommendations

1. Submit revised FS-10-Fs for both ARRA-Title I grants to exclude the costs related to the Bronx Zoo and the Lincoln Center. The revised FS10-F long forms accompanied by a copy of this report or transmittal letter identifying this audit as the reason for the revision should be submitted within 30 days to:

The State Education Department
Grants Finance, Room 510W EB
Albany, NY 12234

Grants Finance will review the revised FS-10-F long forms and send Form FS-80 Notice of Overpayment to your District, confirming the amount overpaid and providing remittance instructions.

2. Ensure that final expenditure reports are submitted before their deadlines.
3. Ensure that the personnel activity reports for employees who work on multiple cost objectives are done at least monthly and coincide with one or more pay periods and that they are signed by the employees.
4. Reevaluate the methodology used to calculate jobs saved and created for employees who work at NYCDOE on a part-time basis.
5. Develop procedures to address federal requirements for minimizing time elapsing between receipt and disbursement of non-ARRA federal funds and remitting interest earned on federal funds in excess of \$100 annually.
6. Work with the Finance Department to develop procedures to calculate whether interest was earned on federal deposits and, if so, the amount.

Section 170.12 of the Regulations of the Commissioner of Education requires the submission of a Board approved corrective action plan, in response to all the findings, within ninety days of the issuance of this report. The corrective action plan should include the expected date of implementation, where appropriate.

I appreciate the cooperation and courtesies extended to our staff during the audit.

Sincerely,

James A. Conway

c: Commissioner King, S. Cates-Williams, J. Delaney, B. Porter, C. Szuberla, K. Slentz, M. Lavare, M. Zollo, R. Reyes, A. Timoney, J. Dougherty, T. Hernandez (Chair, Panel for Educational Policy), C. Carpenter (NYCDOE)



Brian Fleischer
Auditor General

**Department of
Education**
Dennis M. Walcott, Chancellor

August 9, 2011

James A. Conway
Director
Office of Audit Services
The State Education Department
Albany, New York 12234

Report: ARRA-0910-21

Dear Mr. Conway:

This letter constitutes the New York City Department of Education's (NYCDOE) response to the State Education Department's (SED) draft audit results and recommendations contained in your June 17, 2011 letter to Chancellor Dennis M. Walcott.

Recommendation 1:

The NYCDOE agrees in part and disagrees in part with the recommendation. We agree that the Bronx Zoo trip, being a student reward for perfect attendance for at least three months, was not appropriately charged to Title I Parent Involvement Funds. However, we believe that the two questioned Lincoln Center Institute (LCI) Aesthetic Education Instructional Units (Units) were legitimately charged to Title I Professional Services-Curriculum and Professional Development. The draft report cites those charges as for "performances," but in fact, the performances were a component of Units facilitated by the Lincoln Center Institute, the purpose of which was to reinforce classroom themes in English and Music. In addition to the live performance, each Aesthetic Education Instructional Unit purchased by the school included a planning session for classroom teachers with an LCI "teaching artist", materials for use in classroom work, and classroom visits by the LCI "teaching artist" to facilitate the incorporation of the performances into classroom instruction. Upon completion of the Units, the school classroom teachers involved in the instructional units were assessed on their ability to integrate the performances in the classroom. LCI's professional development workshops focus on particular works of art or specialized topics related to aesthetic education. LCI also designs semester and yearlong courses that focus on a variety of art forms and engage participants in an exploration of ways to integrate arts-and-education strategies into classroom practice.

See
Auditor's
Note 1

Recommendation 2:

The NYCDOE recognizes the requirement for submission of FS-10-F final expenditure reports within 90 days following the end of the grant and therefore agrees with the recommendation. We wish to note, however, that the NYCDOE's late submissions of FS-10-F reports to SED, relate primarily to the specific issue of encumbrances with vendors that are not liquidated prior to claiming deadlines. The NYCDOE has thoroughly discussed this issue with SED officials prior to claiming deadlines, and SED expressed a preference that NYCDOE submit the affected reports late rather than submit an incomplete claim by the deadline only to amend it after the encumbrance liquidations. Moreover, because the NYCDOE claims

reimbursement from SED only after it has incurred the expenditures claimed, there is no negative impact on the state or federal governments resulting from the late submissions.

That stated, the NYCDOE has developed internal reports and procedures to inform grant managers of unliquidated encumbrances earlier in the grant year and to facilitate more timely liquidation of open encumbrances.

Recommendation 3:

The NYCDOE agrees with this recommendation and has enhanced its training and internal controls to ensure that personnel activity reports for employees who work on multiple cost objectives are completed in accordance with all applicable requirements. We note that almost all of our Title I schoolwide programs are now conceptually consolidating most of their federal funds with state and local funds as permitted and encouraged by the United States Department of Education and as approved by SED, and that personnel activity reports are not required for employees working on multiple cost objectives funded by federal grants that are conceptually consolidated.

Recommendation 4:

The NYCDOE agrees with the recommendation and has already implemented the change in methodology. A number of school based job titles are paid on an hourly basis and therefore do not have a set full time work schedule. These positions have minimum daily schedules, for example, Supervisor School Aides must work a minimum of 6 hours per day and Family Paraprofessionals must work 5 hours 30 minutes per day, however there is no maximum. Most employees within these titles work the minimum schedule, however it is possible for them to work additional hours during the school day and beyond. Without a full time schedule, NYCDOE used the minimum schedule as the basis for calculating FTEs. After consultation with SED, NYCDOE changed the calculation methodology to use the same schedule as a Full Time Teacher title, 6.83 hours per day, for all hourly, school-based employees who do not have a full time work schedule. As part of the 1512 reporting process NYCDOE receives hours worked from its direct vendors. Vendors on occasion submit work schedules that are below 30 hours per week. When calculating total FTEs from all vendors, NYCDOE now uses 30 hours per week, as the floor for work schedules. These changes have been implemented since the Dec 30th 2010 1512 reporting cycle.

Recommendation 5:

The NYCDOE agrees with the recommendation. As noted in the draft report, the NYCDOE ensured that there would be no time gap between the receipt and disbursement of ARRA funds by claiming only for expenses already incurred. As further noted in the draft report, even for non-ARRA federal funds, the timing of the flow of funds lessens the likelihood of a significant time gap between the receipt and disbursement of funds. However, in order to further minimize the time lapsing between receipt and disbursement of non-ARRA federal funds, the NYCDOE intends to claim only reimbursement of actual incurred expenditures on its monthly FS-25 draw-downs. In other words, the NYCDOE will no longer include one month of projected personnel services expenditures in its claims. However, due to the fact that SED's processes for review of the NYCDOE's FS-10 budget submissions frequently have resulted in approvals after the start of the grant period and the incurrence of necessary program expenditures, the NYCDOE believes the current SED policy of processing a 20 percent payment upon budget approval should continue. Otherwise, it could create cash flow problems for the City of New York.

Recommendation 6:

The NYCDOE agrees with the recommendation. As noted in the response to *Recommendation 5*, above, the NYCDOE's claiming policies and the timing of the flow of funds from the SED to the NYCDOE lessens the likelihood of that significant amounts of federal funding will reach the accounts of the City of New York prior to the incurrence of the expenditures by the NYCDOE. That stated, because the NYCDOE believes that the current SED policy of processing a 20 percent payment upon budget approval should continue, the possibility remains that small amounts of interest could be earned by the City of New York on federal funds. Accordingly, the NYCDOE will work with City of New York Department of Finance to develop procedures to monitor and calculate interest that may be earned on federal funds and to remit these amounts to the appropriate federal authorities.

Sincerely,

A handwritten signature in black ink, appearing to read "B. Fleischer", with a horizontal line extending to the right.

Brian Fleischer
Auditor General

Auditors Note

Note 1:

The Auditors consulted with the Title I Program Office regarding the \$7,656 Lincoln Center Institute disallowance. The Program Office determined that there was no supporting documentation or explanation to demonstrate that the professional development for teachers was designed to help them provide Academic Intervention Services (AIS)/supplemental services to children not meeting New York State Learning Standards. In addition, there was no documentation to indicate that the students who participated are AIS eligible. Therefore, the recommendation regarding the disallowance remains.