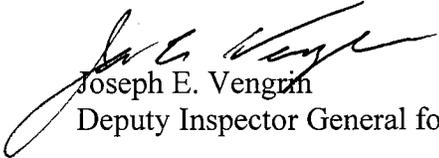


**AUG 19 2009**

TO: Maiso Bryant
Acting Commissioner
Administration on Children, Youth and Families
Administration for Children and Families

FROM: 
Joseph E. Vengrin
Deputy Inspector General for Audit Services

SUBJECT: Review of the Missouri Department of Social Services Claim for Title IV-E Training Costs for the Social Services Cost Pool for July 1, 2002, Through June 30, 2006 (A-07-08-03114)

Attached is an advance copy of our final report on the Missouri Department of Social Services (the State agency) claim for Title IV-E training costs for the Social Services Cost Pool (cost pool) for the period July 1, 2002, through June 30, 2006. We will issue this report to the State agency within 5 business days.

Federal regulations specify that training expenditures must be included in the approved State training plan to be claimed at the enhanced 75-percent Federal financial participation (FFP) rate. Also, pursuant to Federal regulations, States must allocate costs to the Title IV-E program in accordance with an approved public cost allocation plan. As specified in its approved cost allocation plan, the State agency used a random moment timestudy to allocate costs from the cost pool to Title IV-E training. The cost pool consisted of the State agency's proportionate share of county overhead and indirect expenses. The State agency claimed \$10,224,397 (\$7,668,298 Federal share) in Title IV-E training costs that it had allocated from the cost pool and claimed at the enhanced 75-percent FFP rate from July 1, 2002, through June 30, 2006.

Our objective was to determine whether the Title IV-E training costs that the State agency allocated from the cost pool and claimed at the enhanced 75-percent FFP rate from July 1, 2002, through June 30, 2006, were allowable under Federal regulations, the approved State training plan, and the approved cost allocation plan.

None of the \$10,224,397 (\$7,668,298 Federal share) in Title IV-E training costs that the State agency allocated from the cost pool from July 1, 2002, through June 30, 2006, was allowable for Federal reimbursement at the enhanced 75-percent FFP rate. Of the \$7,668,298 Federal share, \$2,556,099 was not allowable because the cost pool did not consist entirely of allowable training costs reimbursable at the enhanced rate. In addition, contrary to regulation, none of the costs

comprising the cost pool were included in the State’s approved training plan. The \$2,556,099 in unallowable costs represents the difference between the amount claimed at the enhanced 75-percent FFP rate and the amount that could have been claimed at the administrative 50-percent FFP rate.

Of the remaining \$5,112,199 Federal share, representing the amount that could have been claimed at the administrative 50-percent FFP rate, \$3,301,490 may not have been allowable because the State agency may not have complied with the provisions of its approved cost allocation plan when it used a nonautomated timestudy to allocate costs from the cost pool to Title IV-E training. We are setting aside the \$3,301,490 for adjudication by the Administration for Children and Families (ACF). We are accepting the remaining \$1,810,709, which the State agency allocated using an automated timestudy that complied with the approved cost allocation plan.

We recommend that the State agency:

- adjust its next “Title IV-E Foster Care and Adoption Assistance Financial Report” to reduce Federal reimbursement claimed for Title IV-E training by \$2,556,099 and
- work with ACF to determine what portion of the \$3,301,490 Federal share was not allocable to Title IV-E and make financial adjustments as necessary.

In written comments on our draft report, the State agency disagreed with our findings and recommendations. After reviewing the State agency’s comments, we maintain that our findings and recommendations are valid.

If you have any questions or comments about this report, please do not hesitate to call me, or your staff may contact Lori S. Pilcher, Assistant Inspector General for Grants, Internal Activities, and Information Technology Audits, at (202) 619-1175 or through email at Lori.Pilcher@oig.hhs.gov or Patrick J. Cogley, Regional Inspector General for Audit Services, Region VII, at (816) 426-3591 or through email at Patrick.Cogley@oig.hhs.gov. Please refer to report number A-07-08-03114.

Attachment



DEPARTMENT OF HEALTH & HUMAN SERVICES

Office of Inspector General
Office of Audit Services

AUG 24 2009

Region VII
601 East 12th Street
Room 0429
Kansas City, Missouri 64106

Report Number: A-07-08-03114

Mr. Ronald J. Levy
Director
Missouri Department of Social Services
P.O. Box 1527
Jefferson City, Missouri 65102-1527

Dear Mr. Levy:

Enclosed is the U.S. Department of Health and Human Services (HHS), Office of Inspector General (OIG), final report entitled "Review of the Missouri Department of Social Services Claim for Title IV-E Training Costs for the Social Services Cost Pool for July 1, 2002, Through June 30, 2006." We will forward a copy of this report to the HHS action official noted on the following page for review and any action deemed necessary.

The HHS action official will make final determination as to actions taken on all matters reported. We request that you respond to this official within 30 days from the date of this letter. Your response should present any comments or additional information that you believe may have a bearing on the final determination.

Pursuant to the Freedom of Information Act, 5 U.S.C. § 552, OIG reports generally are made available to the public to the extent that information in the report is not subject to exemptions in the Act. Accordingly, this report will be posted on the Internet at <http://oig.hhs.gov>.

If you have any questions or comments about this report, please do not hesitate to call me at (816) 426-3591, or contact Greg Tambke, Audit Manager, at (573) 893-8338, extension 30, or through email at Greg.Tambke@oig.hhs.gov. Please refer to report number A-07-08-03114 in all correspondence.

Sincerely,

A handwritten signature in black ink, appearing to read "Patrick J. Cogley".

Patrick J. Cogley
Regional Inspector General
for Audit Services

Enclosure

Direct Reply to HHS Action Official:

Ms. Nancy Long
Acting Regional Administrator, Region VII
Administration for Children and Families
601 East 12th Street, Room 276
Kansas City, Missouri 64106-2808

Department of Health and Human Services

**OFFICE OF
INSPECTOR GENERAL**

**REVIEW OF THE MISSOURI
DEPARTMENT OF SOCIAL
SERVICES CLAIM FOR TITLE
IV-E TRAINING COSTS FOR THE
SOCIAL SERVICES COST POOL
FOR JULY 1, 2002, THROUGH
JUNE 30, 2006**



Daniel R. Levinson
Inspector General

August 2009
A-07-08-03114

Office of Inspector General

<http://oig.hhs.gov>

The mission of the Office of Inspector General (OIG), as mandated by Public Law 95-452, as amended, is to protect the integrity of the Department of Health and Human Services (HHS) programs, as well as the health and welfare of beneficiaries served by those programs. This statutory mission is carried out through a nationwide network of audits, investigations, and inspections conducted by the following operating components:

Office of Audit Services

The Office of Audit Services (OAS) provides auditing services for HHS, either by conducting audits with its own audit resources or by overseeing audit work done by others. Audits examine the performance of HHS programs and/or its grantees and contractors in carrying out their respective responsibilities and are intended to provide independent assessments of HHS programs and operations. These assessments help reduce waste, abuse, and mismanagement and promote economy and efficiency throughout HHS.

Office of Evaluation and Inspections

The Office of Evaluation and Inspections (OEI) conducts national evaluations to provide HHS, Congress, and the public with timely, useful, and reliable information on significant issues. These evaluations focus on preventing fraud, waste, or abuse and promoting economy, efficiency, and effectiveness of departmental programs. To promote impact, OEI reports also present practical recommendations for improving program operations.

Office of Investigations

The Office of Investigations (OI) conducts criminal, civil, and administrative investigations of fraud and misconduct related to HHS programs, operations, and beneficiaries. With investigators working in all 50 States and the District of Columbia, OI utilizes its resources by actively coordinating with the Department of Justice and other Federal, State, and local law enforcement authorities. The investigative efforts of OI often lead to criminal convictions, administrative sanctions, and/or civil monetary penalties.

Office of Counsel to the Inspector General

The Office of Counsel to the Inspector General (OCIG) provides general legal services to OIG, rendering advice and opinions on HHS programs and operations and providing all legal support for OIG's internal operations. OCIG represents OIG in all civil and administrative fraud and abuse cases involving HHS programs, including False Claims Act, program exclusion, and civil monetary penalty cases. In connection with these cases, OCIG also negotiates and monitors corporate integrity agreements. OCIG renders advisory opinions, issues compliance program guidance, publishes fraud alerts, and provides other guidance to the health care industry concerning the anti-kickback statute and other OIG enforcement authorities.

Notices

THIS REPORT IS AVAILABLE TO THE PUBLIC
at <http://oig.hhs.gov>

Pursuant to the Freedom of Information Act, 5 U.S.C. § 552, Office of Inspector General reports generally are made available to the public to the extent that information in the report is not subject to exemptions in the Act.

OFFICE OF AUDIT SERVICES FINDINGS AND OPINIONS

The designation of financial or management practices as questionable, a recommendation for the disallowance of costs incurred or claimed, and any other conclusions and recommendations in this report represent the findings and opinions of OAS. Authorized officials of the HHS operating divisions will make final determination on these matters.

EXECUTIVE SUMMARY

BACKGROUND

Title IV-E of the Social Security Act, as amended, authorizes Federal funds for States to provide foster care and adoption assistance to children under an approved State plan. At the Federal level, the Administration for Children and Families (ACF) administers the program; in Missouri, the Department of Social Services (the State agency) administers the program. Title IV-E provides Federal financial participation (FFP) at a 50-percent rate for administrative expenditures and at an enhanced 75-percent rate for certain training expenditures.

Federal regulations specify that training expenditures must be included in the approved State training plan to be claimed at the enhanced 75-percent FFP rate. Also, pursuant to Federal regulations, States must allocate costs to the Title IV-E program in accordance with an approved public cost allocation plan. As specified in its cost allocation plan, the State agency used a random moment timestudy to allocate costs from the Social Services Cost Pool (cost pool) to Title IV-E training. The cost pool consisted of the State agency's proportionate share of county overhead and indirect expenses.

The State agency claimed \$10,224,397 (\$7,668,298 Federal share) in Title IV-E training costs that it had allocated from the cost pool and claimed at the enhanced 75-percent FFP rate from July 1, 2002, through June 30, 2006.

OBJECTIVE

Our objective was to determine whether the Title IV-E training costs that the State agency allocated from the cost pool and claimed at the enhanced 75-percent FFP rate from July 1, 2002, through June 30, 2006, were allowable under Federal regulations, the approved State training plan, and the approved cost allocation plan.

SUMMARY OF FINDINGS

None of the \$10,224,397 (\$7,668,298 Federal share) in Title IV-E training costs that the State agency allocated from the cost pool from July 1, 2002, through June 30, 2006, was allowable for Federal reimbursement at the enhanced 75-percent FFP rate. Of the \$7,668,298 Federal share, \$2,556,099 was not allowable because the cost pool did not consist entirely of allowable training costs reimbursable at the enhanced rate. In addition, contrary to regulation, none of the costs comprising the cost pool were included in the State's approved training plan. The \$2,556,099 in unallowable costs represents the difference between the amount claimed at the enhanced 75-percent FFP rate and the amount that could have been claimed at the administrative 50-percent FFP rate.

Of the remaining \$5,112,199 Federal share, representing the amount that could have been claimed at the administrative 50-percent FFP rate, \$3,301,490 may not have been allowable because the State agency may not have complied with the provisions of its approved cost allocation plan when it used a nonautomated timestudy to allocate costs from the cost pool to

Title IV-E training. We are setting aside the \$3,301,490 for adjudication by ACF. We are accepting the remaining \$1,810,709, which the State agency allocated using an automated timestudy that complied with the approved cost allocation plan.

RECOMMENDATIONS

We recommend that the State agency:

- adjust its next “Title IV-E Foster Care and Adoption Assistance Financial Report” to reduce Federal reimbursement claimed for Title IV-E training by \$2,556,099 and
- work with ACF to determine what portion of the \$3,301,490 Federal share was not allocable to Title IV-E and make financial adjustments as necessary.

STATE AGENCY COMMENTS

In written comments on our draft report, the State agency disagreed with our findings and recommendations. With respect to the costs that we questioned, the State agency said that most of the costs in the cost pool were direct costs comprising salaries and benefits of case workers and others. The State agency also said that its approved cost allocation plan plainly indicated that Title IV-E training costs would be claimed at the enhanced 75-percent FFP rate. With respect to the potentially unallowable costs that we reported, the State agency disputed the conclusions that we drew on the basis of nonresponses to the nonautomated timestudy.

The State agency’s comments are included in their entirety as the Appendix.

OFFICE OF INSPECTOR GENERAL RESPONSE

After reviewing the State agency’s comments, we maintain that our findings and recommendations are valid. We also disagree with the State agency’s stated conceptions of the purpose and scope of the cost allocation plan and the State training plan. Furthermore, the State agency did not comply with 45 CFR § 1356.60(b)(2), which states: “All training activities and costs funded under title IV-E shall be included in the State agency’s training plan for title IV-B.”

In response to the State agency’s comments regarding potentially unallowable costs, we maintain that a timestudy with a 67-percent nonresponse rate for the four largest counties in the State was not “representative of the work done by all Department Field Staff” as required by the approved cost allocation plan. Given the high nonresponse rate, we have serious concerns about whether the sample was statistically valid.

TABLE OF CONTENTS

Page

INTRODUCTION..... 1

BACKGROUND 1

 Title IV-E Program 1

 Federal Reimbursement Requirements 1

 Missouri Department of Social Services Cost Pool 2

OBJECTIVE, SCOPE, AND METHODOLOGY 2

 Objective 2

 Scope 3

 Methodology 3

FINDINGS AND RECOMMENDATIONS 4

FEDERAL REQUIREMENTS..... 4

 Federal Requirements and Departmental Appeals Board Decisions 4

 Approved Cost Allocation Plan 5

UNALLOWABLE COSTS 5

POTENTIALLY UNALLOWABLE COSTS 6

RECOMMENDATIONS 7

STATE AGENCY COMMENTS AND OFFICE OF INSPECTOR GENERAL RESPONSE..... 7

 Costs in the Cost Pool 7

 State Training Plan and Approved Cost Allocation Plan 8

 Nonresponses to Nonautomated Random Moment Timestudy 8

APPENDIX

STATE AGENCY COMMENTS

INTRODUCTION

BACKGROUND

Title IV-E Program

Title IV-E of the Social Security Act (the Act), as amended, authorizes Federal funds for States to provide foster care and adoption assistance to children under an approved State plan. At the Federal level, the Administration for Children and Families (ACF) administers the program; in Missouri, the Department of Social Services (the State agency) administers the program.

Federal funds are available to States for the following Title IV-E administrative and training costs:

- Administrative costs include staff activities such as case management and supervision of children placed in foster care or considered to be Title IV-E candidates, preparation for and participation in court hearings, placements of children, recruitment of foster parents, and licensing of foster homes and institutions. The Federal funding rate for administrative costs allocable to the Title IV-E program is 50 percent.
- Training costs include the training of personnel employed or preparing for employment by the State or local agency administering the State training plan and the training of current or prospective foster care or adoptive parents, as well as personnel of childcare institutions. Certain State training costs qualify for an enhanced 75-percent Federal funding rate.

Pursuant to Federal regulations (45 CFR part 95, subpart E), States must allocate costs to the Title IV-E program in accordance with a public assistance cost allocation plan approved by the Department of Health and Human Services, Division of Cost Allocation (DCA), after ACF reviews and comments on the fairness of the cost allocation methodologies. Federal regulations (45 CFR §§ 74.27 and 92.22) also require that costs be allocated according to the accounting principles and standards in Office of Management and Budget Circular A-87, “Cost Principles for State, Local, and Indian Tribal Governments.” The circular requires at section C that costs be allocated to programs based on the relative benefits received and be adequately documented. ACF’s “Child Welfare Policy Manual” states that training costs must be allocated to benefiting programs and describes allowable administrative costs.

States submit the “Title IV-E Foster Care and Adoption Assistance Financial Report” (ACF-IV-E-1 report) on a quarterly basis to claim Federal reimbursement for Title IV-E costs.

Federal Reimbursement Requirements

Section 474(a)(3) of the Act authorizes Federal reimbursement at an enhanced 75-percent rate for amounts expended “for the proper and efficient administration of the State’s plan” if the expenditures are for certain types of training, such as the training of personnel employed or preparing for employment by the State or local agency administering the Title IV-E program.

Federal regulations (45 CFR § 1356.60(b)) restate the training costs for which States receive the enhanced 75-percent rate of Federal financial participation (FFP) and further provide that inservice training and short-term and long-term training at educational institutions be provided pursuant to 45 CFR §§ 235.63–235.66(a). These regulations list with greater specificity certain activities and costs that are eligible for the enhanced FFP rate. Section 474(a)(3)(E) of the Act and 45 CFR § 1356.60(c) authorize reimbursement to States at a 50-percent FFP rate for all other allowable administrative expenditures.

All training activities and costs charged to the Title IV-E program must be included in the State's training plan pursuant to 45 CFR § 1356.60(b)(2).¹ The State's training plan must describe the training activities and costs that will be charged to the Title IV-E program at the enhanced 75-percent FFP rate.

Missouri Department of Social Services Cost Pool

The State agency used a random moment timestudy to allocate costs from the Social Services Cost Pool (cost pool) to Title IV-E training. The cost pool consisted of the State agency's proportionate share of county overhead and indirect expenses and did not consist entirely of allowable training costs. These expenses included, among other things, costs associated with rent and other indirect costs, which were eligible only for the 50-percent administrative FFP rate pursuant to 45 CFR § 1356.60(c)(2). The cost pool, which totaled \$456,536,067 during our audit period, was derived from the total of all county social services expenditure reports received quarterly.

Until April 2005, the State agency used a nonautomated timestudy in which a coordinator and an observer in each local office were responsible for observing employee activities at the appropriate random moment and for submitting the timestudy results to the State agency. In April 2005, the State agency automated the timestudy; since then, survey forms have been sent to employees by email. The automated system, which the State agency put in place before we began our fieldwork, uses a random moment email notification system in concert with an observer system for those who do not have regular email and Web access (including employees of the Division of Youth Service (DYS), a component of the State agency). The automated timestudy generates statistically valid statewide estimates of the distribution of employees' time among various activities that are supported by Federal and State funding sources.

OBJECTIVE, SCOPE, AND METHODOLOGY

Objective

Our objective was to determine whether the Title IV-E training costs that the State agency allocated from the cost pool and claimed at the enhanced 75-percent FFP rate from July 1, 2002, through June 30, 2006, were allowable under Federal regulations, the approved State training plan, and the approved cost allocation plan.

¹The State agency submitted a training plan to ACF for approval for each Federal fiscal year included in this review (2002 through 2006).

Scope

From July 1, 2002, through June 30, 2006, the State agency claimed a total of \$30,556,399 (\$22,917,299 Federal share) in Title IV-E training costs. Our audit covered the \$10,224,397 (\$7,668,298 Federal share) that the State agency had allocated from the cost pool and claimed for Federal reimbursement at the enhanced 75-percent FFP rate. We are separately reviewing the remaining Title IV-E training costs (salaries and benefits, long-term training, and foster care parent training and residential treatment centers' training) that the State agency claimed for Title IV-E training during the same period. We will address those costs in three separate reports.

We reviewed internal controls to the extent necessary to accomplish the audit objective.

We performed fieldwork from November 2006 to May 2008 at the State agency in Jefferson City, Missouri.

Methodology

To accomplish our objective, we:

- reviewed applicable Federal laws, regulations, policy directives, State training plans, U.S. Department of Health and Human Services Departmental Appeals Board (DAB) decisions, and the approved cost allocation plan;
- interviewed officials of ACF, DCA, the Missouri State Auditor's Office, and the State agency to gain an understanding of the State agency's Title IV-E training program and its policies and procedures;
- reviewed the State agency's methods for recording and allocating training costs;
- reviewed the ACF-IV-E-1 reports and supporting quarterly cost allocation reports and compared the amounts claimed with the State agency's accounting records;
- judgmentally selected the costs originating from DYS and traced these costs to the amounts included in the cost pool and, ultimately, to the amounts claimed on the ACF-IV-E-1 reports through the use of the timestudy;
- reviewed the nonautomated and automated timestudy data and compared those data with the results that the State agency used to allocate costs from the cost pool to Title IV-E; and
- judgmentally selected and reviewed the nonautomated timestudy results for the quarter ending March 31, 2005, to determine whether the timestudy was conducted in accordance with the approved cost allocation plan.

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 objective.

FINDINGS AND RECOMMENDATIONS

None of the \$10,224,397 (\$7,668,298 Federal share) in Title IV-E training costs that the State agency allocated from the cost pool from July 1, 2002, through June 30, 2006, was allowable for Federal reimbursement at the enhanced 75-percent FFP rate. Of the \$7,668,298 Federal share, \$2,556,099 was not allowable because the cost pool did not consist entirely of allowable training costs reimbursable at the enhanced rate. In addition, contrary to regulation, none of the costs comprising the cost pool were included in the State's approved training plan. The \$2,556,099 in unallowable costs represents the difference between the amount claimed at the enhanced 75-percent FFP rate and the amount that could have been claimed at the administrative 50-percent FFP rate.

Of the remaining \$5,112,199 Federal share, representing the amount that could have been claimed at the administrative 50-percent FFP rate, \$3,301,490 may not have been allowable because the State agency may not have complied with the provisions of its approved cost allocation plan when it used a nonautomated timestudy to allocate costs from the cost pool to Title IV-E training. We are setting aside the \$3,301,490 for adjudication by ACF. We are accepting the remaining \$1,810,709, which the State agency allocated using an automated timestudy that complied with the approved cost allocation plan.

FEDERAL REQUIREMENTS

Federal Requirements and Departmental Appeals Board Decisions

Section 474(a)(3)(E) of the Act and 45 CFR § 1356.60(c) provide for a 50-percent FFP rate for reimbursement of administrative expenditures. Pursuant to 45 CFR § 1356.60(c)(2):

The following are examples of allowable administrative costs necessary for the administration of the foster care program:

- (i) Referral to services;
- (ii) Preparation for and participation in judicial determinations;
- (iii) Placement of the child;
- (iv) Development of the case plan;
- (v) Case reviews;
- (vi) Case management and supervision;
- (vii) Recruitment and licensing of foster homes and institutions;
- (viii) Rate setting . . .
- (ix) A proportionate share of related agency overhead[; and]
- (x) Costs related to data collection and reporting.

In addition, Federal regulations (45 CFR §1356.60(b)(2)) state that “[a]ll training activities and costs funded under title IV-E shall be included in the State agency’s training plan for title IV-B.”

The DAB has ruled that “. . . indirect costs associated with allowable direct costs of [Title] IV-E training may not be charged at the 75% rate of FFP applicable to training costs if the indirect costs are based on rates developed using cost pools containing unallowable training costs.”² Quoting language from an earlier decision,³ DAB stated that the enhanced Federal reimbursement rate:

“ . . . is an exception to the generally available reimbursement rates, and a state must accordingly meet a higher standard of proof to justify a claim at an enhanced rate.” . . . Otherwise, a state might try to improperly shift costs to programs, or parts of programs, with enhanced funding. Here, the regulation limits the types of costs which are allowable at the 75% training rate. Thus, in order to claim FFP at this rate, Illinois would have to show that its indirect costs consisted entirely of allowable costs.

Approved Cost Allocation Plan

The State’s approved cost allocation plan did not address the allocation of allowable training costs at the enhanced rate. The State claimed at the enhanced rate for training activities an amount allocated in accordance with section VI-A, Exhibit III, “RMTS [random moment timestudy] Allocation Principles,” section I, dated October 1, 2001. This provision of the cost allocation plan describes the methodology for allocating all county overhead costs and states: “The cost pool against which the RMTS-derived allocation percentages are applied is the total cost of the counties’ social services programs for children and adults. The cost pool includes that agency’s proportionate share of county overhead and indirect expense.”

Section VI-A of the cost allocation plan also states that the timestudy “will be based on a sample that will be representative of the work done by all Department Field Staff” and adds that “[t]he time period sampled should be as representative as possible of the period to which we [the State of Missouri] wish to infer.”

UNALLOWABLE COSTS

None of the \$10,224,397 (\$7,668,298 Federal share) in Title IV-E training costs that the State agency allocated from the cost pool from July 1, 2002, through June 30, 2006, was allowable for Federal reimbursement at the enhanced 75-percent FFP rate. Of the \$7,668,298 Federal share, \$2,556,099 was unallowable because:

- The costs comprising the cost pool were not entirely allowable training costs, as required by the DAB, and constituted county overhead and indirect expense costs, which Federal

²Illinois Department of Children and Family Services, DAB No. 1530 (1995).

³Colorado Department of Social Services, DAB No. 1277 (1991).

regulations specify may be claimed at the administrative 50-percent FFP rate but not at the enhanced 75-percent FFP rate.

- The State agency did not include the costs comprising the cost pool in the approved State training plan as required by Federal regulations.

The cost pool was identified as an indirect cost pool by section VI-A of the approved cost allocation plan, which stated that the cost pool included the State agency's proportionate share of county overhead and indirect expense. Our review of DYS costs confirmed that the cost pool included county overhead and indirect expenses, which were administrative costs pursuant to 45 CFR § 1356.60(c)(2). The cost pool did not consist entirely of allowable training costs and, pursuant to the DAB's decisions, could not be used to allocate training costs eligible for the enhanced 75-percent FFP rate. These expenses included, among other things, costs associated with rent and other indirect costs, which were eligible only for the 50-percent FFP rate.⁴

In addition, contrary to the provisions of 45 CFR § 1356.60(b)(2), the State training plan did not include the costs comprising the cost pool, thus giving no indication that the State agency would claim funding for its county overhead costs at the enhanced 75-percent FFP rate. Therefore, the State agency did not conform to Federal regulations or its training plan when it claimed these costs at the enhanced 75-percent FFP rate.

Because the State agency did not include the costs comprising the cost pool in its approved State training plan and because the cost pool included a mixture of costs that would have been allowable at the enhanced 75-percent FFP rate as well as at the administrative 50-percent FFP rate, we are questioning the \$2,556,099 Federal share. This amount represents the difference between the amount claimed at the enhanced 75-percent FFP rate and the amount that could have been claimed at the administrative 50-percent FFP rate.

POTENTIALLY UNALLOWABLE COSTS

Because we have already questioned \$2,556,099 of the \$7,668,298 Federal share that the State agency claimed, the remaining \$5,112,199 represents the amount that could have been claimed at the administrative 50-percent FFP rate. We are setting aside \$3,301,490 of this amount for adjudication by ACF. This amount may not have been allowable for Federal reimbursement because the State agency may not have complied with its approved cost allocation plan when using a nonautomated timestudy to allocate costs from the cost pool to Title IV-E training.

Prior to April 2005, the State agency used a nonautomated timestudy to allocate overhead costs, which included Title IV-E training costs. Under this method, a coordinator and an observer in each local office were responsible for observing employee activities at the appropriate random moment and for submitting the timestudy results to the State agency. This method may not have complied with the provisions of the State agency's approved cost allocation plan, section VI-A, which mandated that the timestudy be based on a sample that was representative of the work

⁴The indirect costs were based on DCA-approved indirect cost rates, which were derived from the statewide indirect costs allocated to DYS, the State agency indirect costs allocated to DYS, and the DYS indirect cost pool.

done by all State agency staff. Our review of the nonautomated timestudy responses for the quarter ending March 31, 2005, found that the statewide nonresponse rate was approximately 40 percent and that the nonresponse rate in the four largest counties was approximately 67 percent.⁵ Thus, the timestudy sample for the quarter reviewed may not have been representative of the work done by all State agency staff.

Because of the high nonresponse rate across the State and the even higher nonresponse rate in the four largest counties, there was no assurance that the resulting allocations from the cost pool were reliable. Accordingly, we were unable to determine the appropriate amount of costs that should have been allocated to Title IV-E training. We are setting aside for adjudication by ACF the \$3,301,490 Federal share of Title IV-E training costs claimed on the basis of the nonautomated timestudy.

Because the State agency had transitioned to an automated timestudy before we began our fieldwork, we were not able to determine the specific reasons for the high nonresponse rate.

RECOMMENDATIONS

We recommend that the State agency:

- adjust its next ACF-IV-E-1 report to reduce Federal reimbursement claimed for Title IV-E training by \$2,556,099 and
- work with ACF to determine what portion of the \$3,301,490 Federal share was not allocable to Title IV-E and make financial adjustments as necessary.

STATE AGENCY COMMENTS AND OFFICE OF INSPECTOR GENERAL RESPONSE

In written comments on our draft report, the State agency disagreed with our findings and recommendations. A summary of the State agency's pertinent comments and our response follows. The State agency's comments are included in their entirety as the Appendix.

The State agency did not address the Federal regulatory requirements or the DAB decision on which we based our findings.

Costs in the Cost Pool

State Agency Comments

The State agency said that our report conveyed a "factual error" as to the composition of the costs in the cost pool. According to the State agency, "most of the costs in the cost pool were direct costs comprised of salary and benefits of case workers and others; relatively small portions of the cost pool contained direct and billed operating expenses of Children's Services offices; and only a small portion consisted of indirect costs."

⁵The approved cost allocation plan does not provide guidance for handling nonresponses.

Office of Inspector General Response

Our audit confirmed that the cost pool contained such expenses as costs associated with rent and other indirect costs, which were eligible only for the 50-percent administrative FFP rate pursuant to 45 CFR § 1356.60(c)(2). Indirect costs that do not consist entirely of allowable training costs are not eligible for reimbursement at the enhanced 75-percent FFP rate. The State agency has not provided evidence that our findings are incorrect.

Furthermore, the approved cost allocation plan indicated that direct salary and benefits were to be “excluded from the cost pool – but separately maintained . . . Such direct charges . . . should not be included in the cost pool . . .” Therefore, the State agency’s statement as to the composition of the cost pool disagrees with the description of the cost pool in the approved cost allocation plan.

State Training Plan and Approved Cost Allocation Plan

State Agency Comments

The State agency said that the State training plan “is a programmatic plan used to describe the activities and scope of training, not to enumerate in detail the claiming methodology for costs of training—an objective served by the CAP [approved cost allocation plan].” The State agency also said that the approved cost allocation plan “plainly indicates that the costs would be claimed *as Title IV-E training*, meaning that they would be claimed at the enhanced rate of FFP that the statute provides for such costs. . . . [B]oth DCA and ACF knew about and approved Missouri’s 75% claiming rate. . . .” (Emphasis in original.)

Office of Inspector General Response

The approved cost allocation plan is not the means by which the State agency should have identified those costs that it intended to claim for enhanced FFP. Federal regulations (45 CFR § 1356.60(b)(2)) specify: “All training activities and costs funded under title IV-E shall be included in the State agency’s training plan for title IV-B.” Contrary to these regulations, the State training plan did not include the costs comprising the cost pool and thus gave no indication that the State agency intended to claim funding for its cost pool costs at the enhanced 75-percent FFP rate.

Nonresponses to Nonautomated Random Moment Timestudy

State Agency Comments

The State agency disagreed with our finding and recommendation related to the \$3,301,490 that may not have been allowable. The State agency said that its approved cost allocation plan, which included the use of a timestudy, did not require any particular response rate. The State agency also said that its approved cost allocation plan referred not to response rates but rather to “the simple goal of conducting sampling during ‘the entire period’ at issue.” In addition, the

State agency questioned the accuracy of the nonresponse rates that we reported because of errors, including transposed numbers, in our calculations.

Office of Inspector General Response

Although we acknowledge that the approved cost allocation plan did not include specific requirements related to timestudy nonresponses, the plan required that the timestudy be statistically valid. Given the high nonresponse rates that we found, we have serious concerns about whether the sample was statistically valid.

After reviewing the State agency's comments, we corrected a transposition error and reduced the nonresponse rate for the four largest counties from the 74 percent reported in our draft report to 67 percent. A nonresponse rate as high as 67 percent indicates that the timestudy may not have complied with the requirement in the approved cost allocation plan that the timestudy "be based on a sample that will be representative of the work done by all Department Field Staff."

In light of these concerns, the \$3,301,490 in costs claimed on the basis of the timestudy may not have been allowable for Federal reimbursement.

APPENDIX



JEREMIAH W. (JAY) NIXON, GOVERNOR • RONALD J. LEVY, DIRECTOR

P.O. BOX 1527 • BROADWAY STATE OFFICE BUILDING • JEFFERSON CITY, MO 65102-1527
WWW.DSS.MO.GOV • 573-751-4815 • 573-751-3203 FAX

April 8, 2009

[VIA UPS OVERNIGHT]

Patrick J. Cogley
Regional Inspector General for Audit Services
Department of Health and Human Services
Office of Inspector General, Offices of Audit Services, Region VII
601 East 12th Street
Room 284A
Kansas City, MO 64106

Re: *Review of the Missouri Department of Social Services Claim for Title IV-E Training Costs for the Social Services Cost Pool for July 1, 2002 Through June 30, 2006, Report No. A-07-08-3114*

Dear Mr. Cogley:

The Missouri Department of Social Services ("Missouri" or "the State") hereby responds to the draft report of the above-referenced audit ("Draft Report"), which you forwarded to the Department on February 3, 2009. The time for reply was extended to April 6, 2009.

The Draft Report evaluates Missouri's claim for federal financial participation ("FFP") in training costs reimbursable under Title IV-E of the Social Security Act ("Act" or "SSA"). The audit covered the period July 1, 2002 through June 30, 2006. For the reasons explained below, we believe that the determinations set forth in the Draft Report are erroneous.

I. Background

A. Title IV-E Training Costs Under the Act and Implementing Regulations

Congress intended that costs of training be reimbursed at an enhanced rate under Title IV-E. For this reason, the Act expressly provides that States are entitled to FFP at a 75 percent rate for "expenditures . . . for the training . . . of personnel employed or preparing for employment by the State agency or by the local agency administering the plan in the political subdivision." SSA § 474(a)(3)(A), 42 U.S.C. § 674(a)(3)(A). The enhanced FFP rate is also available for expenditures incurred in training "current or prospective foster or adoptive parents." SSA § 474(a)(3)(B), 42 U.S.C. § 674(a)(3)(B).

The regulations that implement Title IV-E confirm that "[FFP] is available at the rate of seventy-five percent (75%) in the costs of . . . [t]raining personnel employed or preparing for employment by the

RELAY MISSOURI
FOR HEARING AND SPEECH IMPAIRED
1-800-735-2466 VOICE • 1-800-735-2966 TEXT PHONE

An Equal Opportunity Employer, services provided on a nondiscriminatory basis.

Patrick Cogley
Page 2

State or local agency administering the plan” and in the costs of “[p]roviding short-term training . . . to current or prospective foster or adoptive parents.” 45 C.F.R. § 1356.60(b)(1).

ACF’s regulations state that “[a]ll training activities and costs funded under Title IV-E shall be included in the state agency’s training plan for Title IV-B,” *id.* § 1356.60(b)(2). The manner in which costs are allocated to Title IV-E is described in the State’s Cost Allocation Plan (“CAP”), reviewed and approved by the Division of Cost Allocation (“DCA”) after consultation with ACF.

Missouri’s claims for Title IV-E training expenditures are consistent with these statutory and regulatory directives, and with the State’s approved CAP and Title IV-B plan.

B. Missouri’s Claims for Title IV-E Training Costs

The Social Services Cost Pool gathered all costs of the Children’s Division¹ and the Division of Youth Services that were not direct-charged to a particular activity or program. 2001 CAP, § VI-A, Ex. III, § 1.² Children’s Division costs included in the cost pool primarily consisted of the salaries and benefits of Children’s Services social service workers (after their first six months) and supervisors, the salaries and benefits of regional and central office staff who worked solely on Children’s Services matters, and a proportionate share of the salaries and benefits of Division of Family Services employees whose work partially benefited Children’s Services. Relatively small portions of the cost pool contained other kinds of costs: direct Children’s Services operating costs (including a proportionate share of the operating costs of the county offices); billed costs for certain expenses incurred by Children’s Services; and indirect costs associated with the support of Children’s Services activities. Although Children’s Division costs were the majority of costs included in the Social Services cost pool, similar costs were included for the Division of Youth Services. The costs included in the pool were allocated pursuant to methodologies approved by DCA.

The Social Services Cost Pool included costs of training “personnel employed . . . by the State agency” (the continuing training provided to workers after their first six months) as well as the costs of providing training to “current or prospective foster or adoptive parents.” These training activities were described in the State’s Title IV-B training plan, which throughout the audit period provided an extensive description of the training provided to workers and supervisors – above and beyond the initial in-service training provided to new workers – and which also described the training provided to foster and adoptive parents.

¹ The branch of the Missouri Department of Social Services that administered the Title IV-E program was the Children’s Services component of the Division of Family Services during the early part of the audit period; this component was then reorganized and became the Children’s Division. This letter refers to the agency as it existed at the beginning of the audit period. We do not believe the restructuring affected any claiming practices or the validity of the practices.

² Citations to the CAP are to the CAP dated October 1, 2001. This CAP was in place for the first several years of the audit period. We do not believe that revisions during the later part of the audit period materially affected any of the issues raised by the Draft Report (except that, as noted at page 6, the adoption of an automated time study rebuts the Draft Report’s conclusions in certain respects).

Patrick Cogley
Page 3

Missouri identified these allowable costs of Title IV-E training through the time study that it used in conjunction with the cost pool. The time study was a Random Moment Time Study (RMTS) described in the approved CAP. 2001 CAP, § VI-A, Summary of Method. The RMTS had numerous time codes, among them one for Child Welfare Training. This time code, Code 10, provided that “[t]his code should be used when the worker is engaged in or preparing for training, either as a trainer of other divisional staff or as a trainee, and the subject of the training falls within the CHILD WELFARE General Definition.” 2001 CAP, § VI-A, Ex. I. “Also included would be preparing for training and training of alternative care providers and adoptive parents.” *Id.*

The percentage of time (and cost pool costs) attributable to Code 10 was then further refined by application of the penetration rate. As the CAP explained, the costs of Child Welfare Training identified under Code 10 “will be charged to the Title IV-E training grant based on the percentage of all children receiving foster care or adoption assistance payments who are Title IV-E eligible.” 2001 CAP, § VI-A, Ex. III, § 3.7. This step ensured that training costs were not only correctly identified, but also appropriately allocated between Title IV-E and non-IV-E programs.

II. The Costs Claimed from the Social Services Cost Pool Were Allowable in Their Entirety at the 75% Rate of FFP.

A. Costs Asserted to Be Unallowable at the 75% Rate of FFP But Allowable at the 50% Rate of FFP

The Draft Report asserts that \$2,556,099 in FFP was unallowable because “the cost pool did not consist entirely of allowable training costs reimbursable at the enhanced rate,” and because “none of the costs comprising the cost pool were included in the State’s approved training plan.” Draft Report at 4. According to the Draft Report, the \$2,556,099 “represents the difference between the amount claimed at the enhanced 75-percent FFP rate and the amount that could have been claimed at the administrative 50-percent FFP rate.” *Id.*

First, the Draft Report persists in a factual error that plagued a prior audit covering similar costs. The Draft Report states repeatedly that the cost pool “consisted of” or “constituted” “county overhead and indirect expenses.” Draft Report at i, 2, 5. It also says that the cost pool was “identified as an indirect cost pool.” *Id.* at 6. These assertions reflect a misunderstanding of the Social Services Cost Pool. As explained above, most of the costs in the cost pool were direct costs comprised of salary and benefits of case workers and others; relatively small portions of the cost pool contained direct and billed operating expenses of Children’s Services offices; and only a small portion consisted of indirect costs. The CAP is consistent with this description: it states that the cost pool “includes [a] proportionate share of county overhead and indirect expense,” not that these are the only (or even the primary) costs in the cost pool. 2001 CAP, § VI-A, Ex. III, § 1 (emphasis added).

Second, the Draft Report is wrong in stating that “the cost pool did not consist entirely of allowable training costs reimbursable at the enhanced rate.” Draft Report at 4; *see also id.* at 5 (“costs comprising the cost pool were not entirely allowable training costs”). The law is clear: expenditures for the training of agency personnel and for current or prospective foster and adoptive parents are reimbursable at the 75% rate of FFP. SSA § 474(a)(3)(A)-(B), 42 U.S.C. § 674(a)(3)(A)-(B); 45 C.F.R.

Patrick Cogley
Page 4

§ 1356.60(b)(1). Identifying the costs of Title IV-E training was the purpose of the RMTS methodology described in the CAP (in particular, Code 10 and the application of the penetration rate) – a methodology that DCA properly approved.

Third, the Draft Report incorrectly asserts that the approved CAP “did not address the allocation of allowable training costs at the enhanced rate.” Draft Report at 5. In fact, the CAP expressly stated that “Child Welfare Training will be charged to the Title IV-E training grant.” 2001 CAP, § VI-A, Ex. III, § 3.7 (emphasis added). This language plainly indicates that the costs would be claimed as *Title IV-E training*, meaning that they would be claimed at the enhanced rate of FFP that the statute provides for such costs. That both DCA and ACF knew about and approved Missouri’s 75% claiming rate is further underscored by numerous circumstances, such as the fact that the approved CAP itself incorporated a quarterly application of the CAP. See 2001 CAP, § VII-A, Joint Costs and Methods of Allocation (“The application of the Division of Family Services Cost Allocation Plan for the quarter ended 9/30/01 is presented as Section VIII-A.”). The quarterly application of the CAP makes clear that the training costs allocated to Title IV-E by way of the cost pool were claimed at the 75% FFP rate.

Fourth, the Draft Report separately expresses concern that “the state training plan did not include the costs comprising the cost pool, thus giving no indication that the State agency would claim funding for its county overhead costs at the enhanced 75-percent FFP rate.” Draft Report at 6. This concern is misplaced. Notice of what training activities the State would claim under Title IV-E was included in both the Title IV-B training plan and the RMTS (Code 10 definition); further details on how the precise costs would be determined were included in the CAP.

As explained above, the CAP made clear that the costs of continuing training of employees and the training of foster and adoptive parents would be identified through the application of the RMTS to the Social Services Cost Pool, would be allocated in part to Title IV-E through application of the penetration rate, and would be claimed at the 75% rate of FFP. As the Draft Report notes, DCA’s approval of the CAP occurs “after ACF reviews and comments on the fairness of the cost allocation methodologies.” *Id.* at 1. Therefore, ACF plainly was on notice of the State’s approved claiming procedure.

To the extent that the Draft Report suggests that all details of the cost allocation methodology also had to be included in the Title IV-B training plan, it reflects a misunderstanding of the distinct purposes of these two documents. The Title IV-B training plan is a programmatic plan used to describe the activities and scope of training, not to enumerate in detail the claiming methodology for costs of training – an objective served by the CAP. There is no regulation or other policy guidance that requires the Title IV-B plan to repeat what has already been approved by DCA (with ACF input) in the CAP.

B. Costs Asserted to Be Potentially Unallowable at Any Rate of FFP

The Draft Report states that \$3,301,490 in FFP “may not have been allowable because the State agency may not have complied with the provisions of its approved cost allocation plan when it used a nonautomated timestudy to allocate costs from the cost pool to Title IV-E training.” Draft Report at 4. The Draft Report states an intent to “set[] aside” this amount “for adjudication by ACF.” *Id.* This position was apparently based on the review of a single quarter’s worth of nonautomated time study

Patrick Cogley
Page 5

results, which the Draft Report asserts had a “statewide nonresponse rate [of] approximately 40 percent” and a “nonresponse rate in the four largest counties [of] 74 percent.” *Id.* at 6-7. According to the Draft Report, the time study sample “may not have been representative of the work done by all State agency staff.” *Id.* at 7.

This concern is misplaced. Missouri followed the methodology provided for in its approved CAP, which, prior to April 2005, expressly provided for the use of a nonautomated time study. 2001 CAP, § VI-A, Summary of Method (“The RMTS observation forms . . . will be distributed and filled out by the Department’s Field Staff workers.”); *id.* County Coordinator’s and Observers’ Instructions (describing in-person and by-telephone observation procedures and hard copy method for recording observations); *id.* Ex. II (describing sampling method and data collection methodology). In April 2005, the CAP was amended to provide for an automated time study.

There is no basis for thinking that *any* provision of the CAP was violated or potentially violated. The Draft Report points to language stating that “[t]he time period sampled should be as representative as possible of the period to which we wish to infer.” 2001 CAP, § VI-A, Ex. II, Design Features (quoted in Draft Report at 5; *see also id.* at 6). But this language refers not to anything having to do with response rates, but rather to the simple goal of conducting sampling during “the entire period” at issue. *See* 2001 CAP, § VI-A, Ex. II, Design Features (“[E]g., to represent a year’s activity it is better to sample the full year or at least months rather than days or weeks. It is also better to balance the sampling period across days of the week. This design quality may be moderated if we can assume that the pattern of staff activities does not vary greatly across the period.”). The Draft Report does not suggest that random moments were themselves selected at inappropriate times under this standard.

The Draft Report also points to a statement that the “time study will be based on a sample that will be representative of the work done by all Department Field Staff workers.” 2001 CAP, § VI-A, Summary of Method (quoted in Draft Report at 5; *see also id.* at 6). This language does not require any particular response rate (and in fact it is satisfied through the timing and other aspects of random sampling). As the Draft Report itself notes, “[t]he approved cost allocation plan *does not provide guidance for handling nonresponses.*” Draft Report at 7 n.5 (emphasis added). Missouri could not have violated any requirements relating to non-response rates, where no such requirements were imposed by DCA or otherwise existed.

In April 2005, Missouri adopted, with DCA’s approval, an automated time study that provides for electronic observations, with notifications sent via e-mail and responses submitted via the internet (except for workers without email addresses). 2005 CAP, § VI-A, Ex. II, at 67, 75-76. The automated time study, which was in effect during the later part of the audit period, makes specific provision for the monitoring of response rates, *id.* at 77, further underscoring that the nonautomated time study had no such requirement.

Leaving aside the inappropriateness of questioning costs based on a supposed response rate requirement that does not appear in the CAP, we note that there is no basis for concern about whether the samples generated by the nonautomated time study were representative.

Patrick Cogley
Page 6

First, the amount of time allocated to Child Welfare Training (Code 10) did not change significantly after the automated time study was implemented. In the four quarters before the automated time study was put in place, the average percentage of time allocated to Code 10 was 3.8%. In the four quarters after the automated time study was implemented, the average was 3.5%. This lack of significant variation shows that the nonautomated time study was generating results consistent with the automated time study, demonstrating the reliability of the nonautomated time study. (The Draft Report acknowledges the reliability of the automated time study. See Draft Report at 2, 4.)

Second, it is doubtful that the nonresponse rate identified for the nonautomated time study was as significant as the Draft Report indicates, in view of several features of the audit process. Among other things, such information as has been provided to the State so far indicates that there were audit errors (including transposing numbers) in the calculations of the response rates for the single quarter examined. It also is not clear that the data points classified as "nonresponses" by the Draft Report were in fact "nonresponses." Missouri hereby requests all the underlying documentation relied on during the audit in order to assess the conclusions regarding the response rate.

III. Responses to the Report's Recommendations

The Draft Report recommends that the State "adjust its next ACF-IV-E-1 report to reduce Federal reimbursement claimed for Title IV-E training by \$2,556,099." Draft Report at 7. The State does not agree with this recommendation. For the reasons explained above, the costs claimed from the Social Services Cost Pool were allowable in their entirety at the 75% rate of FFP. Therefore, any reduction of federal reimbursement to the 50% rate of FFP would be unwarranted.

The Draft Report also recommends that Missouri "work with ACF to determine what portion of the \$3,301,490 Federal share was not allocable to Title IV-E and make financial adjustments as necessary." Draft Report at 7. Missouri disagrees with the recommendation to the extent that it implies that a portion of the claimed costs were not allocable to Title IV-E. As explained above, the allocation of costs was proper and followed a DCA-approved method.

We look forward to working with your office to correct the errors reflected in the Draft Report. Please do not hesitate to contact Jennifer R. Tidball, (573) 751-7533, if you have any questions about the foregoing responses.

Sincerely,



Ronald J. Levy
Director