Department of Health and Human Services

OFFICE OF
INSPECTOR GENERAL

NEW YORK IMPROPERLY CLAIMED SOME CHILD CARE AND DEVELOPMENT TARGETED FUNDS

Inquiries about this report may be addressed to the Office of Public Affairs at Public.Affairs@oig.hhs.gov.

James P. Edert
Regional Inspector General
for Audit Services

July 2015
A-02-12-02012

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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

New York did not comply with Federal requirements for the use of almost $3.9 million in Child Care and Development targeted funds for fiscal years 2007 through 2009.

WHY WE DID THIS REVIEW

The Child Care and Development Fund (CCDF) provides discretionary funding for three targeted funds known as Infant and Toddler, Quality Expansion, and School Age Resource and Referral funds. These targeted funds are used for activities that improve the availability, quality, and affordability of childcare and to support the administration of these activities. The Federal Government provides 100 percent of these funds. Previous Office of Inspector General reviews found that States did not always comply with Federal requirements when claiming targeted funds for reimbursement.

The objective of this review was to determine whether the New York State Office of Children and Family Services (State agency) complied with Federal requirements for the use of CCDF targeted funds for Federal reimbursement for Federal fiscal years (FYs) 2007 through 2009.

BACKGROUND

Under the CCDF program, States have considerable latitude in administering and implementing their childcare programs. Each State must develop, and submit to the Administration for Children and Families (ACF) for approval, a State plan that designates a lead agency responsible for administering childcare programs and identifies the purposes for which CCDF funds will be expended for two grant periods (i.e., 2 FYs). The State agency has 2 FYs to obligate CCDF funds and a third FY to liquidate those funds. States are required to report expenditures of CCDF funds, including targeted funds, on the quarterly Child Care and Development ACF-696 Financial Report.

In New York, the State agency is the lead agency. As the lead agency, the State agency is required to oversee the expenditure of funds by contractors to ensure that the funds are expended in accordance with Federal requirements. The State agency claimed CCDF targeted funds totaling $56,733,970 on its ACF-696 reports for FYs 2007 through 2009.

WHAT WE FOUND

Of the $56,733,970 of CCDF targeted fund expenditures that we reviewed, the State agency complied with Federal requirements for the use of $52,906,134 for FYs 2007 through 2009. However, the State agency did not comply with Federal requirements for the use of the remaining $3,827,836. Specifically, the State agency (1) claimed $2,342,289 of inadequately supported targeted funds and (2) improperly obligated $1,485,547 of targeted funds after the obligation period had ended. These errors occurred because the State agency did not have adequate fiscal controls and accounting procedures in place to ensure that expenditures complied with Federal requirements.

WHAT WE RECOMMEND

We recommend that the State agency:

- refund to the Federal Government $3,827,836 ($2,342,289 of inadequately supported targeted funds and $1,485,547 for targeted funds that were not properly obligated) and

- establish fiscal controls and accounting procedures to ensure that targeted funds are used in compliance with Federal requirements.

STATE AGENCY COMMENTS AND OUR RESPONSE

In written comments on our draft report, the State agency generally disagreed with our recommendations and stated that it believed that all of its targeted fund expenditures were adequately supported and properly obligated. Specifically, the State agency stated that it believed journal vouchers constituted adequate support for questioned costs totaling $2,342,289. The State agency also described obligation dates for two specific contracts and stated that the questioned costs, totaling $1,485,547, were properly obligated.

The State agency also stated that it believes that appropriate controls are in place and stated that it complies with Federal requirements regarding targeted fund expenditures. However, the State agency also stated that it continues to review and revise, as necessary, the actions needed to properly utilize the funds provided for this program.

After reviewing the State agency's comments and additional documentation, we maintain that our findings and recommendations are valid. Funds are considered obligated when contracts are signed or, in the case of payroll, at the completion of the applicable payroll cycle. Journal vouchers do not constitute sufficient support for determining the allowability of payroll expenditures because they do not contain information on individual staff payroll cycles, including obligation dates necessary to determine if claimed funds were properly obligated. With respect to the two contracts noted by the State agency, we reviewed signature dates documented in the State agency's accounting system and on the contracts, themselves. The contracts were not signed until after the 2-year obligation period had ended.

TABLE OF CONTENTS

INTRODUCTION

WHY WE DID THIS REVIEW

The Child Care and Development Fund (CCDF) provides discretionary funding for three targeted funds, administered at the Federal level by the U.S. Department of Health and Human Services, Administration for Children and Families (ACF), and known as Infant and Toddler, Quality Expansion, and School Age Resource and Referral funds. These targeted funds are used for activities that improve the availability, quality, and affordability of childcare and to support the administration of these activities. The Federal Government provides 100 percent of these funds. Previous Office of Inspector General reviews found that States did not always comply with Federal requirements when claiming targeted funds for reimbursement. Appendix A contains a list of Office of Inspector General reports related to targeted funds.

OBJECTIVE

Our objective was to determine whether the New York State Office of Children and Family Services (State agency) complied with Federal requirements for the use of CCDF targeted funds for Federal reimbursement for Federal fiscal years (FYs) 2007 through 2009.

BACKGROUND

Under the CCDF program, States have considerable latitude in implementing and administering their childcare programs. Each State must develop, and submit to ACF for approval, a State plan that designates a lead agency responsible for administering childcare programs and identifies the purposes for which CCDF funds will be expended for two grant periods (i.e., 2 FYs). The State agency has 2 FYs to obligate CCDF funds and a third FY to liquidate those funds. The following table shows the obligation and liquidation periods for each FY covered by our review.

Obligation and Liquidation Periods

FY	Obligation Period Start Date	Obligation Period End Date	Liquidation Period End Date
2007	10/1/2006	9/30/2008	9/30/2009
2008	10/1/2007	9/30/2009	9/30/2010
2009	10/1/2008	9/30/2010	9/30/2011

States are required to report expenditures of targeted funds on the quarterly Child Care and Development ACF-696 Financial Report (ACF-696 report), which is a cumulative report for the FY.

In New York, the State agency is the lead agency. As the lead agency, the State agency is required to oversee the expenditure of funds by contractors to ensure that the funds are expended in accordance with Federal requirements. The State agency contracts with these entities and considers the funds obligated when the contracts are signed. The State agency also employs staff to register, license, and monitor child care providers. The State agency considers these funds obligated at the completion of the applicable payroll cycle.

HOW WE CONDUCTED THIS REVIEW

The State agency claimed CCDF targeted funds totaling $56,733,970 on its ACF-696 reports for FYs 2007 through 2009. We reviewed all of the targeted fund expenditures claimed by the State agency for this timeframe.[1] We did not perform a detailed review of the State agency's internal controls because our objective did not require us to do so. We limited our review to the controls related to the State agency's obligation and liquidation of the targeted funds.

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.

Appendix B contains details of our audit scope and methodology, and Appendix C contains details on the Federal requirements related to CCDF targeted funds.

FINDINGS

Of the $56,733,970 of CCDF targeted fund expenditures that we reviewed, the State agency complied with Federal requirements for the use of $52,906,134 for FYs 2007 through 2009. However, the State agency did not comply with Federal requirements for the use of the remaining $3,827,836. Specifically, the State agency (1) claimed $2,342,289 of inadequately supported targeted funds and (2) improperly obligated $1,485,547 of targeted funds after the obligation period had ended. These errors occurred because the State agency did not have adequate fiscal controls and accounting procedures in place to ensure that expenditures complied with Federal requirements.

STATE AGENCY DID NOT PROVIDE ADEQUATE SUPPORT THAT TARGETED FUNDS WERE PROPERLY OBLIGATED

The State agency must expend CCDF funds in accordance with the ACF-approved CCDF State plan and establish fiscal controls and accounting procedures to permit the tracing of targeted funds to ensure that the funds have not been used improperly (45 CFR §§ 98.66(a) and 98.67(c)(2)). Any expenditures not made in accordance with the Child Care and Development Block Grant Act of 1990, the implementing regulations, or the approved plan are subject to disallowance (45 CFR § 98.66(a)).

State agency officials stated that School Age Resource and Referral funds were used to pay the salaries and salary-related expenses of licensing and registration staff located in regional offices. However, $2,030,801 of these expenditures consisted of lump-sum journal voucher

[1] The 3-year obligation and liquidation cycle described above creates an inherent delay in terms of when those funds can be regarded as closed for adjustment and then subject to audit.

transfers which could not be traced to individual employee salaries to determine if the funds were obligated and liquidated as required by Federal regulations. For an additional $311,488 of these expenditures, the State agency did not provide sufficient documentation to support claimed costs.[2] As a result, the State agency claimed inadequately supported School Age Resource and Referral funds totaling $2,342,289.

STATE AGENCY IMPROPERLY OBLIGATED TARGETED FUNDS

CCDF funds must be obligated[3] in the FY in which the funds were awarded or in the succeeding FY and any funds not obligated during this period will revert to the Federal Government (45 CFR §§ 98.60(d)(1) and 98.60(d)(7)).

Contrary to these Federal requirements, the State agency improperly obligated $1,485,547 in targeted funds ($1,323,914 in Quality Expansion funds and $161,633 in School Age Resource and Referral funds). These funds were not obligated within required timeframes. Specifically, the contracts and payroll cycles with which these funds were associated were not executed or completed until after the required 2-year obligation period had passed. For example, for FY 2007, the State agency used a contract signed on March 23, 2009, to obligate $1,227,150 in Quality Expansion funds. However, the 2-year obligation period for the FY 2007 targeted funds ended on September 30, 2008, almost 6 months before the contract was signed. Therefore, the funds were obligated after the obligation period had ended.

STATE AGENCY DID NOT HAVE ADEQUATE FISCAL CONTROLS OR WRITTEN ACCOUNTING PROCEDURES OVER TARGETED FUNDS

The State agency did not have adequate fiscal controls or written accounting procedures to ensure that targeted funds could be traced to supporting documentation to determine if the funds were used or obligated appropriately. In addition, the State agency did not have adequate fiscal controls or written accounting procedures to ensure that funds were obligated within the required timeframes. In the absence of necessary controls and procedures, the State agency did not comply with Federal requirements. The establishment of fiscal controls and accounting procedures would have helped ensure that the targeted funds were used in compliance with Federal requirements.

[2] Specifically, the State agency did not provide documentation such as payroll related documentation which could be traced to individual salaries to determine if obligation and liquidation requirements were met.

[3] The determination of whether funds have been obligated and liquidated will be based on State or local law; if there is no applicable State or local definition, the Federal definitions of "obligations" and "outlays" (expenditures at 45 CFR § 92.3) apply (45 CFR§ 98.60(d)(4)).

RECOMMENDATIONS

We recommend that the State agency:

- refund to the Federal Government $3,827,836 ($2,342,289 of inadequately supported targeted funds and $1,485,547 for targeted funds that were not properly obligated) and
- establish fiscal controls and accounting procedures to ensure that targeted funds are used in compliance with Federal requirements.

STATE AGENCY COMMENTS AND OFFICE OF INPECTOR GENERAL RESPONSE

STATE AGENCY COMMENTS

In written comments on our draft report, the State agency generally disagreed with our first recommendation. Specifically, the State agency stated that it believed journal vouchers constituted adequate support for questioned costs totaling $2,342,289. The State agency also commented on the use of the targeted funds for school age programs and provided additional documentation to support the amounts it charged to the School Age Resource and Referral targeted fund.

In addition, the State agency stated that questioned costs, totaling $1,485,547, were properly obligated. Specifically, the State agency stated that $1,227,150 in funds were "effectively committed" within the 2-year period that they were required to be obligated because the State agency had a "long-term relationship" with the associated contractor. Regarding a second contract, the State agency stated that $50,600 in targeted funds were awarded November 11, 2006, and obligated within the 2-year obligation period for grant period 2007. The State agency did not address the remaining $207,797 in questioned costs.

With respect to our second recommendation, the State agency stated that it believes appropriate controls are in place and stated that it complies with Federal requirements regarding targeted fund expenditures. However, the State agency also stated that it continues to review and revise, as necessary, the actions needed to properly utilize the funds provided for this program.

The State agency's comments are included as Appendix D.[4]

OFFICE OF INSPECTOR GENERAL RESPONSE

After reviewing the State agency's comments and additional documentation, we maintain that our findings and recommendations are valid. The journal vouchers provided by the State agency are not adequate support for the $2.3 million in questioned costs. These journal vouchers do not document the obligation dates necessary to determine if claimed funds were properly obligated

[4] We did not include attachments to the State agency's comments because the information contained therein was voluminous and contained personally identifiable information.

in accordance with Federal requirements.[5] The journal vouchers referenced in the State agency's comments do not provide specific information on the obligation dates of these funds; these journal vouchers only show that costs were transferred between funding sources. The State agency should have supplied documentation that payroll expenditures were charged within the appropriate obligation period.[6] Consequently, we do not have reasonable assurance that these funds were obligated within the appropriate timeframes.

With respect to the two contracts noted by the State agency, we reviewed signature dates documented in the State agency's accounting system and on the contracts, themselves. Although both contracts were charged to the 2007 grant period, they were not signed until March 2009 and December 2008, respectively–after the 2-year obligation period had ended. Based on the information available in the State agency's accounting system for contracts, funds are considered obligated when contracts are signed. We did not receive any documentation from the State agency substantiating the use of any other dates as valid proof of targeted funds commitment (obligation).

We maintain that the State agency should establish controls and procedures to ensure that targeted funds are used in compliance with Federal regulations.

[5] CCDF funds must be obligated in the FY in which the funds were awarded or in the succeeding FY and any funds not obligated during this period will revert to the Federal Government (45 CFR §§ 98.60(d)(1) and 98.60(d)(7)).

[6] Based on the information available in the State agency's accounting system for payroll expenditures, funds are considered obligated at the completion of the applicable payroll cycle.

APPENDIX A: RELATED OFFICE OF INSPECTOR GENERAL REPORTS

Report Title	Report Number	Date Issued
Generally All of the Targeted Funds Costs Claimed by Colorado Under the Child Care and Development Fund Program for Fiscal Years 2008 Through 2010 Were Proper	A-07-13-03194	12/1/2014
Texas Improperly Claimed Some Child Care and Development Targeted Funds	A-06-13-00038	8/28/2014
South Carolina Properly Obligated and Liquidated Targeted Funds Under the Child Care and Development Fund Program	A-04-13-01021	4/25/2014
Arizona Improperly Claimed Some Child Care and Development Targeted Funds	A-09-12-01004	4/2/2014
Virginia Properly Obligated and Liquidated Most Targeted Funds Under the Child Care and Development Fund Program	A-03-12-00251	10/17/2013
Louisiana Improperly Claimed Some Child Care and Development Fund Targeted Funds	A-06-12-00057	9/30/2013
Nebraska Improperly Claimed Some Child Care and Development Targeted Funds	A-07-12-03175	4/30/2013
Michigan Properly Obligated and Liquidated Targeted Funds Under the Child Care and Development Fund Program	A-05-12-00062	4/26/2013
Ohio Properly Obligated and Liquidated Targeted Funds Under the Child Care and Development Fund Program	A-05-12-00061	4/26/2013
Connecticut Properly Obligated and Liquidated Targeted Funds Under the Child Care and Development Fund Program	A-01-12-02505	2/21/2013
Iowa Improperly Claimed Some Child Care and Development Targeted Funds	A-07-11-03163	3/28/2012

APPENDIX B: AUDIT SCOPE AND METHODOLOGY

SCOPE

We reviewed all of the $56,733,970 in CCDF targeted fund expenditures that the State agency claimed on its ACF-696 reports for FYs 2007 through 2009. We did not perform a detailed review of the State agency's internal controls because our objective did not require us to do so. We limited our review to the controls related to the State agency's obligation and liquidation of the targeted funds.

We conducted fieldwork at the State agency's offices in Rensselaer, New York, from August through November 2012.

METHODOLOGY

To accomplish our objective, we:

- reviewed applicable Federal laws, regulations, and program guidance, and New York's approved State plans;
- interviewed ACF officials to obtain an understanding of the CCDF program in New York;
- reviewed the ACF-696 reports for FYs 2007 through 2009 to determine the amount of CCDF targeted funds that the State agency claimed;
- interviewed State agency officials responsible for preparing the ACF-696 reports, recording costs, and issuing contracts to obtain an understanding of how the reports were prepared, how the targeted funds were reported, and what documentation was maintained to support expenditures on the reports;
- reconciled expenditures reported on the ACF-696 reports for CCDF targeted funds with the State agency's accounting records;
- reviewed the State agency's accounting system data for contract award dates and payment dates as well as salary payments in relation to obligation and liquidation requirements of targeted funds for FYs 2007 through 2009;
- judgmentally selected 38 of 142 State agency contracts for Infant and Toddler and Quality Expansion services. The contracts were selected based on contract year, obligation dates, and funding type. For each contract we reviewed contract award dates and payment dates to verify the accounting system data received in relation to obligation and liquidation requirements of targeted funds; and
- discussed the results of our review with State agency officials.

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.

APPENDIX C: FEDERAL REQUIREMENTS RELATED TO CHILD CARE AND DEVELOPMENT TARGETED FUNDS

Federal regulations (45 CFR § 98.60(d)(1)) state: "Discretionary Fund allotments shall be obligated in the fiscal year in which funds are awarded or in the succeeding fiscal year. Unliquidated obligations as of the end of the succeeding fiscal year shall be liquidated within one year."

Federal regulations (45 CFR § 98.60(d)(7)) state: "Any funds not obligated during the obligation period specified in paragraph (d) of this section will revert to the Federal government. Any funds not liquidated by the end of the applicable liquidation period specified in paragraph (d) of this section will also revert to the Federal government."

Federal regulations (45 CFR § 98.60(d)(4)) state: "... determination of whether funds have been obligated and liquidated will be based on: (i) State or local law; or, (ii) If there is no applicable State or local law, the regulation at 45 CFR 92.3, Obligations and Outlays (expenditures)."

Federal regulations (45 CFR § 92.3) state: "*Obligations* means the amounts of orders placed, contracts and subgrants awarded, goods and services received, and similar transactions during a given period that will require payment by the grantee during the same or a future period."

Federal regulations (45 CFR §98.66(a)) state: "Any expenditures not made in accordance with the [Child Care and Development Block Grant Act of 1990], the implementing regulations, or the approved Plan, will be subject to disallowance."

Federal regulations (45 CFR § 98.67(c)(2)) state: "Fiscal control and accounting procedures shall be sufficient to permit ... [t]he tracing of funds to a level of expenditure adequate to establish that such funds have not been used in violation of the provisions of this part."

APPENDIX D: STATE AGENCY COMMENTS

NEW YORK STATE | Office of Children and Family Services

ANDREW M. CUOMO
Governor

ROBERTO VELEZ
Acting Commissioner

April 10, 2015

Mr. James P. Edert
Regional Inspector General for Audit Services
26 Federal Plaza, Room 3900
New York, NY 10278

Dear Mr. Edert:

The Office of Children and Family Services (OCFS) has received the draft report from the U.S. Department of Health and Human Services (DHHS), Office of the Inspector General (OIG). The report, dated February 4, 2015, is titled "New York State Improperly Claimed Some Child Care and Development Targeted Funds", report number A-02-12-02012.

The two recommendations in the draft report are that OCFS:

1. refund to the Federal Government $3,827,836 ($2,342,289 of inadequately supported targeted funds and $1,485,547 for targeted funds that were not properly obligated) and
2. establish fiscal controls and accounting procedures to ensure that targeted funds are used in compliance with Federal requirements.

Under the Child Care Development Fund (CCDF) program, states have considerable latitude in implementing and administering their child care programs. Each state must develop, and submit to DHHS for approval, a State Plan. The state must expend CCDF funds in accordance with the state's approved CCDF State Plan. OCFS believes that the challenged expenditures of targeted funds at issue in the audit were properly supported, and that funds were properly obligated, consistent with the approved CCDF State Plan.

OCFS would like to first address the issue of $2,342,289 in funds that were identified as inadequately supported targeted funds. These were identified in the OIG report as funds targeted to School Age Resource and Referral which were used to pay the salaries and salary-related expenses of regional office licensing and registration staff in connection with school-age programs. We disagree with the recommendation to refund that amount to the Federal Government and believe adequate support exists.

The federal regulations at 45 CFR 98.67(c)(2) require that funds be traced to a level of expenditure adequate to establish that funds have not been used in violation of law. There is

1

no requirement in federal statute or regulation, or in New York's approved CCDF State Plan, that the funds be traced to individual staff members, as the OIG report appears to contend. OCFS used Journal Voucher (JV) entries to show the payment of CCDF funds over the three year period covered by the audit for salaries of licensing and registration staff who conducted the activities and carried out the responsibilities provided for in the approved CCDF State Plan concerning school-age programs.

JVs are documents showing expenditures for particular purposes in summary fashion. The process followed is that OCFS pays regional office licensing and registration staff in the first instance using CCDF discretionary funds. These salaries are charged to specific cost centers. As discussed in the attachment, there are cost centers specific to the regional office licensing and registration staff. There is then an accounting transaction that shifts the charges within the CCDF funds to replace the CCDF discretionary funds expended with CCDF targeted funds (a subset of the discretionary funds). This is documented in the JVs. This procedure has been followed by OCFS for many years. A proper analysis of the JVs at issue shows that they provide adequate support for the expenditure of the funds at issue.

The amount paid by JV annually ($624,613 in 2007, $760,861 in 2008 and $645,327 in 2009) represents a portion of salaries paid annually to OCFS regional office licensing and registration staff. The expenditures shown on each JV represent only salary payments; they do not include other costs. The JVs show payments of funds already made, not prospective payments. There are several staff functions represented by these salary costs. These include direct registration of child care providers by OCFS staff in four of the seven regions Statewide, which encompasses processing applications, licensing and monitoring inspections of school-age program providers; technical assistance to contracted registrars where OCFS does not directly conduct the registration function; conducing quarterly case reviews of school age programs; complaint investigations; and conducting criminal history record checks of prospective staff of school-age programs and the corresponding safety assessments where a criminal record exists. The oversight of school-age programs by OCFS staff is significant, ongoing and intense.

OCFS has demonstrated that during the three year audit period over 12 percent of our licensed/registered day care providers were school age programs. The JVs show that in the aggregate, the expenditures for licensing and registration staff from the CCDF funds constitute a much lower percentage of the total OCFS costs for licensing and registration staff than 12%. Specifically, the JVs demonstrate the following percentages of the overall salaries for regional office licensing and registration staff:

FFY 2007: $624,613/$9,834,999.97 = 6.35%
FFY 2008: $760,861/$10,222,531.64 = 7.44%
FFY 2009: $645,327/$8,520,135.93 = 7.57%

(The attached documents explain how OCFS determined these figures.)

These percentages are far less than the 12 percent of school age programs that OCFS is responsible for licensing and monitoring. The JVs show that for the three years in question, OCFS expended between six and eight percent of the CCDF school age funds on staff salaries for licensing and registration staff, when 12 percent of the total workload of those staff involved school age programs. The OCFS oversight of school-age programs consumes far more in staff time and resources than the 6.35 to 7.57 percent of the CCDF funds used for this purpose; in fact, given the disproportionate amount of staff time required for school-age programs as compared to other programs, OCFS oversight of school-age programs consumes proportionately more staff time than the 12% that they constitute of all programs. The OCFS position is that the JVs thus show that OCFS reasonably and appropriately allocated these salary costs to the targeted activity. The funds were properly spent and the expenditure of the funds was properly supported within the parameters of federal statute, federal regulations and the approved CCDF State Plan. By paying the funds in this manner, OCFS does not dilute the use of the funds by expending excessive administrative resources to track the use of CCDF funds to salaries of individual staff, which tracking is not required by law or the State Plan.

The second aspect of this finding involves the OIG contention that OCFS improperly obligated funds in the amount of $1,485,547. These funds, in the view of OCFS, were not improperly obligated.

The draft report found that funds were improperly obligated because contracts and payroll cycles associated with the funds were not completed within the required two year obligation period. The draft report does not define what DHHS believes constitutes the obligation of funds, but notes in footnote three on page three of the report that the determination of whether funds have been obligated will be based on State or local law, and if there is no applicable State or local definition, on the federal definitions at 45 CFR 92.3. New York law does not define what constitutes obligation of funds. As noted in Appendix C of the draft report, the federal regulation at 45 CFR 92.3 defines "obligations" as "the amounts of orders placed, contracts and subgrants awarded, goods and services received, and similar transactions during a given period that will require payment by the grantee during the same period or a future period." Based on this regulation, the awarding of a contract would constitute the obligation of the funds at issue in that contract. OCFS agrees with that position.

The conclusion of the draft report that funds were not properly obligated is apparently based on four contracts/purchase orders that total $1,323,914 (not $1,485,547). OCFS contends that two of these contracts/purchase orders were properly obligated.

One of the contracts referenced is contract number C025679, with the State University of New York (SUNY)/Albany Professional Development Program, for $1,227,150. This is an OCFS Child Care Training contract. The training contract in question reflects a long-term relationship between OCFS and SUNY in which funds are periodically committed to the contract on an ongoing basis throughout the course of the contract. While the contract period at issue concerning these funds started on January 1, 2009, and the two year period for obligation of the funds at issue ended on September 30, 2008, the funds were committed to the contract as part of this ongoing relationship. The funds were used for legitimate purposes within the law and the approved State Plan, and we believe the funds were effectively committed within the two year obligation period.

We would like to mention also contract number C024886, with Healthy Community Alliance, for $50,600. The contract term began on December 1, 2008 and was against grant year 2007. The OCFS contract management system shows an award date for this contract of November 11, 2006, which is well within the two year obligation date requirement. The funds for this contract were therefore properly obligated within the two year period for grant year 2007.

The second OIG recommendation in the draft report is to "establish fiscal controls and accounting procedures to ensure that targeted funds are used in compliance with Federal requirements." OCFS believes that appropriate controls are in place and that OCFS is compliant with federal requirements regarding the expenditure of these funds. OCFS continues to review and revise, as necessary, the actions needed to properly obligate and utilize the funds provided for this critical program.

OCFS appreciates the opportunity to respond to this report. We would be willing to meet with the OIG and/or DHHS staff to further explain the OCFS position and rationale for that position if that would be helpful. Any questions or comments you have may be addressed to Ralph Timber, OCFS Audit Liaison, via email at Ralph.Timber@ocfs.ny.gov or by phone at (518) 473-0796.

Sincerely,

Janice Molnar

Janice Molnar
Division of Child Care Services

Attachments