

**Memorandum**

JUN 30 1992
Date
From Richard P. Kusserow
Inspector General
Subject Report on Review of Training Costs, New York State Department of Social Services, Albany, New York for the Period April 1, 1987 to March 31, 1988
To (A-02-91-02002)

Arnold R. Tompkins
Assistant Secretary for
Management and Budget

The purpose of this memorandum is to inform you of the issuance on July 1, 1992 of our final audit report to the New York State Department of Social Services (NYSDSS). The report is recommending a financial recovery to the Federal Government of about \$4.7 million. A copy is attached.

The primary purpose of this audit was to respond to a request for audit assistance by the Department of Health and Human Services (HHS), Division of Cost Allocation (DCA) on a specific issue reported in New York State's single audit (CIN: A-02-90-07457) covering fiscal year ended March 31, 1988 (FY 1988). The single audit was performed by the independent public accounting firm of KPMG Peat Marwick. The independent accountants reported that NYSDSS was allocating the costs of training based on the estimated number rather than the actual number of participants and that "This resulted in a disparity between programs benefiting from training and programs charged for training." In addition to the issue disclosed in the single audit, the DCA requested our audit address: (1) the need to allocate training costs between Federal participating and Federal nonparticipating activities; (2) the basis NYSDSS used to support its matching share for contracts with private and public institutions; and (3) comments on the administrative 5 percent fee charged by NYSDSS on training contracts.

The NYSDSS has the responsibility for training social services personnel so that they will have the skill, knowledge, and proficiency to meet the stated objectives of the various programs that are administered by the department. This training includes both departmental staff and staff of the local social services districts. While many training needs are met through internal resources, a substantial amount of training is provided through contracts with

educational institutions, consultants, and other independent contractors and organizations. Almost all (98 percent) of the training contract costs incurred by NYSDSS were charged to Federal programs.

During the period covered by our review (FY 1988), NYSDSS claimed approximately \$23.6 million in training contract costs (Federal share \$15.4 million) and approximately \$3.6 million in administrative costs (Federal share \$2 million). Training costs incurred for titles IV-A, IV-E, and XIX made up the majority of the costs (\$18 million of the \$23 million). For this reason we reviewed only those contracts whose costs were either wholly or in part attributable to title IV-A, IV-E or XIX. The results of our review are summarized briefly below and discussed in more detail in the "Findings and Recommendations" section of our report.

We found that NYSDSS:

- o Allocated training contract costs to Federal programs based upon estimated rather than actual data. Further, we found that NYSDSS did not maintain data which would clearly document that the programs charged, on the basis of budgeted data, received commensurate benefits from the training provided. Consequently, we were unable to determine, on an overall basis, the propriety of the approximately \$23.6 million in training contract costs and approximately \$3.6 million in administrative costs allocated to Federal programs in FY 1988. We are recommending that NYSDSS allocate future training costs based upon actual data and maintain documentation which will clearly detail that the Federal programs charged received commensurate benefit from the training provided.
- o Did not allocate the costs of 93 training contracts, that were charged to titles IV-A, IV-E, and XIX, to State programs. We believe it was evident from the course descriptions and the context of the training material that employees working on State funded programs or employees who split their efforts between State and Federal programs would require and benefit from similar training. We concluded that the NYSDSS allocation, which presumed that only employees who worked entirely on Federal programs attended the training, was inequitable. Therefore, we are recommending a financial adjustment of \$4,260,430 (\$2,804,337 Federal share) and that NYSDSS allocate future training costs to all benefiting programs.

- o Inappropriately used third party contributions as their share of training costs. We determined that NYSDSS was not in compliance with Federal regulations and program directives concerning donations provided by private contractors. We are recommending a financial adjustment of \$1,125,185 (\$703,085 Federal share) and that NYSDSS discontinue using third party contributions by private contractors to meet their share of training costs.
- o Did not treat the 5 percent fee charged to private contractors as an applicable credit in accordance with the provisions of the Office of Management and Budget Circular A-87. This fee was established by NYSDSS to help cover the costs related to the Office of Human Resource Development's (OHRD) administrative costs. However, NYSDSS used the fee only to cover its share of OHRD administrative costs. We are recommending a financial adjustment of \$351,779 (\$199,501 Federal share) and that NYSDSS treat this fee as an applicable credit to the total OHRD administrative costs prior to claiming Federal financial participation (FFP).
- o Was unable to support its basis for allocating administrative costs and did not allocate administrative costs to all benefiting programs. We allocated administrative costs based on paid claims for FY 1988 to all benefiting programs. We are recommending a financial adjustment of \$567,441 (\$452,573 Federal share) and that NYSDSS maintain support for its basis of allocation and allocate its administrative costs to all benefiting programs.
- o Inadvertently claimed FFP for training contract costs that were identified as being funded by State appropriations. We are recommending a financial adjustment of \$993,310 (\$554,051 Federal share).

Further, as a result of our review of internal controls, we identified what we believe are two reportable conditions. First, our substantive testing disclosed that NYSDSS has not modified its system of allocating training contract costs from the estimated to the actual number of attendees, this condition was addressed by the HHS', Departmental Appeals Board in 1984 and reported as a finding each year in the New York State single audit report since 1988. Secondly, NYSDSS has not maintained required documentation needed to support its allocation of \$3.6 million of OHRD administrative costs for FY 1988.

Page 4 - Arnold R. Tompkins

Additionally, we found that NYSDSS did not maintain adequate documentation to support the basis used to allocate, among benefiting programs, the training contracts claimed in FY 1988.

In responding to our draft report (Appendix C), NYSDSS generally disagreed with our findings and recommendations with the exception of our finding that NYSDSS inadvertently claimed FFP for training contract costs that were identified as being funded by State appropriations. The DCA has expressed agreement (Appendix D) with the findings and recommendations contained in our report.

If you have any questions, please call me or have your staff contact John A. Ferris, Assistant Inspector General for Human, Family and Departmental Services Audits, at (202) 619-1175.

Attachment

Department of Health and Human Services

OFFICE OF
INSPECTOR GENERAL

REPORT ON REVIEW OF TRAINING COSTS
NEW YORK STATE
DEPARTMENT OF SOCIAL SERVICES
ALBANY, NEW YORK
FOR THE PERIOD
APRIL 1, 1987 TO MARCH 31, 1988



Richard P. Kusserow
INSPECTOR GENERAL

JUNE 1992



DEPARTMENT OF HEALTH & HUMAN SERVICES

Office of Inspector General
Office of Audit Services

Region II
Jacob K. Javits Federal Building
26 Federal Plaza
New York, NY 10278

Common Identification No. A-02-91-02002

Ms. Mary Jo Bane
Commissioner
New York State Department of
Social Services
40 North Pearl Street
Albany, New York 12243

Dear Ms. Bane:

Enclosed for your information and use are two copies of an HHS/OIG Office of Audit Services report entitled " Report on Review of Training Costs for the Period April 1, 1987 to March 31, 1988." Your attention is invited to the audit findings and recommendations contained in the report. The below named official will be communicating with you in the near future regarding implementation of these items.

In accordance with the principles of the Freedom of Information Act (Public Law 90-23), HHS/OIG Office of Audit Services reports issued to the Department's grantees and contractors are made available, if requested, to members of the press and general public to the extent information contained therein is not subject to exemptions in the Act, which the Department chooses to exercise. (See Section 5.71 of the Department's Public Information Regulation, dated August 1974, as revised.)

To facilitate identification, please refer to the referenced common identification number in all correspondence relating to this report.

Sincerely yours,

John Tournour
Regional Inspector General
for Audit Services

Enclosures

HHS Contact:

Mr. James L. Keene
Director, Division of Cost Allocation
Department of Health & Human Services
26 Federal Plaza, Room 41-118
New York, New York 10278

SUMMARY

This report provides you with the results of our review of training costs which the New York State Department of Social Services (NYSDSS) allocated to Federal programs during the period April 1, 1987 to March 31, 1988 (FY 1988). The primary objective of our review was to provide audit assistance to the Department of Health and Human Services, Division of Cost Allocation (DCA) on a number of issues relating to training contract costs.

During the period covered by our review, NYSDSS claimed approximately \$23.6 million in training contract costs (Federal share \$15.4 million) and approximately \$3.6 million in administrative costs (Federal share \$2 million). Training costs incurred for titles IV-A, IV-E, and XIX made up the majority of the costs (\$18 million of the \$23 million). Based on our review, we are recommending that \$4,260,974 of the training contract costs claimed and \$452,573 of the administrative costs claimed be refunded to the Federal Government. In addition, we found that NYSDSS did not maintain adequate documentation to support the basis used to allocate among benefiting programs, the training contract and related administrative costs claimed in FY 1988. The results of our review are summarized briefly below and discussed in more detail in the "Findings and Recommendations" section of this report.

We found that NYSDSS:

- o Allocated training contract costs to Federal programs based upon estimated rather than actual data. Further, we found that NYSDSS did not maintain data which would clearly document that the programs charged, on the basis of budgeted data, received commensurate benefits from the training provided. Consequently, we were unable to determine, on an overall basis, the propriety of the approximately \$23.6 million in training contract costs and approximately \$3.6 million in administrative costs allocated to Federal programs in FY 1988. We are recommending that NYSDSS allocate future training costs based upon actual data and maintain documentation which will clearly detail that the Federal programs charged received commensurate benefit from the training provided.
- o Did not allocate the costs of 93 training contracts, that were charged to titles IV-A, IV-E, and XIX, to State programs although we believe it was evident from the course description

and the context of the training material that employees working on State funded programs or employees who split their efforts between State and Federal programs would require and benefit from similar training. Therefore, we concluded that the NYSDSS allocation, which presumed that only employees who worked entirely on Federal programs attended the training, was inequitable. We are therefore recommending a financial adjustment of \$4,260,430 (\$2,804,337 Federal share) and that NYSDSS allocate future training costs to all benefiting programs.

- o Inappropriately used third party contributions as their share of training costs. We determined that NYSDSS was not in compliance with Federal regulations and program directives concerning donations provided by private contractors. We are recommending an adjustment of \$1,125,185 (\$703,085 Federal share) and that NYSDSS discontinue using third party contributions by private contractors to meet their share of training costs.
- o Did not treat the 5 percent fee charged to private contractors as an applicable credit in accordance with the provisions of Office of Management and Budget Circular A-87. This fee was established by NYSDSS to help cover the costs related to the Office of Human Resource Development's (OHRD) administrative costs. However, NYSDSS used the fee only to cover its share of OHRD administrative costs. We are recommending an adjustment of \$351,779 (\$199,501 Federal share) and that NYSDSS treat this fee as an applicable credit to total OHRD administrative costs prior to claiming for Federal financial participation (FFP).
- o Was unable to support its basis for allocating administrative costs and did not allocate administrative costs to all benefiting programs. We allocated administrative costs based on paid claims for FY 1988 to all benefiting programs. We are recommending an adjustment of \$567,441 (\$452,573 Federal share) and that NYSDSS maintain support for its basis of allocation and allocate its administrative costs to all benefiting programs.
- o Inadvertently claimed FFP for training contract costs that were identified as being funded by State appropriations. We are recommending an adjustment of \$993,310 (\$554,051 Federal share).

Further, as a result of our review of internal controls, we identified what we believe are two reportable conditions. First, our substantive testing disclosed that NYSDSS has not modified its system of allocating training contract costs from the estimated to the actual number of attendees even though this condition was addressed by the Department of Health and Human Services, Departmental Appeals Board in 1984 and reported as a finding each year in the New York State single audit report since 1988. Secondly, NYSDSS has not maintained required documentation needed to support its allocation of approximately \$3.6 million of OHRD administration costs for FY 1988.

The NYSDSS responded to our draft report on April 30, 1992 (Appendix C). In its response, NYSDSS disagreed with the findings and recommendations contained in this report with the exception of our finding that NYSDSS inadvertently claimed FFP for training contract costs that were identified as being funded by State appropriations. The DCA expressed agreement with the findings and recommendations contained in our report (Appendix D).

TABLE OF CONTENTS

	<u>Page No.</u>
SUMMARY	i
INTRODUCTION	1
Background	1
Scope of Review	2
FINDINGS AND RECOMMENDATIONS	4
1. Use of Estimated Data to Allocate Training	
Contract Costs	4
Recommendations	6
NYS DSS Comments	7
OIG Response	7
2. Federal Nonparticipating Programs	8
Recommendations	12
NYS DSS Comments	12
OIG Response	13
3. Third Party In-Kind Contributions	13
Recommendations	16
NYS DSS Comments	16
OIG Response	16
4. Five Percent Fee	17
Recommendations	18
NYS DSS Comments	18
OIG Response	19
5. Allocation of Administrative Costs	19
Recommendations	21
NYS DSS Comments	22
OIG Response	22
6. Improper FFP Training Costs	22
Recommendations	23
NYS DSS Comments	24

TABLE OF CONTENTS

	<u>Page No.</u>
Internal Control Report	24
1. Control Environment	25
Recommendation	26
NYS DSS Comments	26
2. Control Procedures	26
Recommendation	27
NYS DSS Comments	27
APPENDIX A - Summary of Recommended adjustments by program for the period April 1, 1987 to March 31, 1988	
APPENDIX B - Summary of Federal Share Amounts Questioned By Federal Program for the period April 1, 1987 to March 31, 1988	
APPENDIX C - State Comments	
APPENDIX D - Division of Cost Allocation Comments	

INTRODUCTION

Background

The New York State Department of Social Services (NYSDSS) has the responsibility for the training of Social Services personnel so that they will have the skill, knowledge, and proficiency to meet the stated objectives of the various programs that are administered by the Department. This training encompasses both departmental staff, and staff of the local social services districts.

The NYSDSS conducts these activities through its Office of Human Resource Development (OHRD). This office oversees and coordinates the necessary functions to satisfy the Department's training goals. The office provides direct liaison with all program areas (local, State, Federal), identifies training needs, and arranges for training resources to meet these needs. Additionally, it ensures that State and local staff are trained in management and administrative skills, maintains a recordkeeping system for all training, awards and administers training contracts, manages the Materials Resource Center and the department library, and develops appropriate evaluation systems for internal and external training activities.

While many training needs are met through internal resources, a substantial amount of training is provided through contracts with educational institutions, consultants, and other independent contractors and organizations.

Almost all of the training contract costs incurred by NYSDSS were charged to Federal programs. During the period covered by our review (FY 1988), these Federal programs and their Federal financial participation (FFP) percentages, as contained in the applicable titles of the Social Security Act were as follows:

- o IV-A - Income Maintenance (FFP 50 percent)
- o IV-D - Child Support Enforcement (FFP 68 percent, 70 percent)
- o IV-E - Foster Care and Adoption (FFP 75 percent)
- o VII - Food Stamps (FFP 50 percent, 75 percent)
- o XVI - Disability Determination (FFP 100 percent)
- o XIX - Medical Assistance (FFP 50 percent, 75 percent, 90 percent)
- o XX - Social Services (Block Grant) (FFP 100 percent)

Training contract costs that are incurred at the State level are claimed through NYSDSS' Central Office Cost Allocation Plan (COCAP). Training contract costs that are incurred at the local districts are claimed in accordance with the NYSDSS Manual Bulletin Transmittal 143b. The training contract costs were charged directly to programs and the administrative costs incurred by OHRD were allocated to programs based on the dollar value of the training contracts.

During our audit period, NYSDSS claimed approximately \$23.6 million in contract training costs for 121 contracts and approximately \$3.6 million for administrative costs. The Federal Government reimbursed NYSDSS approximately \$15.4 million and \$2 million respectively through the following funding sources.

<u>TITLE</u>	<u>CONTRACT AMOUNT</u>	<u>FFP</u>	<u>ADMINISTRATIVE COSTS</u>	<u>FFP</u>
IV-A	\$ 3,054,482	\$ 1,527,241	\$ 545,211	\$ 272,605
IV-D	1,261,595	883,117	249,895	172,122
IV-E	8,165,937	6,124,452	1,426,018	1,069,513
VII	302,898	151,865	7,044	3,522
XVI	225,723	225,724	47,615	47,615
XIX	7,055,768	3,567,803	715,137	445,708
XX	2,951,060	2,951,060	588,713	0
NYS	<u>554,063</u>	<u>0</u>	<u>0</u>	<u>0</u>
Total	<u>\$23,571,526</u>	<u>\$15,431,262</u>	<u>\$3,579,633</u>	<u>\$2,011,085</u>

Scope of Review

Our review was conducted in accordance with generally accepted government auditing standards. The primary objective of our audit was to provide audit assistance to the Department of Health and Human Services (HHS), Division of Cost Allocation (DCA) on a specific issue reported in New York States' single audit (CIN: A-02-90-07457) covering fiscal year ended March 31, 1988. The single audit was performed by the independent public accounting firm of KPMG Peat Marwick. On page 32 and 33 of their audit report (CIN: A-02-90-07457), the independent accountants reported that NYSDSS was allocating the cost of training contracts based on the estimated number rather than the actual number of participants. "This resulted in a disparity between programs benefiting from training and programs charged for training."

In addition to the issue disclosed in the single audit, the DCA requested our audit to address:

1. The need to allocate training costs between Federal participating and Federal nonparticipating activities.
2. The basis NYSDSS used to support its matching share for contracts with private and public institutions.
3. Comments on the administrative 5 percent fee charged by NYSDSS on training contracts.

In order to accomplish our audit objectives, we reviewed pertinent documentation and held discussions with cognizant New York State (NYS) and Federal officials. Specifically, we reviewed the total amount of training contract costs that were claimed by NYSDSS during FY 1988. This included reviewing the charging instructions for 121 training contracts, the NYSDSS' methodology for allocating contract costs and administrative costs to benefiting programs, the Training Management and Evaluation Fund (TMEF) account, the NYSDSS' position for using third party contributions as its share of training costs, and the allowability of OHRD administrative costs. We selected 93 of the 121 training contracts for review. The bases of this selection was that the majority of the cost (approximately \$18.3 million of the approximately \$23.6 million) were associated with the 93 contracts selected. We also reviewed, with officials from the Office of Human Development Services (OHDS), Health Care Financing Administration (HCFA) and the Administration for Children and Families (ACF) the course content for a number of training contracts we selected for review. We also discussed NYSDSS' methodology for using third party contributions as its share of training costs with private organizations with OHDS, HCFA and ACF officials.

In addition, since this review is financially related, we performed a review of the internal control structure that we determined to be managerially significant and important to the achievement of the specific audit objectives. Our review of internal controls included tests and procedures that we considered necessary to evaluate the Department of Social Services (DSS) reporting of expenditures relating to training contracts. In order to plan the audit and determine the nature, timing, and extent of tests to be performed, we obtained an understanding of the internal control structure.

To facilitate this understanding of the internal control structure, we held discussions with DSS officials, analyzed organizational charts, prepared flowcharts, reviewed the NYS single audit reports for FY's 1988, 1989, 1990, and reviewed Federal and State regulations regarding the claiming of training contract costs.

We classified significant internal control structures, policies and procedures in the following categories: (1) claims processing, (2) cost allocation, (3) cost sharing, and (4) fees charged contractors for the costs incurred in administering the training program. We tested selected items, assessed control risk at the maximum for each of the categories and decided to perform substantive testing.

We found that the items tested were in compliance with applicable laws, regulations, policies and procedures except for the matters discussed in the Findings and Recommendations section of this report. With respect to items not tested, nothing came to our attention that caused us to believe that NYS had not complied, in all material respects, with those applicable laws, regulations, policies and procedures.

The audit field work was performed at DSS and the offices of OHRD in Albany, New York during the period January 1991 to November 1991.

FINDINGS AND RECOMMENDATIONS

Use of Estimated Data to Allocate Training Contract Costs

On pages 32 and 33 of the NYS single audit report for the FY ending March 31, 1988, the independent public accountants reported that NYSDSS was allocating the cost of training contracts based on the estimated number rather than the actual number of participants. According to the single audit report,

". . . the system in place for charging the various program areas for training was inadequate. Charging instructions prepared by OHRD served as the supporting documentation for distribution of training expenditures. The charging instructions were prepared based on the estimated number of participants. The actual number of participants was maintained by OHRD but there was no reconciliation of the expected participants to the actual participants. This resulted in a disparity between programs benefiting from training and programs charged for training."

As a result, the independent accountant "questioned costs" of \$14,457,277 in their audit report. The questioned amount represented the amount of training contract costs that the NYSDSS had claimed in FY 1988 under titles IV-A, IV-D, IV-E, XIX, XX, and VII. The independent accountants' report also contained a recommendation that costs for training should be allocated based on the actual number of participants from each program area benefiting from the training activity carried out.

In addition, we found that the HHS, Departmental Appeals Board (DAB) had addressed the issue in February 1984. One of the issues in Decision No. 520 covered the NYSDSS allocation of training costs based on estimates of who would be trained without adjusting the allocation to reflect actual enrollment. The DAB upheld a determination made by HHS, OHDS that the State must adjust its claims to reflect actual enrollment.

Our review confirmed the KPMG Peat Marwick finding that NYSDSS was allocating training contract costs to programs based on the estimated rather than the actual number of participants. The entire amount of training contract costs claimed (approximately \$23.6 million) during our audit period was allocated based on the estimated number of participants.

The NYSDSS maintains that it may not be cost efficient to allocate costs based on an actual basis because OHRD would need additional staff to input the actual data into its computer system. This would result in additional administrative time and cost. Also, NYSDSS contends, based on an analysis they performed, that there would be very little difference between the two methodologies.

The analysis performed by NYSDSS represented a comparison of the actual attendance and average gross amount of training costs allocated by funding source for FY's 1987 and 1988. The allocations by funding sources were based on estimated participants. During our review, we requested support for the analysis performed by NYSDSS. We were advised that documentation supporting their conclusion was discarded. However, we noted that this analysis was reviewed by KPMG Peat Marwick during their subsequent (FY 1990) single audit. And, according to the FY 1990 report, the independent accountants noted ". . . that there were material differences between the two on a program by program basis."

In order to determine if a significant difference did exist between an allocation based upon estimates rather than the actual number of participants, we selected two training contracts for a detailed review.

The first contract selected was Contract No. C002056 with Hudson Valley Community College (HVCC). According to the terms of this contract, HVCC was to provide 102 courses to an estimated 1,925 participants during the period January 1987 through May 1988 at a cost of \$430,000. The cost of this contract was entirely charged to titles IV-A, IV-D, IV-E, XIX and XX based on estimated attendees. We reviewed the documentation that was provided by OHRD which included the contract files, list of trainee courses, and trainee rosters. We were able to determine that 1,317 participants actually attended the courses. We were unable to determine the programs that actually benefited from the training because the trainee rosters did not indicate what program or programs they were actually working on at the time they took the training.

The second contract selected was Contract No. C001993 with the National Association of Black Social Workers. The terms of the contract specified that one course (6 sessions) titled, "Facilitating African-American Adoption" would be provided to an estimated 210 participants during the period March 1987 through February 1988 at a cost of \$112,500. This contract was entirely charged to title IV-E based on the estimated attendees. Our review of NYSDSS documentation indicated that 147 participants actually attended this training. However, we were unable to determine the program or programs that actually benefited from the training because the trainee rosters did not indicate what program or programs the attendees were actually working on at the time the training was given.

In the absence of the attendee data that would indicate the program or programs which actually benefited from the training provided under the above two contracts, we were unable to complete our objective to determine if there was a significant difference between an allocation based upon estimates rather than the actual number of participants. Consequently, we were unable to provide the DCA with any assistance in the resolution of the independent accountants' single audit report recommendation concerning the \$14,457,277 of "questioned costs".

Nevertheless, we believe that NYSDSS should allocate future training costs to programs based on the number of actual participants.

Recommendations

We recommend that NYSDSS allocate future training contracts to programs based on the actual number of participants and maintain documentation which will clearly detail that the programs charged actually benefited from the training provided.

NYSDSS Comments

In their response to our draft report, NYSDSS stated that it disagreed with our findings and recommendations. The NYSDSS contended that in developing their current allocation procedures for training, it thoroughly examined a number of considerations and alternatives before selecting the methodology that is now part of the approved plan. The NYSDSS also stated that the DCA approved its present methodology when it approved its Cost Allocation Plan (CAP) in June 1989. The NYSDSS further maintained that to base the allocation on actual attendance would force it to constantly adjust financial arrangements made at the time of contract negotiations and would overemphasize financial considerations at the expense of program needs.

Lastly, the State indicated that it believed that the DAB decision No. 520 cited in our draft report was not applicable to the subject currently at issue.

OIG Response

Although NYSDSS contends that it thoroughly examined a number of considerations and alternatives prior to selecting estimated or budgeted attendance data as the basis for allocating training contract costs, NYSDSS was not able to provide us during our field review with any data documenting the analysis that was performed. Further, NYSDSS did not submit an analysis with its response to our draft report detailing that an allocation based upon budgeted data resulted in an allocation which approximates a distribution based upon actual data.

The State contends that the DCA approved its training contract allocation methodology when it approved its CAP in June 1989. The NYSDSS neglected to mention that the DCA placed certain conditions on its approval of the CAP. Specifically, in the letter dated June 30, 1989, the DCA advised the State that the plan was approved subject to a number of conditions. One of the conditions was that "the costs claimed for Federal financial participation must be allowable under the law, the cost principles contained in Office of Management and Budget (OMB) Circular A-87 and program regulations". In addition, the approval letter states that "Nothing contained herein should be construed as approving activities not otherwise authorized by approved program plans, or Federal legislation or regulations". The DCA officials advised us that NYSDSS's training contract allocation methodology was not in compliance with OMB Circular A-87 and notified NYSDSS that its FY 1988 allocation methodology was still at issue in a letter dated

September 27, 1990. That letter was sent to NYSDSS after the State's own independent accountants questioned the FY 1988 training costs claimed by NYSDSS because of the methodology the State used to claim the costs.

The State contends that to base an allocation on actual attendance would force it to constantly adjust its financing arrangements made at the time of contract negotiations. The State, however, did not explain how the subsequent adjustment of allocations initially made on the basis of budgeted data to one based on actual data would be an onerous task.

Regarding DAB decision No. 520, we cited that decision in our draft report because it related in part to the adjustment of training costs allocated on budgeted data to an allocation based on actual data. The NYSDSS states it believed that decision No. 520 was not applicable to the methodology currently at issue. However, NYSDSS did not explain why it believed that decision was not related and why the circumstances involved in our audit were distinguishable from those in the DAB decision.

We continue to recommend that NYSDSS allocate training contracts to programs based on the actual number of participants and maintain documentation which will clearly detail that the programs charged actually benefited from the training provided.

Federal Nonparticipating Programs

State programs which are not supported by Federal funds are referred to by the State as "Federal Nonparticipating Programs" (FNP). Examples of these programs are the Home Relief program, State Mandated Medical Assistance programs, and the State Foster Care program.

The NYSDSS allocated the costs of 121 training contracts to participating programs under titles IV-A, IV-D, IV-E, VII, XVI, XIX, and XX programs in FY 1988. In order to evaluate the propriety of NYSDSS allocations, we examined 93 training contracts that were charged to titles IV-A, IV-E, and XIX out of a 121 total training contracts. These titles were selected on the basis that the majority of the training cost were charged to titles IV-A, IV-E, and XIX (approximately \$18.3 million of the approximately \$23.6 million). The 93 contracts provided for 178 individual courses.

Our review showed that 82 of the 178 training courses were for general type training (e.g., personal development, systems, management, legal, etc.). Contract No. C002056 with the HVCC which we discussed in our preceding finding is an example of a contract that provided for general training. One

of the projects within this contract was titled, "Personal Development and Skills Training for State DSS Staff". The project included a series of courses intended to improve basic job related skills. The topics included career planning, leadership skills, and designing, using and interpreting charts, graphs, and tables. The NYSDSS allocated the entire \$430,000 cost of this contract to the titles' IV-A, IV-D, IV-E, XIX, and XX programs. There was no allocation to FNP programs. There were also no records available documenting that all the 1,317 attendees at the courses provided under this contract worked entirely on Federal supported programs.

The remaining 96 training courses we examined did not provide for general type training and the entire costs relating to the 96 were charged directly to the titles' IV-A, IV-E, and XIX programs. A number of these courses were provided under Contract No. C001508 awarded to the State University of New York (SUNY) at Albany. One project within this contract, was titled, "Statewide Training for Eligibility Workers" at a cost of \$950,743. The targeted training population consisted of 360 new income maintenance (IM) examiners and 125 new medical assistance (MA) examiners from the local districts. The training was intended to provide a strong foundation of knowledge and skills related to the process of appropriate eligibility determination, ensuring the acquisition of skills and approaches that maintain appropriate professional standards and client dignity and worth and, reduce current error rates. The context of the training material stated that this is "Generic Eligibility Workers Training." This project was entirely charged to title IV-A with no allocation to FNP programs.

Based upon our initial examination of the 93 training contracts, we believed that NYSDSS had not equitably charged its training contract costs to Federal programs in FY 1988. With regard to the general type training, it appeared illogical to us that NYSDSS would provide such training only to employees who worked entirely on Federal programs. Certainly employees who worked on State programs or who split their efforts between FFP and FNP programs would need similar training. Yet, there was no allocation of the general training to the FNP programs. With regard to the non-general training, it also appeared to us that certain FNP programs had benefited from the training provided. Consequently, we discussed these issues and specific training courses we examined with program representatives from OHRD, HCFA and the ACF.

Title IV-E

We reviewed course material from a number of contracts which NYSDSS charged to the title IV-E program with representatives from OHDS. In general, the OHDS advised us that the foster care and adoption training provided by NYSDSS benefited both FFP and FNP programs and that the related costs should have been allocated to both programs. Further, OHDS informed us that they had previously issued two policy announcements that deal directly with this issue. The first policy announcement ACYF-PA-87-05, which was issued on October 22, 1987, states in part that allowable administrative costs (including training) ". . . must be allocated to title IV-E, State foster care and other State/Federal programs in such a manner as to assure that each participating program is charged its proportionate share of the costs." In addition, the policy states that: "The allocations may be determined by case count of title IV-E-eligible children in relation to all children in foster care under the responsibility of the State title IV-E/IV-B agency or on some other equitable basis." This policy was further supported by the second policy announcement ACYF-PA-90-01 dated June 14, 1990.

Title XIX

We reviewed course descriptions for contracts that were charged to the title XIX program with HCFA representatives. Based upon the course descriptions we provided, HCFA indicated that the State Medicaid program may also have benefited from the training provided. The HCFA stated that title XIX training costs should be allocated to a particular cost objective to the extent of benefits received.

Additionally, HCFA felt that an allocation of both general and direct training costs allocated based on COCAP MA-ALL other category percentages may be a reasonable approach for allocation.

Titles IV-A

We reviewed course descriptions for contracts that were charged to the title IV-A program with ACF representatives. One contract discussed was Contract No. C001508 with SUNY at Albany that we described above. It was their opinion that the training costs relating to this contract should have been allocated between MA and IM examiners. In addition, ACF indicated that the IM component should have been further allocated to FNP programs.

The ACF advised us that as a result of an administrative cost review conducted in 1986, the ACF regional office advised NYS of the need to identify the benefiting programs and to allocate costs accordingly. Furthermore, in other allocation situations, the State occasionally bases its allocation on case/recipient counts. This is an example of an acceptable basis for allocating costs to all benefiting programs. Lastly, ACF indicated that it would be equitable to allocate title IV-A general and direct program training costs based on the percentages utilized in the local districts' cost allocation plan No. 143b.

Based upon our review of course descriptions selected from 93 contracts and our discussions with Federal program representatives, we concluded that NYSDSS had not equitably allocated its FY 1988 training contract costs to Federal programs.

Since the State cannot document its position that all training was provided to only employees working on Federal programs and because it would appear from the data reviewed that FNP programs benefited from the training provided, we recommend that the FY 1988 training contract costs allocated to titles' IV-A, IV-E, and XIX be allocated to both FFP and FNP programs. Further, we recommend that the training contract costs allocated to these Federal programs in FY 1988 be reduced by \$4,260,430 (Appendix A). Our recommended reduction was calculated as follows. For title IV-E, we allocated \$7,670,740 of contract costs that were charged directly to the title IV-E program to FFP and FNP programs based on case count of title IV-E eligible children in relation to all children in foster care. This allocation resulted in a recommended adjustment of \$2,555,890. For title XIX, we allocated \$6,739,598 of training contract costs to FFP and FNP programs based on the percentages utilized in the NYS COCAP. Specifically, the percentages developed for the MA-ALL other category. This category utilizes the Medicaid Eligibility Status report for individuals eligible for medical services under Federal MA and State MA programs. This allocation resulted in a recommended adjustment of \$715,756. Lastly, for title IV-A, we allocated \$2,763,512 of training contract costs based on the percentages utilized in the local districts' DSS cost allocation plan Bulletin No. 143b, specifically, the percentages developed for schedule D-1. This schedule utilizes the claiming of eligible IM expenditures report for services under Federal IM and State IM programs. This allocation resulted in a recommended adjustment of \$988,784. The amounts that were allocated represented the total training costs charged to each title during FY 1988 less adjustments for third party in-kind contributions, NYSDSS adjustments, and adjustments resulting from an audit of training contract costs performed by HCFA.

Our FNP allocations resulted in a total adjustment of \$4,260,430 (\$1,589,334 for general training and \$2,671,096 for direct program training). The Federal share amount of the adjustments is \$2,804,337 (\$1,065,819 for general training and \$1,738,518 for direct program training). See Appendix B for a summary of the Federal share amounts questioned by Federal program.

Recommendations

We recommend that NYSDSS:

1. Refund \$2,804,337 to the Federal Government.
2. Maintain documentation which clearly details which programs benefit from future training and, where applicable, allocate training costs to all benefiting programs.

NYSDSS Comments

The NYSDSS does not agree with our recommended adjustment of \$2,804,337 for failing to allocate training contract costs to FNP programs. The NYSDSS contends that the auditors are imposing requirements that go beyond existing Federal statutes, regulations and its approved CAP. In addition, NYSDSS indicated that the auditors did not properly consider the intent behind its training program or its prerogative in deciding how it would administer its General Assistance programs and did not recognize that it would be subjected to unequal treatment compared to other States with no General Assistance programs.

Also, NYSDSS believes that OHDS' policy announcement ACYF-PA-87-05 goes far beyond the import of the regulation at 45 CFR Part 235 and OMB Circular A-87 and that OHDS has no authority to direct what costs a "State only" program must pay. In addition, NYSDSS contends that this policy announcement controverts a June 14, 1984 letter from OHDS that supports charging training costs to the title IV-E program.

Finally, NYSDSS stated that this policy announcement was released on October 22, 1987, which was more than half-way through the State fiscal year being audited, without public notice and an opportunity for comment.

OIG Response

Federal regulations stipulate that a cost is allocable to a particular cost objective to the extent of benefits received by such objective. To be in compliance with Federal regulations, NYSDSS should allocate training costs to the programs (Federal and State) that benefit from the training. If NYSDSS elects to provide and fund programs that receive no Federal support, then NYSDSS is responsible to fund the training costs related to those programs. It is evident that for FNP programs established, similar general type training as provided for Federal programs would also be required.

With regard to NYSDSS comment that OHRD's policy announcement ACYF-PA-87-05 has no authority to direct what costs a State only program must pay, the policy announcement does not address costs which relate to State only programs. Instead, the policy addresses issues which relate to what costs are allowable charges to the Federal title IV-E program. Further, the policy announcement supersedes the earlier correspondence from OHDS rather than controverts it as the State contends in its response.

Lastly, NYSDSS's statement that the policy announcement was released half way through the State's fiscal year being audited is a correct observation. But, the State has taken no action to comply with the intent of the policy announcement either retroactively or prospectively. Moreover, we would note that the provision of OMB Circular No. A-87 (section C.1.a. of Attachment A), which provides that a cost is allocable to a particular objective only to the extent of benefits received, was in effect prior to the start of the State's fiscal year.

We continue to recommend that NYSDSS refund \$2,804,337 to the Federal Government and maintain documentation which clearly details which programs benefit from future training. Further, it should allocate training costs to all benefiting programs as required by Federal regulations.

Third Party In-Kind Contributions

Historically, NYS has not fully funded the nonfederal share of training activities within NYSDSS. This has caused NYSDSS to seek support from private sources. One area that required financial support was contractual services. The Federal Government, through its Operating Divisions (OPDIVs), provides financial support up to its regulated FFP level. The NYSDSS has obtained contractor support to fund the bulk of the nonfederal share, which has generally been through in-kind matches for contract costs.

We found that NYSDSS used third party in-kind contributions as its share of training costs claimed under titles IV-A, IV-D, IV-E, and XIX in FY 1988. We determined that NYSDSS was not in compliance with Federal regulations and program directives concerning funds donated by private contractors.

It is our position, with respect to private contractors, that third party contributions do not qualify as the State's share of training costs. For contracts charged to titles IV-A and IV-D, our opinion is based on 45 CFR section 235.66 (b) - Private Funds. This section states that funds donated from private sources may be considered as the State's share in claiming FFP only if they meet the following conditions:

- o transferred to the State or local agency and are under its administrative control;
- o donated without any restriction which would require their use for the training of a particular individual or at particular facilities or institutions; and
- o do not revert to the donor's facility or use.

For contracts charged to title XIX, we based our opinion on the regulation in effect during the audit period, 42 CFR section 433.45(b):

- o Private Donated Funds As State's Share. This section states that funds donated from private sources may be considered as the State's share in claiming FFP only if they meet the following conditions:
 - The private funds are transferred to the State or local Medicaid agency and are under its administrative control.
 - The private funds do not revert to the donor's facility or use unless the donor is a nonprofit organization, and the Medicaid agency, of its own volition, decides to use the donor's facility.

For contracts charged to title IV-E, we based our opinion on their policy interpretation question (PIQ) 84-6 dated October 22, 1984. According to the PIQ,

"Third party in-kind contributions are not allowable for replacing the State's share for Federal matching purposes under the title IV-E Foster Care and Adoption Assistance Program. Donated funds may not be used for similar purposes if they revert to the donor or have restrictions on their use."

For review of this area, we selected all 50 training contracts with private contractors that were allocated to titles IV-A, IV-D, IV-E, and XIX during FY 1988. Our review showed that for all contracts reviewed under the four titles, third party in-kind contributions were not transferred to the State or local agency or otherwise met the conditions stipulated in the aforementioned Federal regulations or OPDIV directives. Instead, these restricted donations were retained by the private contractors. For example, NYSDSS entered into a \$150,000 contract (C001993) with the National Association of Black Social Workers to provide title IV-E training for the period October 1986 through March 1988. According to the terms of this contract, NYSDSS charged \$150,000 for this contract to the title IV-E program and received reimbursement for \$112,500 or 75 percent FFP. The NYSDSS actually paid the private contractor \$105,000. The difference of \$45,000 consisted of an administrative fee of \$7,500 which we discuss in the next finding and \$37,500 of third party in-kind contributions.

It is our opinion that the \$37,500 of third party in-kind contributions provided under Contract C001993 and the third party in-kind contributions provided under the other contracts charged to the four titles did not meet the criteria for use as the State's share of training costs. We determined that the funds donated were not transferred to the State or local agency and were not under its administrative control and were restricted as to their use for training activities on each contract.

The NYSDSS contends that there is no statutory or regulatory authority that prohibits the operation of its training program in the manner described above.

By not meeting its share of contract costs, NYSDSS improperly claimed \$1,125,185 and received Federal funds of \$703,085 in excess of the maximum Federal participation specified in the contract award documents. See Appendix B of our report for a summary of the Federal share amounts questioned by Federal program.

Recommendations

We are recommending that NYSDSS:

1. Refund \$703,085 to the Federal Government.
2. Discontinue using third party contributions provided by private contractors to meet its share of training costs.

NYSDSS Comments

In their comments, the NYSDSS states that it does not agree with the recommended adjustment of \$703,085. The NYSDSS contends that the auditors misapplied Federal regulations at 45 CFR 235.66 (b), 42 CFR 433.45 (b) and program directive PIQ-84-6 in determining that NYSDSS was in error for using third party in-kind contributions from private contractors as its share of training costs because these regulations and the programs directive pertain to donated funds. Instead, NYSDSS indicated that the third party in-kind services in question should be governed by OMB Circular A-102, Attachment F. In addition, NYSDSS contends that the auditors' reliance on PIQ-84-6 is inconsistent with OMB Circular A-102 and is therefore inappropriate.

The NYSDSS also stated that the auditors position with regard to in-kind contributions provided by private contractors would result in a significant disadvantage to prospective private training providers that submit responses to requests for proposals and force NYSDSS to violate the provisions of Attachment O of OMB Circular A-102.

OIG Response

The State's position that provisions of OMB Circular No. A-102, Attachment F are applicable to the in-kind contributions at issue is, in our opinion, incorrect. We would note that the introductory paragraphs of 38 FR 26274, published September 19, 1973 affecting 45 CFR Part 74 contains an explanation as to the relation of OMB Circular No. A-102 to the regulations contained in Part 74. Specifically, one of the introductory paragraphs stipulates that "Subpart A of Part 74 provides general requirements applicable to Part 74 as a whole, and is roughly analogous in function to the basic A-102 circular documents. Subparts B through P of Part 74 correspond on a one-to-one basis with Attachments A through O of the Circular". Further, we would note that the provisions of Attachment F of OMB Circular A-102 generally correspond with the provisions of Subpart G

of 45 CFR Part 74 with regard to the criteria and procedures governing the allowability and evaluation of cash and in-kind contributions in satisfying matching or cost sharing requirements of HHS grants.

A further review of the CFR's shows that the programs covered by our audit were specifically excluded from the in-kind provisions contained in Subpart G of 45 CFR Part 74. Section 201.5 (e) of 45 CFR excludes the title's IV-A and IV-E programs from subpart G, section 301.15 (e) of 45 CFR excludes the title IV-D program, and section 430.30 (e) of 42 CFR excludes the title XIX program. Therefore, it would appear that the State's contention that the provisions of OMB Circular No. A-102 Attachment F are applicable to the in-kind contributions at issue is incorrect. And, we believe that the regulations that we cited in our draft report were correct.

Lastly, we believe that our position on in-kind contributions provided by private contractors would not force the State to violate the provisions contained in OMB Circular A-102, Attachment O as NYSDSS contended in its response.

We are continuing to recommend that NYSDSS refund \$703,085 to the Federal Government and discontinue using third party contributions provided by private contractors to meet its share of training costs.

Five Percent Fee

As stated in the previous finding, NYS has not fully funded the nonfederal share of its training activities. This also included the nonfederal share of OHRD administrative costs incurred for monitoring the contract process. The NYSDSS has obtained support through cash assistance. The cash assistance is in the form of a fee that NYSDSS assesses to private contractors awarded training contracts. The fee is assessed at 5 percent of the total contract amount. The fee is placed in a special account called the TMEF and is used to pay the State share of salaried and nonsalaried costs of OHRD.

It is our opinion that NYSDSS should treat the 5 percent fee which it charged to private contractors as an applicable credit in accordance with OMB Circular A-87. Attachment A, section C.3.a. states that: "Applicable credits refer to those receipts or reduction of expenditure-type transactions which offset or reduce expense items allocable to grants as direct or indirect costs."

The terms of the training contracts which NYSDSS awarded to private contractors stipulate that NYSDSS will pay the contractor only the sum of the funds committed as FFP less a 5 percent administrative fee. For example, NYSDSS entered into a \$150,000 contract (C001993) with the National Association of Black Social Workers to provide title IV-E training. The NYSDSS charged \$150,000 for this contract to the title IV-E program and received reimbursement for \$112,500 or 75 percent FFP. The NYSDSS actually paid the contractor \$105,000. The difference of \$45,000 consisted of the third party contribution of \$37,500 which we discussed in the preceding finding and \$7,500 representing the administrative fee assessed to the contractor. At the time it paid the contractor \$105,000, NYSDSS transfers the 5 percent to the TMEF account.

During FY 1988, NYSDSS deposited \$351,779 in fees assessed to private contractors directly into the TMEF account to be used to fund the nonfederal share of OHRD administrative costs. We believe that this amount meets the definition of an applicable credit and therefore, should be offset against total administrative costs prior to claiming for FFP.

Applying the \$351,779 as an applicable credit resulted in an FFP adjustment of \$199,501. See Appendix B of our report for a summary of Federal share amounts questioned by Federal program.

Recommendations

We recommend that NYSDSS:

1. Refund \$199,501 to the Federal Government.
2. Apply the 5 percent administrative fee as an applicable credit to total OHRD administrative costs prior to claiming for FFP.

NYSDSS Comments

The NYSDSS indicated that our recommendations regarding the 5 percent fee are inappropriate. The NYSDSS contends that the 5 percent fee is not a credit but a fee and, as such, is program income as defined in OMB Circular A-102, Attachment E. In addition, NYSDSS stated that these costs were part of the CAP approved by DCA and the CAP clearly explained that NYSDSS was using the fee to meet the nonfederal share of training expenditures.

OIG Response

We disagree with NYSDSS's position that the 5 percent fee was program income instead of a credit. The training contractors did not remit 5 percent of their costs to the State. Rather, the State reduced or credited the amount of costs it paid to the contractors by 5 percent. Hence, the contractors did not provide the State with any funds which could be classified as income. The only income provided to the State, from the 5 percent fee arrangement, was from the Federal Government when the State billed the Federal Government for the 5 percent reduction. Thus, if the State's position is correct, the Federal Government would provide the income which the State now claims as its nonfederal share.

With regard to the State's contention that its use of the 5 percent fee was clearly explained and approved in its CAP, we would note that the DCA approval letter dated June 30, 1989 clearly stated that a separate review will be made of the State's use of the 5 percent fee to determine if the sources of revenue and ultimate application as State share comply with Federal regulation.

We continue to recommend that NYSDSS refund \$199,501 to the Federal Government and apply the 5 percent administrative fee as an applicable credit to total OHRD administrative costs prior to claiming for FFP.

Allocation of Administrative Costs

We found that NYSDSS could not support its basis for allocating OHRD administration costs and did not allocate administrative costs to all benefiting programs.

OMB Circular A-87, Attachment A, section J.1. Cost Allocation Plan, requires that:

"A plan for allocation of costs will be required to support the distribution of any joint costs related to the grant program. All costs included in the plan will be supported by formal accounting records which will substantiate the propriety of eventual charges."

In addition, OMB Circular A-87, Attachment A, section C.2.a, states that:

"A cost is allocable to a particular cost objective to the extent of benefits received by such objective."

As part of our audit, we reviewed NYSDSS's cost allocation plan. The plan provides that OHRD costs will be allocated according to a set of percentages based on the dollar value of the contracts for each Federal title. The contracts are identified by program and by dollar value. The dollar values are totaled by program, and the program amounts divided by the grant total to identify the percentages of allocation to each program area.

During FY 1988, NYSDSS used the following percentages for allocation of OHRD administrative costs.

<u>Title</u>	<u>Period</u>		<u>Period</u>	
	<u>4/1/87-9/30/87</u>	<u>Percent</u>	<u>10/1/87-3/31/88</u>	<u>Percent</u>
IV-A	\$ 4,066,686	15.17	\$ 2,346,298	15.30
IV-D	1,542,994	5.76	1,283,134	8.37
IV-E	11,000,361	41.03	5,900,443	38.48
XIX	5,290,696	19.73	3,107,827	20.26
XX	4,530,671	16.90	2,442,992	15.93
VII	40,000	.15	38,165	.25
XVI	<u>337,217</u>	<u>1.26</u>	<u>216,031</u>	<u>1.41</u>
Total	<u>\$26,808,625</u>	<u>100.00</u>	<u>\$15,334,890</u>	<u>100.00</u>

The dollar values shown by program were based on the charging instructions established for each training contract. However, NYSDSS did not include the dollar value for State appropriated funds. The charging instructions were based on the estimated number of participants.

One of our audit steps was to review NYSDSS' support for the allocation percentages. The NYSDSS was unable to provide supporting documentation for the above dollar values. According to NYSDSS officials, the contract listing which supports the charging instructions was not maintained. In addition, the listing was generated from a data file that is perpetually changing. Consequently, NYSDSS was unable to reconstruct the listing and we were unable to verify the allocation percentages used. In addition, since the allocation percentages were based on the charging instructions (estimated participants), we were unable to determine if OHRD administrative costs (approximately \$3.6 million) was properly allocated to benefiting programs.

Furthermore, NYSDSS failed to allocate OHRD administration costs to all benefiting programs. We determined that NYSDSS' allocation basis did not include the dollar value and related percentage for training contracts supported by State appropriations. Failure to allocate costs to this objective resulted in an inequitable distribution of training costs to Federal programs.

Since NYSDSS could not support its allocation base and did not allocate OHRD administrative costs to State appropriations, we believe it would be appropriate to allocate OHRD administration costs based on the amount claimed by NYSDSS during our review period (approximately \$23.6 million). The following is a summary of the total amount claimed by title and the related allocation percentages we used.

<u>TITLE</u>	<u>CONTRACT AMOUNT</u>	<u>PERCENT</u>
IV-A	\$ 3,054,482	12.96
IV-D	1,261,595	5.35
IV-E	8,165,937	34.64
VII	302,898	1.29
XVI	225,723	.96
XIX	7,055,768	29.93
XX	2,951,060	12.52
State	<u>554,063</u>	<u>2.35</u>
Total	<u>\$23,571,526</u>	<u>100.00</u>

In addition, based on our review of training contracts that were charged to titles IV-A, IV-E, and XIX, we further allocated OHRD administrative costs to FNP. We based our allocations on the percentages described in our FNP finding.

We used the total amount claimed even though it was allocated to programs based on estimates instead of actual participants. We found that even though NYSDSS could not provide actual figures, training was conducted that involved Federal as well as FNP programs.

Our allocations based on the total amount claimed resulted in an adjustment of \$71,400 FFP. Our allocations to FNP resulted in an adjustment of \$567,441 or \$381,173 FFP.

Recommendations

We recommend that NYSDSS:

1. Refund \$452,573 to the Federal Government.
2. Maintain supporting documentation for the allocation of OHRD administrative costs.

3. Allocate OHRD administrative costs to all benefiting programs.

NYSDSS Comments

The NYSDSS mentioned in its response that subsequent to the issuance of the draft report, it met with the auditors and certain agreements were reached regarding the amount of State appropriations which should be included in the base to allocate OHRD administrative costs. Regarding the allocation basis used by the auditors to recalculate the allocation of administrative costs, NYSDSS contends that the auditors are attempting to impose their own allocation basis for which they have no legal authority. Since there were no substantial differences between the basis used by NYSDSS and HHS, there is no reason to change from the approved plan.

OIG Response

We have adjusted our final report to reflect the amount of State appropriations which should be included in the base used to allocate OHRD administrative costs as agreed upon in the meeting mentioned by the State in its response.

The NYSDSS did not maintain documentation to support its basis for allocating OHRD administrative costs as required by OMB Circular A-87. In the absence of documentation that supported the original allocation, we utilized the only documentation that was available to us to evaluate the propriety of the original allocations claimed.

The State did not provide any comments relative to our inclusion of our calculated Federal nonparticipating adjustment in the base to allocate OHRD administrative costs. Consequently, we continue to recommend that NYSDSS refund \$452,573 to the Federal Government, maintain supporting documentation for the allocation of OHRD administrative costs and allocate OHRD administrative costs to all benefiting programs.

Improper FFP Training Costs

Four training contracts identified as being funded by State appropriations were inadvertently claimed by NYSDSS for FFP. According to the terms of the contracts and the charging instructions, a percentage of each contract's total costs would be funded exclusively by State appropriations.

The following is a summary of the total contract amount claimed for our audit period and the portion identified as State appropriated for the four training contracts.

<u>CONTRACTOR</u>	<u>CONTRACT NO</u>	<u>CONTRACT AMOUNT</u>	<u>NYS</u>
State University of New York (SUNY) at Albany	C001508	\$ 3,551,589	\$228,000
SUNY at Buffalo	C001615	8,590,059	259,651
Cornell	C002065	11,616	5,674
Cornell	C002163	<u>1,208,322</u>	<u>499,985</u>
Total		<u>\$13,361,586</u>	<u>\$993,310</u>

For the two SUNY contracts, NYSDSS inadvertently allocated the State appropriated amounts to accumulator code #662 (Welfare Management System - New York City) instead of a FNP accumulator code. Accumulator code #662 was claimed for FFP.

The State appropriated amounts for the two Cornell contracts were inadvertently allocated to OHRD's administrative cost accumulator code #006 instead of an FNP accumulator code. Both amounts were included as part of the approximately \$3.6 million that NYSDSS allocated to Federal programs.

We determined that the wrong accumulator code was assigned by NYSDSS at the time of allocation. These coding errors resulted in a total adjustment of \$993,310 (\$554,051 Federal share). See Appendix B of our report for a summary of Federal share amounts questioned by Federal program.

Recommendations

We recommend that NYSDSS:

1. Refund \$554,051 to the Federal Government.
2. Establish procedures to ensure that training contract costs are coded with the proper accumulator code.

NYSDSS Comments

The NYSDSS stated it concurred with our recommendations and indicated that it would make the necessary adjustment.

Internal Control Report

As mentioned in the scope of our audit section of this report, our audit was conducted in accordance with generally accepted government auditing standards. The third supplemental reporting standard for Government financial audits requires the auditor to discuss:

- o the scope of the auditor's work in obtaining an understanding of the internal control structure and in assessing control risk;
- o the entity's significant internal controls or control structure including the controls established to ensure compliance with laws and regulations that have a material impact on the financial statements and results of the financial related audit;
- o the reportable conditions identified as a result of the auditors work in understanding and assessing the control risk.

Since the objective of our audit was to provide audit assistance to the DCA on a specific issue identified in the FY 1988 single audit and also to develop an overall position on training contracts, we performed a financial related audit. In the scope section, we identified the State's significant internal control structure, policies and procedures. We also explained the work performed in obtaining an understanding of the system. Based on our understanding, we assessed control risk at the maximum level and decided to perform substantive testing. As a result of our review of internal controls and the information obtained during our substantive testing, we have identified deficiencies in the State's controls. We believe these deficiencies meet the criteria of a reportable condition.

A reportable condition is a significant deficiency in the design or operation of the internal control structure which could adversely affect the organization's ability to record, process, summarize and report financial data consistent with the assertions of management.

Our substantive testing disclosed that NYSDSS has not modified its system of allocating training contract costs from the estimated to the actual number of attendees even though this condition was addressed by the DAB in 1984

and reported as a finding each year in the single audit report since 1988. Without an actual basis, we could not determine whether the approximately \$23.6 million claimed during FY 1988 was properly allocated to the benefiting programs. In addition, NYSDSS has not maintained required documentation needed to support its allocation of approximately \$3.6 million of OHRD administration costs for FY 1988. Based upon our review, we believe reportable weaknesses exist in the State's system for identifying and claiming FFP for training costs.

Control Environment

Appendix A of the Statement on Auditing Standards Number 55 indicates that the auditor, in evaluating the control environment, should review the methods of assigning authority and responsibility. As part of this study, the auditor should consider ". . . entity policy regarding such matters as acceptable business practices" The guidance goes on to state that management control methods include consideration of "Establishing and monitoring policies for developing and modifying accounting systems and control procedures, including the development, modification, and use of any related computer programs and data files."

We determined that NYSDSS allocated training contract costs to benefiting programs based on estimated participants which is contrary to OMB Circular A-87 cost principles. As a result, we were unable to determine whether the total amount of training contract costs (approximately \$23.6 million) for FY 1988 was properly allocated to benefiting programs.

We found that this issue was addressed by the DAB in 1984 based on an appeal by NYSDSS of an audit of title XX training contract costs. In their decision No. 520 dated February 29, 1984, the DAB concluded ". . . we uphold the Agency's determination that the State must adjust its claims to reflect actual enrollment." In addition, this issue was identified and reported as a finding in the single audits for FY's 1988, 1989, and 1990. We were also advised by the Public Accountants responsible for the current single audit that this issue will again be reported as a finding.

During our review, we requested an explanation as to why NYSDSS has not modified their allocation system. We were advised by NYSDSS officials, that: 1) such a modification would result in additional administrative time and cost, and 2) based on a statistical analysis performed by NYSDSS, the difference between the two methodologies was minimal.

During our review, we attempted to allocate selective contracts based on

actual participants. Our objective was to compare our results with NYSDSS allocations. However, the documentation provided by NYSDSS was incomplete and we were unsuccessful.

Recommendation

To correct the identified control environment deficiency, we recommend that NYSDSS modify its system to allocate training contract costs based on actual participants.

NYSDSS Comments

The NYSDSS did not respond to our recommendation in their comments provided on our draft audit report.

Control Procedures

During our review, we requested documentation that supported the basis used by NYSDSS to allocate OHRD administrative costs to benefiting programs. We found that NYSDSS could not support its basis for allocating OHRD administrative costs.

According to OMB Circular A-87, a plan for the allocation of cost will be required to support the distribution of any joint costs related to the grant program. All costs included in the plan will be supported by formal accounting records which will substantiate the propriety of eventual charges.

The NYSDSS's CAP states that OHRD costs will be allocated according to a set of percentages based on the dollar value of the contracts for each Federal title. The dollar values were based on the charging instructions established for each training contract.

According to NYSDSS officials, the contract listing which supports the charging instructions was not maintained. In addition, the listing was generated from a contract data file that is perpetually changing. Consequently, NYSDSS could not reconstruct the listing.

Without supporting documentation, we were unable to determine whether approximately \$3.6 million of OHRD administrative costs were properly allocated to benefiting programs.

Recommendation

We recommend that NYSDSS maintain supporting documentation for the allocation of OHRD administrative costs.

NYSDSS Comments

The NYSDSS did not respond to our recommendation in their comments provided on our draft audit report.

A P P E N D I C E S

A SUMMARY OF RECOMMENDED ADJUSTMENTS
BY PROGRAM
FOR THE PERIOD
APRIL 1, 1987 - MARCH 31, 1988

ACC. CODE	PROGRAM	TITLE	ACTUAL VS. ESTIMATE	FEDERAL NON - PARTICIPATING	THIRD PARTY IN-KIND CONTRIBUT.	FIVE PERCENT FEE	ALLOCATION OF ADMINISTRATION COSTS			TOTAL UNALLOWABLE FP
							ADMIN. COSTS FNP	ADJUSTED ALLOCATION BASIS	IMPROPER FP TRAINING CONTRACTS	
96A	ADC(EAF)	IVA	N	\$988,784	\$318,696	\$37,074	\$148,349	\$48,968	\$202,760	\$1,744,631
96C	CHILD SUPPORT	IVD	N	N	\$59,978	\$13,049	N	\$35,097	\$35,300	\$143,424
96C	CHILD SUPPORT	IVD	N	N	\$17,841	\$3,571	N	\$0	\$0	\$21,412
96D/P	FOSTER/ADOPT.	IVE	N	\$2,555,890	\$503,103	\$139,894	\$361,336	\$111,913	\$206,171	\$3,878,307
96E/H	MA-FAMILY/MMIS	XIX	N	\$64,788	(\$1,236)	\$893	\$6,504	\$136,837	\$45,135	\$252,921
96F	MA-SKILLED	XIX	N	\$36,976	\$18	\$34,375	\$18,067	(\$21,318)	\$154,447	\$222,565
96I	MA-OTHER	XIX	N	\$613,992	\$226,785	\$39,726	\$33,185	(\$330,035)	\$58,244	\$641,897
96J	GEN. SERVICES	IX	N	N	N	\$59,212	N	\$84,608	\$96,031	\$239,851
96L	FOOD STAMPS	VII	N	N	N	\$11,869	N	(\$23,297)	\$113,727	\$102,299
96Q	F/S - ADP	VII	N	N	N	\$64	N	(\$152)	\$33,794	\$33,706
143	DISABILITY	XVI	N	N	N	\$12,052	N	\$8,028	\$6,726	\$26,806
	STATE	FNP	N	N	N	N	\$0	(\$50,649)	\$40,975	(\$9,674)
TOTAL			N	\$4,260,430	\$1,125,185	\$351,779	\$567,441	\$0	\$993,310	\$7,298,145

N = Did not review

() = Upward Adjustment

A SUMMARY OF THE FEDERAL SHARE AMOUNTS
QUESTIONED BY FEDERAL PROGRAMS
- FOR THE PERIOD
APRIL 1, 1987 - MARCH 31, 1988

ACC. CODE	PROGRAM	TITLE	ACTUAL VS. ESTIMATE	FEDERAL NON - PARTICIPATING	THIRD PARTY IN-KIND CONTRIBUT.	ALLOCATION OF ADMINISTRATION COSTS				TOTAL UNALLOWABLE FFP
						FIVE PERCENT FEE	ADMIN. COSTS FNP	ADJUSTED ALLOCATION BASIS	IMPROPER FFP TRAINING CONTRACTS	
96A	ADC(EAF)	IVA	N	\$494,393	\$159,348	\$18,537	\$74,175	\$24,484	\$101,380	\$872,317
96C	CHILD SUPPORT	IVD	N	N	\$41,985	\$9,134	N	\$24,568	\$24,710	\$100,397
96C	CHILD SUPPORT	IVD	N	N	\$12,132	\$2,428	N	\$0	\$0	\$14,560
96D/P	FOSTER/ADOPT.	IVE	N	\$1,916,918	\$377,327	\$104,920	\$271,002	\$83,935	\$153,446	\$2,907,548
96E/H	MA-FAMILY/MNIS	XIX	N	\$58,300	(\$1,113)	\$804	\$5,853	\$123,153	\$40,622	\$227,619
96F	MA-SKILLED	XIX	N	\$27,731	\$13	\$25,781	\$13,550	(\$15,989)	\$115,835	\$166,921
96I	MA-OTHER	XIX	N	\$306,995	\$113,393	\$19,863	\$16,593	(\$165,017)	\$29,122	\$320,949
96J	GEN. SERVICES	XX	N	N	N	\$0	N	\$0	\$0	\$0
96L	FOOD STAMPS	VII	N	N	N	\$5,934	N	(\$11,648)	\$56,864	\$51,150
96Q	F/S - ADP	VII	N	N	N	\$48	N	(\$114)	\$25,346	\$25,280
143	DISABILITY	XVI	N	N	N	\$12,052	N	\$8,028	\$6,726	\$26,806
	STATE	FNP	N	N	N	N	\$0	\$0	\$0	\$0
TOTAL			N	\$2,804,337	\$703,085	\$199,501	\$381,173	\$71,400	\$554,051	\$4,713,547

N = Did not review

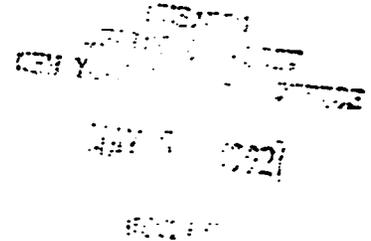
() = Upward Adjustment

MARY JO BANE
Commissioner



NELSON M. WEINSTOCK
Deputy Commissioner
for Administration

April 30, 1992



Mr. John Tournour
Regional Inspector General for
Audit Services
Department of Health and Human Services
Office of Inspector General
Office of Audit Services
Region II
Jacob K. Javits Federal Building
26 Federal Plaza
New York, NY 10278

Re: HHS/OIG Review of Training
Contract Costs NYSDSS for the
Period April 1, 1987 to March
31, 1988 (A-02-91-02002) 92-
013

Dear Mr. Tournour:

This is our response to the subject report's recommendations concerning the claiming of Federal Financial Participation (FFP) for training and administrative costs:

Use of Estimated Data to Allocate Training Contract Costs

Recommendation: Allocate future training contracts to programs based on the actual number of participants and maintain documentation which will clearly detail that the programs charged actually benefited from the training provided.

Response: This recommendation contains no fiscal implications and no refund to the federal government is suggested. We believe that our existing approved method of allocating training costs is both appropriate and accurate. Conversion to a system based on the various programs will, in our view, result only in additional administrative costs.

A cost allocation methodology substitutes for direct charging by reasonably replicating what would have been distributed on a direct charge basis, thus avoiding the necessity for detailed administrative effort for cost finding, accounting and claiming. Any time an allocation basis is used as a substitute for direct charging, there are often several different ways in which costs can be allocated. Consideration is given to the advantages and disadvantages of each approach and the approach that is most equitable is selected.

In developing our Cost Allocation Plan (CAP) for training, we thoroughly examined a number of considerations and alternatives before selecting the methodology that is now part of the Department's approved plan. The present method which uses estimated attendance, is based on the plan approved by the Federal Division of Cost Allocation in June 1989 effective retroactively to October 1982. As such, it covers the audit period. This method provides stability in the financial arrangements made at the time of contract negotiations consistent with our need to allocate our limited resources to meet required training commitments. To base the allocation on actual attendance would force the Department to constantly adjust those financing arrangements so as to assure that there would be sufficient funds available to fulfill the planned training commitments. This would overemphasize financial considerations at the expense of program needs and, thus, not serve the best interests of the Federal training requirements.

It should be noted that the auditors relied on Departmental Appeals Board (DAB) decision #520 as support for their position of using actual vs. estimated attendance. However, we believe that the circumstances involved in this audit are distinguishable from those involved in the DAB decision which makes that decision inapplicable here.

Federal Non-participating Programs

Recommendation: Refund \$2,804,337 to the Federal government.

Recommendation: Maintain documentation which clearly details which programs benefit from future training and, where applicable, allocate training costs to all benefiting programs.

Response: In recommending that we refund \$2,804,337 for failing to establish a Federal Non Participating (FNP) factor for the cost of training contracts submitted for Federal reimbursement, the auditors are imposing requirements that go beyond existing Federal statutes, regulations and the Department's approved CAP. In taking that position, the auditors did not properly consider the intent behind the training program or the State's prerogative in deciding how it would administer its General Assistance Programs. Further, the auditors did not recognize that the State would be subjected to unequal treatment compared to other States with no General Assistance Programs.

Federal regulations at 45 CFR Part 235 are very specific about who may be trained, when FFP is available and the amount of FFP available. There is nothing in these regulations that requires the establishment of an FNP factor, nor is there any statutory authority for the Federal government to do so.

The CAP was reviewed and approved by the Federal operating divisions (including those responsible for administering Titles XIX, IV-A, IV-D and IV-E) in 1989 retroactive to 1982. The CAP reflects the Department's decision to limit formal training to only Federal programs. We believe that the Office of Human Development Services' (OHDS) (now the Administration for Children and Families) policy

announcement ACYF-PA-87-05 goes far beyond the import of the regulation at 45 CFR Part 235 and OMB Circular A-87, by stating outright that a portion of training administrative costs must be allocated to state foster care programs. Note also that both 45 CFR 235.60 and A-87 recognize that Federal regulations are limited in their authority and can apply only to Federal programs. Thus, OHDS has no authority to direct what costs a "State only" program must pay; consequently there is a serious question as to the legitimacy of ACYF-PA-87-05. Furthermore, this release controverts OHDS's June 14, 1984 letter (attached) that supports charging training costs to the Title IV-E program. It should be noted that ACYF-PA-87-05 was released on October 22, 1987, which was more than half way through the State fiscal year presently under audit, without public notice and an opportunity for comment.

Third Party In-Kind Contributions

Recommendation: Refund \$703,085 to the Federal government.

Recommendation: Discontinue using third party contributions provided by private contractors to meet its share of training costs.

Response: The auditors have misapplied Federal regulations at 45 CFR 235.66 (b), 42 CFR 433.45 (b) and program directive PIQ-84-6 in determining that the Department was in error for using third party in-kind contributions from private contractors as its share of training costs claimed under Titles IV-A, IV-D, IV-E and XIX. The regulations and guideline cited pertain to funds donated or transferred to the Department. However, the third party in-kind contributions in question actually represent expenditures made by the contractors on behalf of the training contract, and, as such, are governed by OMB Circular A-102, Attachment F. In-kind contributions are defined in Attachment F under Matching Share Section 2.d as representing "...the value of non-cash contributions provided by the grantor and non-Federal parties." The value of the services provided by the contractors in the execution of our training contracts, however, never become State funds through the donation or transfer process. Furthermore, Section 3.a.3, of Attachment F makes no distinction between public and private organizations and individuals as the auditors attempt to do in the report. Thus, the auditors failed to recognize that the contributions made were "in-kind" and not cash donations.

As for the auditors' reliance on PIQ-84-6, that program directive is inconsistent with Federal OMB Circular A-102 guidelines and is therefore inappropriate.

Furthermore, the implication of the auditors' position that would allow the Department to claim only public contractors' in-kind contributions results in a significant disadvantage to prospective private training providers that submit responses to requests for proposals. Our contractual training program is designed to provide the training services needed to support the Federal programs administered by the Department in the most efficient and cost effective manner possible. We seek to encourage the broadest possible competition in the procurement

of contractors for our training program in order to keep costs low and to provide a broad opportunity for smaller organizations, especially minority groups, to participate as providers. The Department has made an explicit choice to expand its bidders list for training contracts to the widest possible field for that reason. The effect has been to diversify our training vendors and to lower the cost of training substantially at a considerable savings of both Federal and State dollars.

In every instance, we seek the lowest responsible bidder to do the work. If the policy proposed by the auditors were to prevail, we would be unable, because of insufficient State funds, to select any private training vendors. We would be forced to negotiate with public organizations only, at significantly higher prices for doing the work, than for private vendors we would have selected through competitive bidding. This policy might drive those private vendors out of business. Attachment O of Circular A-102 places responsibility on DSS to engage in procurement activity consistent with State policy. This attachment, under 1.b., states "No additional procurement requirements or subordinate regulations shall be imposed on grantees for executive agencies..." To force DSS to distinguish between public and private organizations in its bidding process would violate this provision.

Five Percent Fee

Recommendation: Refund \$199,501 to the Federal government.

Recommendation: Apply the five percent administrative fee as an applicable credit to total OHRD administrative costs prior to claiming for FFP.

Response: The auditors have relied on Circular A-87, Attachment A, Section C.3a. (applicable credits) as the basis for this finding. This section refers to such credits as purchase discounts, rebates or allowances, recoveries of indemnities on losses, sale of publications, equipment, and scrap, income from personal or incidental services, and adjustments for overpayments or erroneous charges. The five percent administrative fee is not a credit; it is a fee and, as such, is program income as defined in OMB Circular A-102, Attachment E. Federal regulations at 45 CFR 74.177 state: "When costs are treated as indirect costs (or are allocated pursuant to a government-wide cost allocation plan), acceptance of the costs as part of the indirect cost rate or cost allocation plan shall constitute approval." The training CAP was, in fact, approved by the Federal Division of Cost Allocation, effective October 1, 1982, and the CAP clearly explained that the Department was using the fee (levy) to meet the non-Federal share of the Training Management and Evaluation Fund expenditures. Accordingly, we find the auditors' recommendations regarding the five percent fee to be inappropriate.

Allocation of Administrative Costs

Recommendation: Refund \$487,571 to the Federal government.

Recommendation: Maintain supporting documentation for the allocation of OHRD administrative costs.

Recommendation: Allocate OHRD administrative costs to all benefiting programs.

Response: According to the auditors, the Department's 1987-88 allocation base for training/administrative costs did not include State appropriated funds. Based on their review of Department records, they concluded that \$1,300,061 should have been included in the allocation base. In discussions held subsequent to the exit conference, it was agreed that some of the \$1,300,061 represented funding for State match of Federal programs and that those amounts were already included in the base figures for Federal program training. The auditors agreed to adjust the final report to reflect this situation.

Nevertheless, we still disagree with the allocation methodology used by the auditors to recalculate administrative costs. Their base consists of actual contract costs for 1987-88, broken down by program area on a percentage basis. The Department's approved cost allocation base uses the total contract dollar value for any contracts that are to be worked on within a Federal fiscal year, broken down by program area on a percentage basis. The auditors are attempting to impose their own allocation basis for which they have no legal authority. Nevertheless, when a comparison was made between the percentage distribution based on the approved CAP and the methodology devised by the auditors, it became clear that there were no substantial differences. What the auditors did actually demonstrated that our approved CAP was equitable.

Improper FFP Training Costs

Recommendation: Refund \$554,051 to the Federal government.

Recommendation: Establish procedures to ensure that training contract costs are coded with the proper accumulator code.

Response: We generally agree with the auditors' finding and will make the necessary adjustment.

We trust that our comments adequately respond to the report's recommendations and that your final report will be amended accordingly.

Sincerely,



Nelson M. Weinstock
Deputy Commissioner
for Administration

Attachment



DEPARTMENT OF HEALTH & HUMAN SERVICES

Memorandum

Date May 27, 1992

From Director, Division of Cost Allocation

To John Tournour
Regional Inspector General for Audit ServicesSubject Report on Review of Training Costs, New York State
Department of Social Services - A-02-91-02002

In accordance with your memorandum dated May 20, 1992 we reviewed the subject report covering training costs for the period April 1, 1987 to March 31, 1988.

The only comment we have to offer concerns the second paragraph on page i. The draft report circulated on March 10, 1992 noted that the State did not maintain adequate documentation to support the basis of cost allocation. The proposed final report was revised to question the propriety of the training costs not already subject to recommended Federal adjustment. It is our understanding that there is no audit issue that the training costs were incurred or allocable to Federal Programs. The only issue, after adjusting for the recommended disallowances, is the support for cost allocation. Therefor it is recommended that the initial wording of the draft report be used.


James L. Keene

MAY 27 1992

MAY 27 1992

F32481