Nassau County
Office of the Comptroller

Limited Review of Family and Children's Association

George Maragos
Comptroller

December 5, 2012

NASSAU COUNTY
OFFICE OF THE COMPTROLLER

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Introduction

Family and Children's Association, Inc. ("FCA") is a New York State charitable not-for-profit organization established in 1998, merging Family Services Association of Nassau County, Inc. with Children's House. FCA provides a broad range of programs and services to families who are experiencing difficulties.

FCA is one of the largest social services agencies contracting with Nassau County ("County") with approximately 50 different contracts totaling $10,835,147 in 2010.

Purpose

The audit objectives were to examine select County contracts to ensure that the County was properly charged for services rendered for contracts with various County departments. Auditors reviewed contract deliverables to determine whether all deliverables were provided.

Key Findings

Numerous internal control weaknesses were found in connection with FCA's purchasing practices, which include the excessive use of credit cards. Twenty-three FCA employees have credit cards, some without a spending limit. Monthly balances by a single employee were as large as $46,895.

FCA charged Nassau County $148,837 (over 2 years) for employee salaries for hours when they sent their employees home early due to inclement weather or Agency closings. County employees must use their own leave time when weather precludes them from coming to work or necessitates their leaving early. FCA management made decisions to close their agency and then charged Nassau County for this time.

A review of FCA timesheets revealed many irregularities. First, not all sign-in and sign-out sheets were available even though the County contract requires financial documents be maintained for 6 years and remain available for audit. The timesheet review also revealed that some employees had used leave time, yet it was not reflected on the payroll roster, nor did it appear to be deducted from their leave balances. The FCA Employee Handbook states that employees can only carry over 10 vacation days into the next calendar year, yet we found numerous instances where employees carried more days. The FCA also charged $50,958 to the County Youth Board Program for one employee's Vacation and Sick Leave Payout when they dropped from a full time FCA employee to a part time FCA employee at the Youth Board. They charged another payout to the County that was also contrary to the FCA policy for $2,927.

A review of mileage and cell phones payments found inconsistent application of FCA directives. A verification of distances by MapQuest found numerous instances of employee overbilling, employees claiming different mileage when traveling to the same place and failing to deduct their normal commuting mileage.

FCA paid for the hotel and meals for the Chief Operating Officer of FCA to attend police training in Anaheim, California. Charges were made on a credit card. This purchase lacked supporting documentation and the meals charged were not in conformance with FCA policy. The related expenses were not claimed on an expense report stating the reason for attending the conference and signed off by the employees' supervisor, so we cannot determine if there was Board approval for out of state travel.

Key Recommendations:

The auditors identified $202,722 of questioned costs, (deemed by the auditors as not complying with the terms of the County contract) that the County Attorney should review for possible recoupment from FCA.

FCA should:

- establish proper segregation of duties with regard to purchasing and reevaluate the extensive use of credit cards;
- not charge Nassau County Departments for hours not worked by FCA employees due to FCA snow closings or early release;
- consistently adhere to the agency's handbook on vacation carry over;
- assure that all leave taken is properly charged against the employees' leave balances;
- require supervisory review of all mileage claim forms for accuracy and completeness, including full street addresses and require that employees deduct their normal commuting mileage as required by IRS regulations;
- institute the use of an employee expense report and ensure that the business purpose for all travel is documented and the proper approval is obtained before the travel/ conferences;
- follow its published policies with regard to compensation for unused vacation time when an employee terminates employment; and
- adhere to New York State Labor Law and Generally Accepted Accounting Principles (GAAP) as required by County contracts with regard to adequate timekeeping procedures.

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Background

Family and Children's Association, Inc. ("FCA") is a New York State charitable not-for-profit organization established in 1998, following the merger of Family Services Association of Nassau County, Inc. with Children's House. Its affiliate, Community Advocates Housing Development Fund Company, Inc., operates a housing project in Roslyn Heights for low-income families.

FCA provides a broad range of programs and services designed to support families who are experiencing difficulties. They provide assistance through professional counseling and participation in community activities directed toward family well-being. The organization works with other service providers and organizations to improve the well-being of its target population and to enhance the delivery and accessibility of programs through the greater Long Island region. Such programs include Mental Health Counseling, Family Support, Drug and Alcohol, Runaway and Homeless Youth Services, and Crisis Intervention and Advocacy. The organization also provides Services to the aged, as well as Independent Living Services and Group Homes.

FCA derives its revenue from contracts and fees for service from federal, state, Nassau and Suffolk County governments, contributions and grants from individuals and organizations including Long Island's United Way, fundraising drives and rental income.

According to FCA's financial statements,[1] they derived the following revenue from contracts and fees from government agencies in 2009 and 2010:

2010 - $17,529,557

2009 - $17,802,569

FCA is one of the largest social services agencies contracting with Nassau County. The County made payments of $10,835,147 to FCA in 2010.

We examined five FCA contracts with four different Nassau County agencies for the 2009-2010 audit periods. The five contracts were:

1. PINS ("Persons in Need of Supervision") Diversion Program with the Department of Social Services ("DSS") (Contract Number CQSS08000004) is a program to serve the families of children up to the age of 18 that display ungovernable behavior. Parents of such children seeking intervention from the Nassau County Family Court are first diverted to DSS and then referred to FCA. The dollar amount for this contract was $1,839,367 in 2009 as well as in 2010. The County provided 25% of the funding with 50% coming from the federal government and 25% from state sources.
2. Preventive Services with DSS (Contract Number CQSS09000032) provides case-planning services aimed at preventing foster care or assisting in the early discharge from foster care. The contract amounts for this contract were $1,156,317 in each of the years 2009 and 2010. The County provided 22% of the funding with 43% from federal sources and 35% from state sources.

[1] Combined Statements of Activities and Change in Net Assets, p.3 of financial statements for years ended 12/31/10 and 12/31/09.

3. Substance Abuse/Treatment with the Department of Behavioral Health (Contract Number CQBH09000009) is a chemical dependency outpatient program that provides outpatient services to a mainly adolescent population and families who are experiencing difficulties in life due to their own or another indiviual's abuse. The dollar amount for this contract was $2,172,508 in 2010. The County provided 52% of the funding with 48% from state sources.
4. Youth and Community Development (Contract Number CQYB10000034) helps the Youth Board meet its mission to strengthen families, create healthy alternatives for young people, develop communities, and support programs. The dollar amount for this contract was $912,072 for 2010. The County provided 100% of the funding.
5. Case Management with the Department of Senior Citizens (Contract Number CQSC10000045) provides case management, housekeeping and ancillary services to the frail elderly. The dollar amount for this contract was $846,126 per year for April 2010 to 2013. The County provided 25% of the funding with 75% from state sources for a total of $676,901, which was encumbered through the end of 2010.

Review Scope, Objectives and Methodology

The audit objectives were to examine select County contracts to ensure that the County was properly charged for services rendered for contracts with various County departments. Auditors reviewed contract deliverables to determine whether all deliverables were timely provided. We examined purchasing policies and practices for internal controls. We reviewed disbursements for supporting documentation. We examined salaries and benefits charged to the County contracts for compliance with contract provisions.

The audit period was the years 2009 and 2010.

An audit includes examining documents and other available evidence that would substantiate the accuracy of the information tested, including all relevant records and contracts. It includes testing for compliance with applicable laws and regulations, and any other auditing procedures necessary to complete the examination. We believe that the audit provided a reasonable basis for the audit findings and recommendations.

Audit Finding (1):

FCA Lacks Internal Controls over Purchasing including Excessive Use of Credit Cards

There are numerous internal control weaknesses with FCA purchasing practices, including the excessive use of credit cards. There is a lack of segregation of duties between requisitioning and receiving. Employees can place orders with vendors, deal directly with vendors regarding discrepancies with orders, and receive orders directly from vendors without any independent verification of the agency's need for the order, its receipt of the order or FCA's subsequent use of the purchased items.

Conditions exist at FCA whereby employees could make unauthorized personal or fraudulent purchases due to the lack of segregation of duties and the heavy use of credit cards for agency purchases. Strong internal controls over the use of credit cards are needed to prevent unauthorized, personal purchases.

Our review found that twenty-three FCA employees have credit cards used to make purchases. The credit limits range from three cards with a $500 limit to six cards with no limit. The Chief Financial Officer and a program director were each provided with an American Express card with unlimited credit and a Capital One credit card.

During the review, we noted:

- Credit card purchases are approved by the card holder;
- There were charges without adequate descriptions;
- There was no evidence of three quotes being obtained, a violation of FCA policy;
- Charges for insurance did not describe the type of coverage being purchased;
- Many items appeared to be of a personal nature;
- Payments for meals lacked explanations of the business purpose of the meals and/or the names of guests; and
- Employees making the purchases review their own credit card statements.

Total credit card purchases made by FCA employees amounted to $162,016 in 2009 and $137,747 in 2010, with individual charges as high as $46,895 in one month noted.

Questionable purchases made on credit cards included:

- Gift cards;
- IPods and cameras;
- Food;
- Donations to Hofstra University Development in support of suburban diversity (2 donations of $250); and
- Recreational activities, such as bowling.

According to the Federal Office of Management and Budgets Circular A-122[2], contributions, gifts and donations are an unallowable use of governmental funds. Circular A-122 also requires proper documentation for all expenditures.

- The agency stated that gift cards were for clients; however, the clients were not always identified. There was no documentation that the intended recipients received the gift cards and/or IPods. There was no explanation for food purchases and none of the purchases appeared to be of an emergency nature.

There were other items charged to FCA's credit cards that failed to go through the purchasing requisition process:

- Charges of $46,539, which included payments to Philadelphia Insurance Companies, Safeguard Self Storage and Target;
- Charges of $40,515 which included payments to Philadelphia Insurance; and
- Charges of $24,251, which included payments to Philadelphia Insurance and Metro Card.

Although American Express rewards points were being earned based upon these FCA purchases, we were unable to ascertain whether these points were being used for FCA items or rewards or for personal use by the individual holding the card.

The use of credit cards does not provide the proper audit trail as required by Generally Accepted Accounting Principles; therefore, the agency is not in compliance with County contract terms.

<u>Audit Recommendations:</u>

a) The requisitioning, approval, receiving, and payment functions related to purchasing should be documented and segregated. This will help ensure that purchases are approved, purchased at the lowest price, and received before payment is made. There needs to be independent verification that purchases made with credit cards are received by the program being charged; and

b) The Board of Directors should establish proper internal controls over the distribution of credit cards. These should include what type of purchase can be made, what documentation is needed and a review and approval process.

<u>Audit Finding (2):</u>

<u>FCA Charged the County for Hours Not Worked by Its Employees</u>

FCA allocates charges to the County for salaries based upon hours worked on the County contract programs. The FCA employee manual states that if an employee is concerned about the weather

[2] OMB Circular A-122, No.12a, p.30.

forecast or conditions and decides not to come to work or to leave early, they can do so but are required to use personal or vacation leave. This is consistent with Nassau County policy where employees must use their own leave time during inclement weather.

The auditors questioned FCA about this and in an email from the Controller of FCA dated July 22, 2011, the Controller stated that early release time is considered agency time and is not charged to the County.

However, a review of vouchers determined that FCA charged personnel costs to County contracts for hours in which employees were permitted to leave early and for days in which the agency offices were closed due to inclement weather. The County was charged for these hours and the County reimbursed the agency for these salaries.

The County remained open on all inclement weather days. Any County employees leaving early or not coming to work charged hours to their own leave time. FCA decisions to close or permit employees to leave early were made solely by FCA's management. Therefore, the County should not be responsible for this cost. Total payments to FCA for hours not worked by FCA employees due to early release amounted to $89,413 in 2010 and $59,423 in 2009 for all the agency's contracts with Nassau County.

Audit Recommendations:

FCA should not charge Nassau County departments for hours not actually worked by FCA employees due to FCA snow closings or early releases. Questioned costs[3] of $148,837 should be reviewed by the County Attorney.

Audit Finding (3):

FCA Violated Its Time and Leave Policies Regarding Vacation Carryovers

According to FCA's Employee Handbook, an employee can carry over 10 vacation days into the next calendar year. Their supervisor and director must approve any days in excess of these amounts. Carried over vacation days in excess of 10 days must be used by June 30 or they will be forfeited. Ten vacation days are the maximum number of carried over days that will be paid when an employee resigns, is laid off, or released. In addition, personal leave cannot be carried over to the next year.[4]

We examined the 2009 timesheets of five selected employees for the PINS Diversion Program and the 2010 timesheets of six selected employees for the Preventive Services contract. We noted the following examples of violations of FCA's published policies:

[3] Questioned costs for the purposes of this report are defined as costs deemed by the auditors not to comply with the terms of the contract, and subject to review by the County Attorney's Office for possible reimbursement to the County.
[4] Employee Handbook, p.24.

- One employee working in the PINS Diversion Program was allowed to carry over approximately 41 vacation days and another was allowed to carry over approximately 34 vacation days;
- Four of the six employees working in the Preventive Services Program carried over between 13½ and 30 vacation days; and
- One employee in the PINS Diversion Program used a personal day improperly carried over from the prior year.

Audit Recommendation:

FCA should consistently adhere to the agency's handbook on vacation carry over.

Audit Finding (4):

Leave Used was not reported on the Payroll Rosters

We reviewed eight time sheets for five employees who worked under the 2009 PINS Diversion Program contract and determined that a total of 52.8 hours for vacation, personal, paid time off and holiday/agency days were not reflected on the agency's payroll roster. The breakdown is as follows:

- The Directors' time sheets did not match what was reported on the payroll rosters. We reviewed eight bi-weekly payrolls, with their corresponding timesheets. We observed that 50% or four of the bi-weekly payroll rosters did not reflect vacation days, personal days and a holiday taken. This amounts to nine personal hours, 14 agency/holiday hours and 25.8 vacation hours. We estimated the amount of vacation hours not posted to the payroll rosters for 2009 amounted to 84.23 hours. In addition to the above, there was one week in which the Director was paid an hour more in regular time than what was reflected to have been earned on the timesheet; and
- For one support staff employee it was determined that one payroll roster did not accurately reflect four hours of paid time taken off that was entered on the employees timesheet.

It does not appear that these employees using leave time had the time charged to their leave balances. It should also be noted that the payroll roster is being prepared without regard to the actual timesheets kept by the employees. The Fair Labor Standards Act requires that employers document hours worked each day and total hours worked each workweek[5] to support the payroll.

We examined timesheets pertaining to 34 FCA employees working in the Behavioral Health, Senior Citizens, and Youth Board Departments[6] and found:

- Seven FCA employees working in the Youth Board Department worked less than the 70 hours they were paid due to vacation, sick, or other leave time taken;

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[5] 2010 Code of Federal Regulations, Title 29, Section 516.6 (a) (1).
[6] Timesheets examined were for the period November 26, 2010 to December 30, 2010.

- Sixteen FCA employees working in the Senior Citizens Department worked less than the 70 hours they were paid due to leave time taken; and
- Five FCA employees working in the Behavioral Health Department worked less than the 70 hours they were paid due to leave taken.

The leave hours used were not accounted for in the labor distribution report submitted to the County for reimbursement, and may not have been deducted from the employees leave balances. According to the departments, these timesheets are not submitted to FCA. As a result, FCA does not account for leave time taken by FCA employees working in these departments. This is not in compliance with the agency's policy.

Audit Recommendation:

FCA management should assure that all leave taken is properly charged against the employees' leave balances.

Audit Finding (5):

Audit Testing Found Poor Timekeeping Controls

The Nassau County Contract terms require that all accounting records be maintained for a period of six years following termination or final payment, whichever is later.[7] In addition, the Fair Labor Standards Act of 1938 requires employers to keep records of the time and day of week when an employee's workweek begins, hours worked each day, and total hours worked each workweek. Proper internal controls require that these time records be reviewed, approved, and signed by supervisors to verify the accuracy of the records.

We interviewed employees regarding their timekeeping processes and also reviewed employees' time sheets for the PINS Diversion contract in 2009 and the Preventive Service contract in 2010. We found that FCA had the following weak timekeeping practices:

- There was no central timekeeping mechanism for some departments. Timesheets were in the sole possession of employees who were responsible for entering their time. The timesheets were not reviewed by supervisors until the end of the bi-weekly time period. In addition, there was no compensating control in the form of a central timekeeping mechanism to ensure the accuracy of the times entered by the employees. We observed that the employees who worked under the 2009 PINS Diversion Program Contract had irregular sign in and sign out times reported on the timesheets for hours worked. For example, we noted one employee with sign in times on Saturday and Sunday, which was not supported. When we asked for sign in and sign out sheets for this employee, we were told that the sign in and sign out sheets for this contract for the year 2009 could not be

[7] Contract CQBH09000009, Section 12. This is representative of language contained in all Nassau County contracts.

located. This is a direct violation of the contract terms that require that all accounting records be maintained for six years;

- Employees who leave from home and go directly to a client were not required to call in to supervisors upon arrival or upon leaving at the end of the day. The risk exists that employees will be paid for hours not worked; and
- Employees were paid for straight hours and were allowed to work without giving an account for lunch or break time. New York State Labor Law Section162 requires that whenever an individual works six hours or more that extend through the noonday meal period (from eleven o'clock a.m. to two o'clock p.m.) they must be given 30 minutes off for lunch. Furthermore, FCA's policy states "All employees working more than six hours on any given work day must take an unpaid meal break of at least 30 minutes". Timesheets showed that some employees did not take a lunch or break, which is a violation of labor laws.

Audit Recommendations:

a) FCA should ensure that all timekeeping documentation is kept for audit purposes as required by federal and state law;[8]

b) FCA should require that employees call in to supervisors as a compensating control to verify the accuracy of timesheets submitted by employees;

c) All timesheets completed by FCA employees working in County departments should be forwarded to FCA. This is necessary to ensure that all leave time is properly approved, monitored, and that time taken is deducted from the payroll register. Also, FCA must document employees' time-off for lunch to ensure compliance with labor laws; and

d) FCA should ensure that all timekeeping practices are in accordance with the County contract that requires adherence to GAAP and all applicable laws (New York Labor Law and Fair Labor Standards Act requiring employers document hours worked each day and total hours worked each workweek).

Audit Finding (6):

Employee Mileage Claims were not Properly Documented

FCA employees use their personal vehicles for various purposes. These include visits to their clients' homes or schools, travel to the Nassau County Family Court in Westbury, attendance at DSS meetings in Uniondale and to attend outside conferences. In order to be compensated for mileage driven, employees must prepare their own mileage claim sheets, have them signed by a

[8] The Fair Labor Standards Act of 1938, 29 CFR 516; New York Labor Law §195: "Notice and Record-Keeping Requirements"

supervisor and submit them to the fiscal office at the FCA main offices in Mineola. FCA compensates employees at the IRS Standard Mileage rate, which was $0.55 per mile in 2009 and $0.50 per mile in 2010. Mileage claims for its subcontractor, Long Beach Reach, were paid at $0.485 per mile. There is no Board approved travel policy or policy instructing employees on how to submit mileage claims.

All employees use a standard mileage claim form. This form requires the employees to list the date of the trip, starting point, ending destination, mileage driven, purpose of travel, and if the claim was for a round-trip.

We examined 2,316 mileage claims submitted by 56 employees over a three-month period. The employees were reimbursed $12,079 for 23,856 miles claimed. We found FCA had poor mileage claim procedures, claims were not properly documented, and excess mileage was claimed. Our audit determined that:

- The Mileage claims did not include full street addresses;
- Our calculation of mileage claims using MapQuest found that the mileage submitted for 390 trips exceeded our calculations. We estimated the overbilling to amount to $1,067;
- Some employees claimed different mileage for traveling to the same locations;
- Some employees failed to deduct their normal commuting mileage, in violation of IRS regulations[9] and County policy; and
- A claim submitted by a Program Director for a trip to Albany in November 2009 to attend training, in which $695 was charged for a hotel, and $225 was claimed for mileage, was not properly supported with documentation.

<u>Audit Recommendations:</u>

The Board should:

a) Promulgate a travel policy that all employees must follow in order to be reimbursed for travel expenses;

b) Select an electronic mapping service to be used to calculate the mileage claimed;

c) Require supervisory review of all mileage claim forms for accuracy and completeness, including full street addresses;

d) Require that employees deduct their normal commuting mileage as required by IRS regulations; and

e) Ensure that approval and the business purpose for all travel is documented, including registration documentation for conferences.

[9] Internal Revenue Service Publication 17, Chapter 26: Car Expenses and Other Employee Business Expenses, p 178.

Audit Finding (7):

FCA is not in Compliance with its Cell Phone Directive

We requested the FCA's board approved cell phone policy and were provided with a management directive on cell phones. The directive states FCA will reimburse its employees for business use of their personal cell phones depending on their agency wide responsibility, from $15 to $40 per month.

We found that one employee was reimbursed $80 in June 2009 (At least $12 was charged to the County on the PINS Diversion program). Another employee was reimbursed for all charges even though the limit of $30 per month was exceeded.

These are clear instances of violations of FCA's cell phone reimbursement directive.

Audit Recommendation:

The FCA Board should promulgate a cell phone policy.

Audit Finding (8):

FCA did not Provide Adequate Support for a Trip for Attendance at a Training Event

FCA paid for the hotel and meals for the Chief Operating Officer of FCA to attend police training in Anaheim, California. Charges were made on a credit card. This purchase lacked supporting documentation. Three requests for approval were made for the documentation for this trip but it was not provided to the auditors. We noted that there was a $119.50 charge for a Steakhouse and another $22.49 meal charge for one day, which exceeds the daily limit of $75 permitted as per the FCA manual. We noted this trip during the review of credit card charges.

FCA could not provide the Board of Directors approval Proper documentation requires that Board approval took place prior to the trip. The related expenses were not claimed on an expense report stating the reason for attending the conference and signed off by the employee's supervisor.

Audit Recommendation:

All travel should be Board approved before the travel occurs and adequately supported with expense reports and original receipts supporting all expenses claimed. Documentation should include the reason for attending conferences and written approval by supervisors.

Audit Finding (9):

FCA Improperly Charged $50,958 to the County Youth Board Program for One Employee's Vacation and Sick Leave Payout

According to FCA's Employee Handbook, 10 vacation days are the maximum number of "carried over" days an employee will be paid when they resign, are laid off or released. Unused days carried over in excess of this amount will not be paid". It also states that upon leaving the agency, an employee will not be paid for unused sick time.[10] Employees who quit or are discharged are not entitled to any accrued or carried over vacation time.[11]

The 2010 Community Development contract with the Youth Board paid $50,958 for 90 vacation and 100 sick days to an employee who left as of December 31, 2009. Upon further review, it was determined that the FCA employee, rather than actually leaving employment, went from a full-time employee to a part-time employee, and was awarded the pay based upon Nassau County policy. The Youth Board Director approved this payout of an FCA employee based upon a 1998 Memorandum of Understanding ("MOU") between the Nassau County Youth Board and FCA, which states, "Youth Board shall determine the policy for time and leave for Youth Board staff, therefore Youth Board will maintain the time and leave records". "Youth Board shall determine and be responsible for the amount of severance due to an employee upon termination". The MOU was not signed by any County officials outside of the Youth Board. The Youth Board failed to provide documentation of this "policy", as well as documentation supporting this employee's accrued time.

The auditors believe that a memorandum described above would only be valid if signed by the County Executive or a legally binding representative.

In addition, one employee working in the Preventive Services program was paid 17 vacation days as severance pay, which exceeded the 10 days limit published in the Employee Handbook. The employee initially took family leave and then decided not to return, or quit. Payment of vacation time after quitting also violates FCA policy. The amount of payment was $2,927 and was charged to the contract.

Audit Recommendations:

a) Any agreement between a County department and an independent contractor affecting contract terms should go through the same County approvals required of all contracts;

b) FCA should follow its published policies with regard to compensation for unused vacation time after an employee leaves; and

c) The amount of questioned costs related to this finding was $53,885. These leave payouts should be reviewed by the County Attorney for possible reimbursement to the County.

[10] Employee Handbook, p.23.
[11] Employee Handbook, p.23.

Audit Finding (10)

Administrative Overhead was Inconsistently Applied to County Contracts

Our review of overhead found that FCA has no clear methodology in place for their recoupment of the agencies administrative overhead and found:

- Rates were inconsistently applied to the five contracts examined from different County Departments (rates varied from 11.5% to 13.5% of direct expenses);
- In most cases, the individual vouchers did not contain the method of calculation of the overhead charged;
- For some contracts, an annual overhead budget was developed and then divided by 12 to obtain the amount charged each month; and
- Rates were inconsistently applied within the same contract.

Examples of the inconsistencies include:

- The Preventive Services contract was charged 13.5%, 12.5%, and 11.5% in August 2009, July 2010, and August 2010, respectively;
- The DSS PINS Diversion contract lists overhead based on an annual overhead budget of \$148,600 divided by 12, or \$12,383.33 a month. However, a review of the monthly payments show that in both March and December 2010 overhead charged was over that amount and on several vouchers overhead is calculated based on a percentage of direct expenses;
- The Behavioral Health Department, Substance Abuse/Treatment contract overhead rate changed from 13.5% from January to July 2010 to 11.5% from August to December 2010; and
- The Youth and Community Development contract was charged one twelfth of the annual overhead budget each month, rather than actual overhead expenses.

Audit Recommendation:

Administrative overhead rates should be consistently applied based upon contract terms. Each County contract should specify in clear terms, the correct method of calculating overhead for each voucher.

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Our File No.
6221-132

October 25, 2012

VIA E-MAIL (jwatson@nassaucountyny.gov)
Joy M. Watson, Esq.
Deputy Comptroller
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Re: Family & Children's Association; Audit Responses

Dear Ms. Watson:

This law firm represents the interests of Family & Children's Association ("FCA") in this matter and hereby submit FCA's responses to the audit findings. Please call me should you have any questions or comments.

Very truly yours,

Christopher J. Kutner

CJK:pk
Enclosure

cc: Joanne Greene, CPA (w/encl.) (jgreene1@nassaucountyny.gov)

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FAMILY AND CHILDREN'S ASSOCIATION

RESPONSE TO THE FINDINGS OF THE LIMITED REVIEW CONDUCTED BY THE NASSAU COUNTY OFFICE OF THE COMPTROLLER DATED OCTOBER 22, 2012

INTRODUCTION

As can be seen from our responses below, Family and Children's Association takes exception to most of the findings of the limited review conducted by the Office of the Comptroller. In most cases, the auditors either did not understand our procedures, did not take additional evidence of our procedures supplied to them into consideration and/or failed to pursue their findings far enough to realize they were inaccurate. We have attempted on multiple occasions to educate the auditors concerning this and/or to provide them with additional proof with limited success. Consequently, we have responded to their report in great detail in the section below entitled "Detailed Response to Findings and Recommendations" and in summary fashion in the section below entitled "Summary of Our Response to the Findings".

It should also be noted that the wording of the auditors' findings, particularly their one line descriptions, suggests a serious or pervasive weakness in certain of our internal controls. Nothing could be further from the truth. We consider our internal controls to be quite good. Our independent auditors, Holtz Rubenstein Reminick LLP ("HRR"), regularly review and test our internal controls as part of their annual audit and provide us with comments thereon. Such comments have consistently been of a relatively minor nature and have never included a "material weakness". In addition, two of the contracts audited by the County include Federal "pass-through" funds and are, therefore, subject to a Federal awards compliance audit under Federal guidelines. This Federal audit, also performed by HRR, reported no findings for the related programs.

Finally, our independent Audit Committee of the Board of Trustees regularly meets with HRR to discuss internal controls and ensures that management takes appropriate action in responding to any comments received. Both our Audit Committee and Executive Committee of the Board of Trustees have regular conversations with management concerning policies, procedures and internal controls. The Audit and Executive Committees and the full Board of Trustees have also reviewed our response to the Office of Comptroller's report and fully concur with this response.

Auditors' Follow-up Response:

FCA Management is responsible for developing proper Internal Controls. As a Not for Profit Corporation, FCA falls under the Guidance of the New York State Attorney General's Office Charity Bureau. Per the NYS AG, the Board of Directors and its Officers are responsible for providing oversight and accountability for "its programs and finances to its contributors, members, the public and government regulators. …The development of proper internal control helps *organizations ensure accountability.[12]" The Board has a fiduciary responsibility to the taxpayers when, a significant portion of an agency's operations are publicly funded. The auditors do not feel there are adequate internal control procedures at FCA as detailed in our findings.*

In addition, we gave the agency ample time to produce approval documents, expense reports, purchasing pre-authorizations and justifications, and other evidence of review and supervisory approval, which would constitute a proper audit trail. FCA provided some additional documents, and the auditors accepted some. However, the agency was unable to provide acceptable documentation in several key areas.

The outside audit of the agency mentioned by FCA was to present an opinion on the fairness of the organization's financial statements. The County auditors performed a contract compliance review of the terms of County contracts.

SUMMARY OF OUR RESPONSES TO THE FINDINGS

Audit Finding (1): FCA Lacks Internal Controls Over Purchases Including Excessive Use of Credit Cards

FCA strongly disagrees with this finding. Our controls over purchases, including the use of credit cards, are actually quite good. The auditors failed to obtain a complete understanding of our controls and procedures in this area despite numerous attempts to provide them with such understanding. To suggest that our controls and procedures are anything but good and operating effectively is completely irresponsible. We do acknowledge that procedures could be strengthened in a couple of purchasing areas, and steps have already been taken to do so. However, it should be noted that no unauthorized purchases were detected during the audit or during any of our independent audits.

Auditors' Follow-up Response:

We reiterate our finding that FCA's use of 23 credit cards is excessive. These cards are used not only by the cardholder but also by other employees. Credit card holders approve the invoices of their own cards.

FCA should make every effort to reduce its credit card purchases and have its purchases go through the normal requisitioning process.

[12] http://www.charitiesnys.com/pdfs/Internal%20Controls%20-%20Final%20-%20Small%20Type.pdf

Audit Finding (2): FCA Charged the County for Hours Not Worked by Its Employees

FCA disagrees with this finding because the hours "not worked" pertain to a few extremely inclement days when employees were excused early or told not to come to work for their own safety. FCA's own policies were consistently followed in this connection, and we don't believe there is anything in our contract with the County requiring us to violate this policy or absorb the cost of complying with it. In fact, failure to adhere to this policy could expose the agency, and possibly even the County, to significant liability.

Auditors' Follow-up Response:

The County was charged $148,837 for work not performed. This is contrary to the contract, which is on a reimbursement basis. The County is not responsible for reimbursing contractors for hours not worked by FCA employees due to early closings.

The FCA manual states that if employees "decide not to come to work or to leave early they will be charged personal or vacation time" and also states if the Agency officially closes, they will be paid. These cases pertain to when the President/CEO partially closed the agency and allowed these days and then charged these costs to the County.

Audit Finding (3): FCA Violated Its Time and Leave Policies Regarding Vacation Carryovers

This finding is completely inaccurate. FCA never violated its time and leave policy regarding vacation carryovers. Unfortunately, the auditors failed to understand the complete control process that exists to prevent our policies from being violated. They looked instead to records that are not even used in making final payments for time and leave instead of to those records and processes that actually are used and which ensure the accuracy of such payments.

Auditors' Follow-up Response:

FCA allowed its employees to carry-over to the next period more than the 10 days of vacation time permitted by FCA policy. See Finding (9) which evidenced the payment of over $53,885 to two employees, which is against FCA's carryover policy.

Audit Finding (4): Leave Used Was Not Reported on the Payroll Registers

This statement was technically correct until July 2010, but of no consequence. The "Payroll Registers" were not even used to pay leave, so whether or not they are accurate is irrelevant. Other "official" timekeeping records and controls were used to pay for leave instead, including a process to reconcile the official timekeeping records with the Payroll Registers. Once again, the auditors failed to understand this and failed to pursue a more thorough understanding even after being told of the inaccuracy in their report.

<u>Auditors' Follow-up Response:</u>

Payroll registers are provided to the County as support to receive payment under the contract. FCA states they have other "official records". Organizations should have one "official payroll record" and, as required by contract, make it available to the auditors. We reiterate our finding that the payroll rosters did not agree with time used as noted on timesheets. County contracts require adherence to Federal Circular A-122 "Cost principles for Non-Profit Organization". One item covered by this is Payroll. A-122 requires that salary and wages must be supported by documented approved payroll records. Timesheets must be maintained for ***all*** *personnel. Timesheets must reflect the after the fact determination of actual activity. Timesheets must indicate time worked each day, be signed by the employee, and approved by a superior. Timesheets must coincide with payroll and must be at least monthly.*

FCA contends that 34 of their employees are County employees. However, Nassau's contract with FCA warrants that "The Contractor is an independent contractor of the County. The Contractor shall not, nor shall any officer, director, employee, servant, agent or independent contractor of the Contractor be deemed a County employee". Therefore, the employees mentioned in the findings that work in the Behavioral Health, Senior Citizens, and Youth Board Departments are ***<u>not County employees</u>****, but are FCA employees and should be treated as such with respect to the accumulation and use of leave benefits. These employees are paid by FCA's payroll system, income taxes and payroll taxes are withheld by FCA, W-2's are issued by FCA, and, as such, they are not County employees.*

<u>Audit Finding (5): Audit Testing Found Poor Timekeeping Controls</u>

We strongly disagree with this finding. Various methods are used by FCA to monitor and record the time worked by its employees. Due to the varying nature of each of FCA's programs, different methods are required to accomplish this for each program. In certain programs, expanded working hours and/or visits to multiple locations present timekeeping challenges. However, FCA believes the controls it uses in these cases are adequate. In certain other cases, FCA records time worked according to an existing County contract. The auditors failed to fully understand the nuances of each program, the need to use different methods to monitor and record time worked depending upon the nature of the program and/or the requirements of applicable County contracts. FCA does acknowledge that new technology may result in better, more cost effective ways to monitor and record time worked, and it is investigating new systems to do just that.

<u>Auditors' Follow-up Response</u>:

We concur with FCA's decision to identify a better timekeeping system that will fully integrate timekeeping, payroll and track employees' locations throughout the workday. Several of FCA's current methods do not adhere to A-122 and are easily subject to manipulation.

Audit Finding (6): Employee Mileage Claims Were Not Properly Documented

On an overall basis, our controls in this area are at least adequate, so we disagree with the perception that this finding creates. There were a few isolated, immaterial instances detected in which mileage claims were not adequately documented. However, since controls for most businesses in this area involve some degree of sampling, minor errors may occur. In addition, certain of the "exceptions" the audit detected resulted from our understanding and compliance with HIPAA and/or our use of a mileage chart that was changed by the County without notice. The auditors failed to obtain an understanding of any of these facts during their audit even after subsequently being advised of their existence.

Auditors' Follow-up Response:

The mileage claims reviewed by the auditors did not include client initials, case names, or other identifiers as to the nature of the agency business. In addition, as FCA concedes, there were cases where employees did not deduct commuting mileage. We concur with FCA's attempt to educate employees that commutation mileage is not allowable, to conduct random audits of mileage claims, and to use a mapping service to calculate and document mileage. With respect to the Program Director's attendance at an out of town Conference, the documentation provided later as evidence of attending the conference did not support FCA's mileage claim. The County does not dictate the mileage reimbursement to be used but FCA should use an accurate and consistent methodology.

Audit Finding (7): FCA Is Not in Compliance with Its Cell Phone Directive

We disagree with this finding. There were a very few isolated instances (three in total) in which the dollar limit on cell phone use was exceeded. However, there were compelling reasons for this exception having to do with the 24/7 needs of certain clients served under County contracts. Our formal policy has subsequently been amended to allow for these compelling client exceptions.

Auditors' Follow-up Response:

Auditors reviewed reimbursements to verify adherence to FCA's Agency cell phone policy which states reimbursement of $40.00 per month and found exceptions. We concur with their corrective action of amending the cell phone policy.

Audit Finding (8): FCA Did Not Provide Adequate Support for a Trip for Attendance at a Training Event

We disagree with this finding. This trip was made by our COO at the request of the County District Attorney to participate in a formal presentation with that office and the Hempstead Police Department at a professional conference. The trip was approved by our CEO as required under FCA policy.

<u>Auditors' Follow-up Response:</u>

Prudent business practice and guidance from NYS Comptroller's Office[13] requires board approval before attending a conference. Approval of travel after the fact by initialing a credit card statement does not indicate approval of the trip. The CEO's travel authorization and his expense review should be performed by the Board. All travel should be summarized on an agency travel reimbursement form documented by original itemized receipts.

<u>Audit Finding (9): FCA Improperly Charged $50,958 to the County Youth Board Program for One Employee's Vacation and Sick Leave Payout</u>

This is completely inaccurate, and we strongly disagree with the finding. This payment related to a County employee for whom FCA serves only as the payroll administrator. As payroll administrator, we were instructed in writing by the related County Department's Executive Director to pay this amount for accrued benefits, which we did. We then submitted the payment for reimbursement under the normal provisions of the related contract and were reimbursed as we should be after review by the related County Department and Comptroller's Office. The auditors are now claiming that the Department's Executive Director had no authority to authorize such payment although under the terms of the contract it is clear that we are required to make all such payments requested by such Department and submit related claims for reimbursement. This issue does not involve FCA. It's an issue that should be pursued by the Comptroller's Office with the County Executive.

<u>Auditors' Follow-up Response:</u>

We reiterate our finding that the County should not have been charged for the payment of $50,958 to an FCA employee. This person has never at any time been a County employee. This payment does not adhere to FCA's employee benefit manual. This payment to an employee when they went from full to part time, was also not in the annual contract budget with the County.

<u>Audit Finding (10): Administrative Overhead Was Inconsistently Applied to County Cont**racts**</u>

We strongly disagree with this finding. FCA follows the method required by New York State in applying administrative overhead to its contracts unless otherwise specified in the related contract. It should be noted that the County itself does not have a defined method for allocating such costs. The auditors either failed to understand this or thought that periodic monthly adjustments made to the administrative rate by FCA represented an inconsistent application when in fact they were simply adjustments made to "true up" the estimated interim rate to the actual rate once known. All such adjustments applying an actual rate to each contract were made before the final invoice was submitted to the related County Department at the end of each contract period. Evidence concerning this was submitted to the auditors, but they failed to consider it or change their report.

[13] Office of the State Comptroller "Travel and Conference Expense Management", www.osc.state.ny.us

Auditors' Follow-up Response:

We reiterate our recommendation that administrative overhead rates should be consistently applied, and that each County contract should specify in clear terms the correct methodology of calculating overhead.

FAMILY AND CHILDREN'S ASSOCIATION

DETAILED RESPONSE TO THE FINDINGS OF THE LIMITED REVIEW CONDUCTED BY THE NASSAU COUNTY OFFICE OF THE COMPTROLLER DATED OCTOBER 22, 2012

Findings and Recommendations Audit Finding (1):

FCA Lacks Internal Controls over Purchasing including Excessive Use of Credit Cards

Details of Family and Children's Association (FCA) Response:

The Comptroller's Findings and Recommendations note that the purchases appear to be of a personal nature. In all cases, purchases were appropriate and are essential and allowable to conduct FCA programs. They are personal expenses for our clients, a distinction that the audit findings fail to recognize. FCA operates approximately 40 programs funded and regulated by Nassau County, New York State and the Federal Government. Of these programs we operate 6 shelters that house youth and adults. FCA is responsible for the health, safety and personal needs of these individuals. Many programs are responsible for maintaining the youth and adults in their home or shelter and for participation in activities that any other youth or adult would participate in their community. Many of these expenditures and activities are necessarily of a personal nature, but all are within the terms of the contract, are deemed customary and necessary and are approved in advance. Metro Cards are a budgeted and approved expense in the applicable programs contracted with Nassau County and enable older youth to travel independently. These Metro Cards are stored and safeguarded at the program site. Items such as IPods and gift cards are purchased for program participants upon completion of a planned goal or achievement. The plans are retained with the program participant's records. In addition these types of expenses may be made by the Agency's Resource Development Office in support of the Agency's fundraising events.

The Home Based Community Waiver Program, a hospital diversion program, serving 90 seriously emotionally disturbed children manages a "flex funds" budget totaling $225,000 to be used for the development of the children and families. Use of these funds is monitored by the NYS Office of Mental Health via a statewide database system and the Nassau County Department of Mental Health. The records to support the use of these funds are retained in the client charts and directly support and comply with the youth's individualized treatment plan. Providing activities, such as bowling, are a common activity directed toward the development of the youth in this population as well as our runaway homeless youth and foster care children. Approval for attendance at these events is retained at the various program sites.

Between January and June 2012, the credit card charges associated with the HCBS Program make up approximately 25% of the total credit card purchases. Another 24% of the credit card charges are associated with 4 shelters FCA operates, one of which is a home for runaway and homeless youth. Therefore, 49% of the total purchases are associated with 4 Agency credit cards related to programs that require expenditures of a personal nature in accordance with the applicable contract.

Credit Card purchasing, excluding the insurance payments, represents 7% of the total other than personnel purchases incurred during the first six months of 2012; an insignificant percentage of total expenditures.

FCA strongly disagrees with the auditor's findings and has provided several examples of our internal controls and operational procedures related to the use of credit cards. These examples were available during the audit, but were either missed or disregarded in the auditor's findings. Examples of the controls remain available for review.

The corporate American Express and Mastercard accounts are used to expedite purchases to ensure that program directors and management are able to meet the operational requirements of the programs as they occur. The use of a credit card does not circumvent the Agency's purchasing procedures as further explained herein.

Corporate credit cards are only issued in the name of the program director or site supervisor (in their own name because banks will no longer issue corporate credit cards in the name of the business), Non-Supervising Employees do not have credit cards. Programs are required to and have written Credit Card Policies. In all cases the policies state that the use of the credit card and purchases must be authorized by the program director or site supervisor prior to purchase. The credit cards must be stored in a locked cabinet and can only be accessed by the program director or delegate, generally the administrative assistant. The program/expense approvals for the use of the credit card are retained with the program records. All purchases are documented with receipts along with an explanation of the purchase.

Upon receipt of the monthly credit card statement the program administrative assistants, an independent reviewer, and program directors verify the activity on their accounts and authorize payment. In the event that a credit card is used to purchase items for a program participant the policies and procedures dictated by the program's funding source are followed.

The program administrative assistant provides the supporting documentation and forwards the package to the contract management department for review and coding to the proper programs and departments. This package includes the receipts and explanation of each purchase along with the Credit Card Authorization Payment Form, which is signed by the program director. Payment is then issued by the accounts payable supervisor. The monthly statement along with all the supporting documentation is then reviewed by the CFO. During the period audited, the CEO also reviewed the documentation. These procedures described above demonstrate reasonable controls to ensure proper use of program funds.

Specific responses to each bulleted finding are as follows:

Credit card purchases are authorized and approved in advance of use of the card. This documentation is retained at the program site.

The report noted that in some instances the description of purchase was not adequate. FCA will continue to provide training to all program directors, team leaders, and administrative assistants to ensure that proper and complete documentation is provided with all credit card purchases. This process will ensure transparency with purchases and reduce the risk of unauthorized use of program funds.

The report incorrectly noted that there was no evidence of three quotes being obtained, a violation of FCA policy. The FCA policy is as follows:

In the case of equipment, if the cost of a single item is $100.00 - $499.99 (3) verbal bids are required. The bid amounts are noted on the requisition form.

In the case of equipment, if the cost of a single item is $500.00 or more you must obtain (3) written bids.

In the case of general office and household supplies if the order exceeds $500 program or department director approval is required.

These policies are stated on the FCA purchase requisition forms.

If a credit card purchase meets the above criteria bidding or approval is required as noted. In addition, a purchase order is provided.

The report noted that charges for insurance did not describe the type of coverage being purchased. The credit card is used to make the monthly payments to Philadelphia Insurance, the Agency's commercial and professional liability insurance. This insurance is marketed on an annual basis prior to the renewal date. The renewal invoice is approved by the CFO and forwarded to the accounts payable department for processing. Each monthly invoice details the coverage, is reviewed and approved by the CFO and forwarded to the accounts payable department for payment. The accounts payable supervisor or delegate executes the charge to the credit card. Purchasing procedures are followed and not circumvented. The American Express account is used as an alternative means of payment to ease cash flow requirements and to earn reward points that will be used to reduce future Agency expenses. Purchases such as an IPOD, would be purchased using reward points for prizes at our Annual Holiday Ball or Golf Outing. Items purchased with the credit cards may be in fact of a personal nature in accordance with programmatic goals. As explained herein, such purchases are permissible and appropriate.

Please see Audit Finding #8 for the explanation regarding the annual conference held at Disneyland attended by an FCA staff member on the request of the Nassau County District Attorney's Office.

The report noted that payments for meals lacked explanations of the business purpose of the meals and/or the names of guests. This is correct in some instances. The policy requires a full explanation. FCA management will continue to provide training to all program directors, team leaders, and administrative assistants to ensure that proper and complete documentation is provided with all credit card purchases. The accounts payable staff will be instructed to reject any receipts/payments packages without such explanation.

The report incorrectly noted that employees making the purchases review their own credit card statements. As explained herein and through examples provided to the auditors, the applicable credit card policies have been followed.

The $250 payment to Hofstra University Development was paid as an entrance fee to participate in their annual suburban diversity event. FCA staff were, however, unable to attend the event. In the future, FCA will request a refund rather than use the conference fee to support an event supporting the larger community.

The report incorrectly noted that credit card purchases lacked authorization and approval. Based on the above information and detailed in examples provided, FCA followed its procedures.

The report incorrectly noted there were charges without adequate descriptions. As noted above, each purchase is submitted for payment to FCA's fiscal office with a receipt and brief description. The Program records provide a more detailed reason for the purchase and are retained in the program/client files. Inadequate descriptions do not equate to improper charges. Moreover, prior to payment, FCA understood and was satisfied with the description.

The report incorrectly noted that charges for insurance did not describe the type of coverage being purchased. As noted above, the premium invoice clearly notes payment was for professional and commercial liability insurance. These charges were appropriate and necessary.

The report noted many items appeared to be of a personal nature. As noted above, this statement is true, but fails to recognize client expenses are essential to providing services. Documentation is retained at the program level detailing activities and purchases made for client activities and needs and rewards toward completion of treatment goals.

FCA maintains various documents that contradict this audit finding including:

- The PINS, HCBS, Preventive Services, and Senior Services Credit Card Policies and Procedures;
- Metro Card Policies;
- Gift Card Policy;
- The Annual Insurance Premium Invoice and Subsequent Invoices; and
- The FCA policy for accessing the American Express Rewards Point Program.

These documents were available to the audit team, but were either overlooked or disregarded. These documents remain available for review by the County in order to demonstrate that this finding should be withdrawn.

Response to the Audit Recommendations:

a) The requisitioning, approval, receiving, and payment functions related to purchasing should be documented and segregated. This will help ensure that purchases are approved, purchased at the lowest price, and received before payment is made. There needs to be independent verification that purchases made with credit cards are received by the program being charged.

We strongly disagree with this recommendation because, as noted above, FCA already has sound procurement procedures that document and segregate the purchasing process that include independent verification. Use of the credit cards is not excessive; in fact, it is essential for expediting service to our clients. All credit card use complies with our procurement process. Examples of these policies remain available for review.

b) The Board of Directors should establish proper internal controls over the distribution of credit cards. These should include what type of purchase can be made, what documentation is needed and a review and approval process.

We disagree with this recommendation for the following reason: The Board of Trustees acknowledges that it has oversight responsibility for FCA. In fulfilling that responsibility the Board complies with all laws and regulations, seeks guidance from various resources and exercises prudent judgment. One of the resources the Board seeks guidance from is its "Board of Trustees Handbook," which not only contains the agency By-Laws but also contains guidance on 11 other subjects, including the "Responsibilities of Board Members."

This "Responsibility" section of the Handbook states that one of the major responsibilities of the Trustees is "to develop a system of organizational policies that enable the agency to function efficiently and effectively." The Board has always interpreted this responsibility to mean that it should set broad policies for management to implement in detail, but not become involved in the establishment of specific, detailed policies and procedures itself.

However, the Board also recognizes that it must be satisfied in general with the detailed policy setting performed by management and with the internal controls governing the operation of the agency in general. The Board, which consists of 26 experienced and highly qualified individuals, fulfills this responsibility in a variety of ways including regular conversations with management, through the work of its committees and by engaging outside advisers, particularly the agency's independent auditors. The Audit Committee of the Board regularly meets with the independent auditors, and a major topic of conversation during those meetings is the adequacy of internal controls. The Audit Committee believes that FCA's internal controls are adequate and effective.

Neither the Board nor the Audit Committee believe that they should be involved in defining, establishing or approving specific policies and procedures, such as those contained in several of the County Auditors' recommendations. To do so would not only go beyond the Board's "organizational policy" responsibility noted above, but also divert its attention away from other critical issues and result in micro-managing the organization. However, as also noted above, the Board and Audit Committee should be and generally are satisfied that the specific policies, procedures and internal controls established by management and related to the County Auditor recommendations (credit cards, travel and cell phone policies) are adequate. A select group of Trustees would be pleased to meet with the Comptroller, Deputy Comptrollers and/or Field Auditors to discuss their alternative view about this subject further.

Audit Finding (2):

FCA Charged the County for Hours Not Worked by Its Employees

Details of Family and Children's Association (FCA) Response:

To ensure the safety of clients and staff, FCA management on occasion will declare snow emergencies and close operations for all programs other than the residences and shelters. FCA is complying with the benefit policies clearly stated in the Employee Manual (See, page 8). FCA is not required to conform its benefit policies to those practiced by Nassau County; nor is this requirement stated in the various fully executed contracts between Nassau County and FCA.

This inclement weather policy has not deterred FCA from fulfilling its roles and responsibilities to the Nassau County residents it is contracted to serve. Program audits by the various NCDHHS departments consistently note the high quality of services FCA provides to the Nassau County residents. Thus, FCA complied with and fulfilled its contract obligations.

Response to Audit Recommendations:

FCA should not charge Nassau County departments for hours not actually worked by FCA employees due to FCA snow closings or early releases and should return $148,837 to Nassau County.

- FCA strongly disagrees with this finding and recommendation based on the inclement weather policy stated in the FCA Employee Handbook. FCA followed its policy, complied with its contractual obligations and should not be liable to Nassau County for the return of any funds based on having fulfilled its contract obligations. FCA requests an opportunity to review the data used to calculate the refund amount noted above.

Audit Finding (3):

FCA Violated Its Time and Leave Policies Regarding Vacation Carryovers

Details of Family and Children's Association (FCA) Response:

As stated in the Employee Handbook and in the audit report, employees can carry over in excess of 10 days vacation time from the prior year into the current year with supervisor approval. Upon termination, an employee will be paid for the approved 10 day carryover and vacation days earned in the current calendar year. Of the employees noted above with 41 and 34 vacation days, said employees would not be paid for carry over days in excess of the 10 allowable days. The controls discussed herein ensure this occurs in practice.

Prior to issuing an employee's final paycheck, the Human Resource Department completes the Separation Information Form that specifies the total number of vacation days to be paid. The payroll administrator reconciles the directives noted on the Separation Information Form to the employee's final timesheet to ensure that the employee is eligible to receive the final payment. The Separation Information Form clearly restricts vacation pay to a maximum of 10 carryover days. The employees are never paid for more than ten (10) days regardless of what their timesheet says. Management does have the authority to adjust this final payment in the event of special circumstances.

FCA pays employees on a bi-weekly basis with a one week delay. The first timesheet of the new year sometimes includes the last week or days of the previous calendar year. Since employees can use personal time up to 12/31, a personal day that appears on the first timesheet of the new year may be from the last week of the prior year. The personal day may have accrued in the prior year, but was paid in the new year. Therefore such action is within policy. The timesheet automatically deletes any personal days left in the bank after first of the year however it does so in the first pay period with no days in the previous calendar year.

In addition to the above, on occasion, regulated staffing requirements may prevent an employee from using a planned personal day. In this case, with the approval of the employee's supervisor and the Director of Human Resources an exception may be made to extend use of a day. In this case, the IT Director or payroll administrator will adjust the timesheet. These are the only two FCA employees that can adjust an employee's timesheet.

Response to the Audit Recommendation:

FCA should consistently adhere to the agency's handbook on vacation carry over.

- FCA maintains adequate controls and procedures to ensure adherence to policy and thus strongly disagrees with the findings and recommendation for the reasons stated above.

Audit Finding (4):

Leave Used was not reported on the Payroll Rosters

Details of Family and Children's Association (FCA) Response:

We disagree with the audit findings for the following reasons:

For FCA employee's (working on FCA owned or leased premises and supervised by FCA management), we acknowledge that the payroll register was not accurate with respect to reconciling accrued benefit time with the timesheet for the entire period under audit. While the official record of accrued benefit time is the timesheet in July 2010 FCA implemented a process that reconciles the accrued benefit time noted in the payroll records with the timesheet in preparation for the official timekeeping to transfer to the payroll records. The official timekeeping record is the document used for all payments and claims. The official record detailing employee accrued benefit time continues to be the timesheet. This process is currently under review for improvement to integrate all aspects of payroll and benefit time as described herein.

Key FCA managers are reviewing various payroll service and timekeeping systems that will fully integrate timekeeping, payroll and track employee's locations throughout the workday, thereby making the reconciliation control procedure unnecessary in the future. This process was underway before the release of this audit report and should conclude by the last quarter of 2012.

For the 34 Nassau County staff whose timesheets were reviewed and paid via the FCA payroll system under administrative contracts, but who are located on owned or leased Nassau Country Government properties and supervised by Nassau County Commissioners, Directors and other delegated managers, the records recording accrued benefit time for them are maintained on site with these Commissioners, Directors and delegated managers since they are not FCA employees. The full time Nassau County staffs are exempt employees and paid 70 hours bi-weekly. FCA does receive notification of the total hours worked by part-time Nassau County staff each payroll period. FCA issues paychecks based on the directives of the Nassau County Commissioners, Directors and other delegated managers responsible for supervising these staff.

As noted in Appendix A and the Contract Summary Page of each fiscal service contract between FCA and Nassau County, FCA's only role is to provide fiscal services such as issuing paychecks and managing fringe benefits such as health insurance, short term disability etc. Record keeping issues related to these 34 staff or any other Nassau County staff should be directed to the respective Departments, their Commissioners, Directors and delegated managers. FCA follows the directives by Nassau County delegates as its role is administrative only.

Response to the Audit Recommendation:

FCA should consistently adhere to the agency's handbook on vacation carry over.

- FCA strongly disagrees with the findings and recommendation for the reasons stated above.

Audit Finding (5):

Audit Testing Found Poor Timekeeping Controls

Details of Family and Children's Association (FCA) Response:

We disagree with these findings for the following reasons:

The PINS Diversion Program operates from 8 a.m. to 10 p.m. Staff schedules are structured to accommodate the needs of the families and the Nassau County Court system. Sign-in and Sign-out times are irregular based on this need to accommodate the families and other Nassau County Departments. The PINS Diversion staff are required to check in with the administrative assistant upon their arrival and departure from the office. A sign-in and sign-out log book is used to monitor their departure and return to the office when conducting field visits. In addition staff are required to use Microsoft Outlook to calendar their schedules. Supervisors have access to these calendars and regularly monitor their staff's schedules.

The finding incorrectly states that the 2009 timesheets were not available. Timesheets are retained for the required 6 years and are stored with the fiscal/payroll records. All timesheets requested were available. The 2009 sign-in/sign-out log book was not available, but it is not the primary time record. This log book was inadvertently discarded during the program's relocation. FCA is confident the controls were operative and effective during 2009.

The PINS diversion employee noted, initials NC, is an exempt employee who worked in excess of 70 hours during the 2 week period. While she worked on Saturday and Sunday she was paid only for the 70 hour bi-weekly period, therefore the contract(s) was not charged in excess of 70 hours bi-weekly.

Senior Division Staff are required to sign-in and sign-out of the office each day. These records are retained for six years.

The Substance Abuse Program staff document their arrival and departure at the site; also an electronic scheduling database is used to record the staff schedules recording their start and end times along with their activity throughout the day.

In addition to FCA's timekeeping systems field workers in the PINS Diversion, Prevention and Senior Services are required to document their time spent in the field with client signatures verifying the visit occurred.

In accordance with New York State Labor Law 162, FCA employees are offered an unpaid lunch break of 30 minutes any day they work over 6 hours as required by law. Employees are encouraged and instructed to do so and if they fail to do so it is at their own discretion.

Response to the Audit Recommendations:

a) FCA should ensure that all timekeeping documentation is kept for audit purposes as required by federal and state law.

- FCA in fact retains all timekeeping documentation for audit purposes as required by federal and state law. [14]

b) FCA should require that employees call in to supervisors as a compensating control to verify the accuracy of timesheets submitted by employees.

- FCA disagrees with this recommendation for the following reasons: First, as noted above, the audit findings are inaccurate. Secondly adequate controls to track employees in these programs either already exist or to do so would not be financially feasible. Thirdly, FCA is in the process of identifying a better system to track employees. Further, key FCA managers are reviewing various payroll service and timekeeping systems that will fully integrate timekeeping, payroll and track employee's locations throughout the workday. This process, as already noted, should conclude by the last quarter of 2012. FCA will evaluate the cost benefit of implementing a new timekeeping system.

c) All timesheets completed by FCA employees working in County departments should be forwarded to FCA. This is necessary to ensure that all leave time is properly approved, monitored, and that time taken is deducted from the payroll register. Also, FCA must document employees' time-off for lunch to ensure compliance with labor laws.

- We disagree with this recommendation because it does not conform to the contract terms. However, if NCDHHS, the Comptroller's Office, and the County Executive's office wish to change the policies and procedures related to the management of these Nassau County employees in the future, they should include such language in future contracts and provide for payment of the increased administrative costs. FCA has complied with the contract.

d) FCA should ensure that all timekeeping practices are in accordance with the County contract that requires adherence to GAAP and all applicable laws (New York Labor Law, Fair Labor Standards Act requiring employer's document hours worked each day and total hours worked each work week).

- We disagree with this recommendation. FCA does comply with all applicable laws such as the New York Labor Law, Fair Labor Standards Act requiring that employer's document

[14] Fair Labor Standards Act, 29CFR Part 516; New York Labor Law§195: "Notice and Record-Keeping Requirements".

hours worked each day and total hours worked each workweek. FCA timesheets do document all the key elements required, and as noted above, the timesheet is the official source for this documentation at FCA. In addition, it should be noted, that GAAP does not address timekeeping practices.

Audit Finding (6):

Employee Mileage Claims were not Properly Documented

Details of Family and Children's Association (FCA) Response:

We disagree with the findings for the following reasons:

FCA had a promulgated travel policy at the time of the Comptroller's audit. This policy includes the requirement for supervisory review and approval which is noted and required on the mileage reimbursement form. Employees are required to deduct their normal commuting mileage as required by the IRS regulations. Although during the Comptroller's field work and subsequent agency internal audit it was discovered there was a limited number of exceptions, there was substantial compliance with the policy. Employees were and continue to be educated that commutation mileage is not an allowable claim for reimbursement, and, as noted two paragraphs hereafter, during 2011 we began conducting random audits of the mileage claims to ensure adherence with this policy.

The mileage claims do not include the house or apartment number in order to protect the identity and the specific location of our clients. However, the mileage claims include the client initials or case number, the street name and town. The house or apartment number is omitted in compliance with HIPAA policies. FCA's HIPAA consultant has confirmed that this omission is in fact required by HIPAA policies and adheres to the spirit of the regulations.

In addition to reviewing the monthly employee mileage reimbursement requests, a FCA fiscal staff member conducts a random sample audit of all mileage claims to ensure that commuting travel is not included with reimbursement requests. This random sample audit also includes cross reference to the employees' timesheets to be sure that the employee worked on the date of the mileage claim.

FCA used the Nassau County Mileage Chart issued by Nassau County to calculate employee travel. As recently as November 2008, FCA received memos from the County departments that this was an acceptable means to calculate mileage. The CFO obtained the Employee Mileage Allowance Certificate on the Nassau County website and noted that this Mileage Chart is acceptable under certain conditions. During the Comptroller's audit field work FCA was advised that this chart is no longer in use. Of course, since FCA had no notification previously, we were appreciatively using the chart at the time of the audit. We are not responsible to change our practice without notification.

Once notified during the audit that the chart was no longer applicable FCA reviewed and revised the Travel Reimbursement Policy to include either odometer readings and/or use of a mapping service to calculate and document mileage. These practices have been in use since 02/06/2012.

For out of town travel, FCA does require that employees obtain prior approval for business travel and that the request includes registration documentation for conferences. This type of travel will not be reimbursed by the NC County Departments without this documentation.

In the instance noted in Audit Finding (6) concerning the Program Director's attendance at a quarterly Empire State Coalition of Youth and Family Services conference, we did provide all receipts including the hotel bill. FCA acknowledges that the conference information was not included in the documentation. We were however able to provide the invitation and schedule received at the conference. FCA staff have been instructed that this conference detail must be included with all travel reimbursement requests, even as in this case a regularly scheduled quarterly meeting.

Response to the Audit Recommendations:

The Board should:

a) Promulgate a travel policy that all employees must follow in order to be reimbursed for travel expenses.

> Please see Board of Trustee statement noted in Finding #1.

b) Select an electronic mapping service to be used to calculate the mileage claimed.

> We agree, and FCA implemented this system of mapping mileage in February 2012.

c) Require supervisory review of all mileage claim forms for accuracy and completeness, including full street addresses.

> We disagree because, as noted above, FCA does a supervisory review of all mileage claim forms, and the reviewing supervisor's signature is noted on the claim form. FCA may not include the house or apartment number in compliance with HIPAA regulations.

d) Require that employees deduct their normal commuting mileage as required by IRS regulations.

> We agree and, in fact, FCA policy requires the deduction of the employee's normal commuting mileage in accordance with IRS regulations. During 2011 FCA implemented an internal auditing process to detect errors made in the normal processing of mileage claims form.

e) Ensure that approval and the business purpose for all travel is documented, including registration documentation for conferences.

> We agree and FCA does, in fact, require approval and documentation for travel and conference attendance. FCA will more closely review the supporting documentation for travel and conference attendance to ensure all documentation is provided. A random sample audit of travel claims will be implemented to avoid omissions.

Audit Finding (7):

FCA is not in Compliance with its Cell Phone Directive

Details of Family and Children's Association (FCA) Response:

We partially agree with the audit findings.

At the time of the Comptroller's audit, FCA did have a cell phone reimbursement policy promulgated on 10/09/02. However, the audit findings note that FCA paid in excess of the stated policy to three employees. FCA did in fact pay in excess of the policy as these program directors are responsible for the runaway and homeless youth shelters and the Persons In Need of Supervision (PINS), programs that operate twenty four hours seven days per week. Consequently, there was a compelling need to exceed the cell phone usage limit, but the policy regarding this was not formally amended during the period of the audit. The cell phone policy was amended June 20, 2011 to include this possible exception.

Response to the Audit Recommendation:

The FCA Board should promulgate a cell phone policy.

We disagree with this recommendation because FCA had a cell phone policy at the time of the audit; the policy was infrequently overridden for the compelling reasons noted above. The policy has since been amended to include management discretion for full payment based on the FCA program's hours of operation or other programmatic requirements. Regarding the Board's role in this policy, see the response to Audit Finding (1) regarding the Board's role in policy setting at FCA.

Audit Finding (8):

FCA did not Provide Adequate Support for a Trip to Disneyland

Details of Family and Children's Association (FCA) Response:

We disagree with this finding for the following reasons:

The Chief Operating Officer of FCA attended the annual conference for the Center for Problem Oriented Policing on the request of the Nassau County District Attorney's Office. The COO attended and participated in this conference as part of the team that presented on the District Attorney's efforts in the Village of Hempstead. This highlighted the collaboration of Family and Children's Association, the Hempstead Police Department and the Mayor's office on the Terrace Avenue Project; an effort designed to eliminate the open air drug market in the Village of Hempstead.

The supporting documentation was provided during the audit. This conference occurred over a three day period. The per diem meal rate is $75 per day. The COO expensed $250.87 for meals over this three day period. The meal charge is $25.87 in excess of the three day per diem allowance. In the future FCA will ensure compliance with the Agency's per diem meal policy.

At the time the CEO was the direct supervisor of the COO and as such the Board of Trustees would not participate in this approval process. Regarding the Board of Trustees role in such an approval process, see the response to Audit Finding (1). The CEO approval was obtained, and at that time was all that was required. However, since that time, the positions of the CEO and COO have been consolidated, and the Chairperson of the Board of Trustees regularly reviews the expenses incurred by the CEO.

FCA can provide copies of the following:

- The supporting documentation for attendance at the 20th Annual Problem Oriented Policing Conference and meal reimbursement.

- A copy of the CEO's approval noted on the American Express invoice on 12/17/09.

Response to the Audit Recommendation:

All travel should be Board approved before the travel occurs, and adequately supported with expense reports and original receipts supporting all expenses claimed. Documentation should include the reason for attending conferences and written approval by supervisors.

- We disagree with this recommendation because, as noted herein, FCA's travel policy does require prior approval of travel and the submission of supporting documentation. Per FCA's policy the staff member responsible for approval is the staff member's program director, team leader or direct supervisor, as applicable. The CEO's travel expenses are now being approved by the Chairperson of the Board of Trustees. Also, see the response to Audit Finding (1) regarding the Board's role in the detailed policy setting.

Audit Finding (9):

FCA Improperly Charged $50,958 to the County Youth Board Program for One Employee's Vacation and Sick Leave Payout

Details of Family and Children's Association (FCA) Response:

FCA strongly disagrees with and objects to the audit findings for the following reasons:

Nassau County employees paid via the FCA payroll system, but located on owned or leased Nassau Country Government properties and supervised by Nassau County Commissioners, Directors and other delegated managers, are employees of Nassau County. The records recording accrued benefit time are maintained on site with these Commissioners, Directors and delegated managers. The full time Nassau County staffs are exempt employees and paid 70 hours bi-weekly. Under the related contract terms, FCA only receives notification of the total hours worked by part-time Nassau County staff each payroll period and pays them accordingly with full reliance on the County for the accuracy of the hours.

The Nassau Country employees referred to in this finding have been paid through a fiscal management contract dating back to the 1970's. FCA was formed, in 1998, as the result of a merger between Children's House, Long Island Counseling Center and Family Service Association. These fiscal service contracts were originally agreements between Nassau County and Family Service Association. There is a long history and precedents well established on the payout of benefit time for this group of Nassau County employees. The Comptroller's Office should review these precedents with the Commissioners, Directors and delegated managers of the various NCDHHS departments.

As noted in Appendix A and the Contract Summary Page of each fiscal service contract between FCA and Nassau County, <u>FCA's only role is to provide fiscal services such as issuing paychecks and managing fringe benefits such as health insurance, short term disability etc. FCA issues paychecks according to the directives received by the NCDHHS Commissioners, Directors, and other delegated managers.</u> FCA cannot be held responsible for following the directives of Nassau County officials.

Record keeping issues related to these staff or any other Nassau County staff should be directed to the respective Departments, their Commissioners, and Directors and delegated managers.

The benefits that these groups of Nassau County employees receive are not based on FCA's Employee Handbook but rather employee benefit guidelines established by each NCDHHS department since they are not FCA employees. These benefits far exceed those earned by FCA employees. The individual NCDHHS departments provided the Comptroller's Office with these policies.

With respect to the one or two employees noted in the audit with very large benefit payments, **FCA received written direction from a Nassau County Executive Director to execute payment of the accrued benefit time.** These benefits were paid, reported on a claim, submitted to the respective Nassau County Department, reviewed by this department's claim reviewer and then forwarded to the Comptroller's Office at which time it was reviewed and paid.

FCA provided the fiscal service as directed by NCDHHS management, per the contract and does not bear any legal, moral or financial responsibility for the execution of the benefit time payment to the noted Nassau County Employee.

Response to the Audit Recommendations:

a) Any agreement between a County department and an independent contractor affecting contract terms should go through the same County approvals required of all contracts.

We certainly don't disagree with this recommendation, but we also don't believe it is FCA's responsibility to ensure that this happens. For future contracts, FCA recommends that the NCDHHS, Comptroller's Office, and County Executive's office clarify the policies and procedures related to the management of these Nassau County employees and include such language in such contracts.

b) FCA should follow its published policies with regard to compensation for unused vacation time after an employee leaves.

We disagree with this recommendation because, as noted herein, FCA does follow its published policies for its own employees. As stated herein, this group of Nassau County employees receives benefits based on guidelines established by each NCDHHS department, and FCA acts only as the fiscal or paying agent relying on the information and policies submitted by the related NCDHHS departments. These policies were also provided to the Comptroller's Office.

c) FCA should return the $53,885 in unauthorized payouts.

- We strongly disagree with this recommendation. FCA should not return the $53,885 for the reasons stated herein, including the fact that FCA received a written directive from a NCDHHS director to execute this payment. Consequently, we have no legal, moral or financial responsibility to do so, and to say or believe otherwise is incomprehensible.

Audit Finding (10)

Administrative Overhead was Inconsistently Applied to County Contracts

Family and Children's Association (FCA) Response:

We agree that administration and overhead rates (A/OH) should preferably be consistently applied across all contracts. However since, NCDHHS does not have a consistent administration and overhead policy, this cannot be done. In fact the directions to allocate A/OH can vary by Department, from year to year, contract to contract. For example, the Department of Senior Affairs and the Youth Board prohibit the inclusion of administration and overhead as a budgeted expense. As a result the FCA Board of Trustees must raise approximately $500,000 annually from private donors to cover administration and overhead expenses associated with the operation of these services.

Given this inconsistency on the part of the NCDHHS, FCA elected to conform to the method of administration and overhead allocation defined in the NYS Consolidated Fiscal Report Manual. This manual is the guidance for the completion of the annual cost report required by the NYS Offices of Mental Health, People with Developmental Disabilities and Alcohol and Substance Abuse Services and the NYS Department of Education. The required method to allocate A/OH is based on a ratio value method. The total administration and overhead costs are allocated on a % basis based on each program's total direct expense divided by the agency total direct expense.

Twice yearly, at June 30 and at year end, FCA reconciles the administration and overhead claims to the actual A/OH rate. If the rate charged to the Country Contracts exceed the reconciled rate FCA credits the claims, i.e. returns funds to Nassau County. If the actual rate exceeds the amount claimed FCA will request a contract budget modification to revise the rate accordingly. FCA makes every effort to ensure that Nassau County is not overcharged for A/OH in each contract that allows for this expense.

The inconsistency noted in the auditors findings are the result of inconsistent Nassau County policies. FCA allocates A/OH based on a reasonable and documented method ensuring that FCA does not overcharge Nassau County for A/OH.

Please see the attached documentation supporting FCA's practice of reconciling A/OH rates and charges to Nassau County Contracts.

Response to the Audit Recommendation:

Administrative overhead rates should be consistently applied based upon contract terms. (Each County contract should specify in clear terms, the correct method of calculating overhead for each voucher.)

FCA agrees that it would be preferable for administration and overhead rates (A/OH) to be consistently applied across all contracts. However, as noted herein, the reason such rates are not consistently applied is that Nassau County's policies concerning this are inconsistent, and that's not something FCA can correct. Consequently, FCA has been forced to consistently apply a reasonable, generally accepted and well documented method described in the NYS Consolidated Fiscal Manual. We think this is a reasonable and conservative approach. In addition, changes in rates through the year don't result, as noted herein, from inconsistent application of this method but from "truing-up" the rates with the actual expenses incurred. Please see herein for further explanation.