

**Nassau County
Office of the Comptroller**



**Limited Financial Review
of the
Leadership Training Institute**

HOWARD S. WEITZMAN

Comptroller

September 4, 2008

**NASSAU COUNTY
OFFICE OF THE COMPTROLLER**

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Executive Summary

Background

Leadership Training Institute (“LTI”) is a not-for-profit educational research and operations organization. LTI provides non-secure juvenile detention for PINS¹ and juvenile delinquents, educational services at the Nassau County Juvenile Detention Center (SAMP²), and programs that offer counseling, employment, educational and social services to children, youth, and families in the community.

The Nassau County Department of Social Services (“DSS”) contracts with LTI to provide non-secure juvenile detention at two locations within the Hempstead community, known as Projects 29 and 350. Project 350 provides detention services for up to eight girls, aged 10 to 16, remanded to LTI by Family Court, or placed there by a peace officer. Project 29 is a co-ed non-secure group home, which provides services for up to 12 PINS, also aged 10-16. Pursuant to these contracts, LTI provides full-time care that includes fulfilling nutritional needs, medical requirements, and supplying transportation to forensic evaluations and court appointments. LTI must maintain enough capacity to accept eligible children detained, remanded, held, or placed on an emergency basis, after court hours. Additionally, under the SAMP contract, LTI provides educational services for the children detained at the Nassau County Juvenile Detention Center in Westbury.

During the audit period, LTI received the following reimbursements from the County.

	<u>2003</u>	<u>2004</u>	<u>2005</u>	<u>2006</u>	<u>Total</u>
Project 29 (a)	\$450,603	\$592,897	\$736,070	\$708,356	\$2,487,926
Project 350 (a)	694,246	674,045	721,810	657,413	2,747,514
SAMP (a)	405,483	412,198	476,720	497,684	1,792,085
Total County-funded Programs	\$1,550,332	\$1,679,140	\$1,934,600	\$1,863,453	\$7,027,525
Total Agency expenses (b)	\$2,823,514	\$2,571,099	\$2,534,872	\$2,266,212	\$10,195,697
County Reimbursement as % of Total Agency Expenses	54.9%	65.3%	76.3%	82.2%	68.9%

Note (a): Source: Nassau Integrated Financial System (NIFS).

Note (b): Source: 2003-2006 LTI IRS Form 990, Return of Organization Exempt from Income Tax.

During the contract years 2003 through 2006, the County reimbursed LTI for all eligible expenses related to the Project 350 and the SAMP programs. In 2003, the County reimbursed a percentage of the expenses for Project 29 based upon the number of care days provided to County children as a percentage of all care days provided to all children housed at the facility. From January 2004 to May 2005, the County reimbursed a percentage of the expenses for Project 29 based upon the number of beds reserved by the County. Beginning in June 2005, the County reimbursed LTI for 100% of its eligible program expenses for Project 29, or approximately 93% and 82% of the expenses reported on

¹ PINS – Persons In Need of Supervision.

² SAMP – Socio-Academic Modification Program.

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the Project 29 general ledger for 2006 and June-December 2005³, respectively. All of the amounts reimbursed by the County are funded 50% by the State and 50% by the County. The County reimbursed LTI for the program expenses the agency incurred; as illustrated in the chart above, the County's reimbursement represented almost 69% of the agency's total expenses during the audit period.

For the period January 2003 through December 2006, LTI reported revenues as follows:

	2003	2004	2005	2006	Total
Total Agency Revenues (a)	\$2,864,794	\$2,750,471	\$2,796,098	\$2,498,976	\$10,910,339
Project 29 (b)	\$801,757	\$895,504	\$981,235	\$962,156	\$3,640,652
Project 350 (b)	\$693,234	\$675,018	\$753,226	\$657,498	\$2,778,976
SAMP (b)	\$405,483	\$412,198	\$484,711	\$497,888	\$1,800,280
Total County-funded Programs	\$1,900,474	\$1,982,720	\$2,219,172	\$2,117,542	\$8,219,908

Note (a): Source: 2003-2006 IRS Form 990, Return of Organization Exempt From Income Tax

Note (b): Source: LTI program general ledgers

Agency revenues include program service revenues such as, expense reimbursements received from Nassau County in accordance with LTI's contracts with DSS and fees for services collected from other New York State counties, and other revenue which includes, interest earned on cash investments and contributions. Program service revenues represent approximately 99% of the total revenues collected by the agency over the audit period.

As of February 2008, the agency had not yet issued its 2006 financial statements; its 2006 IRS Form 990⁴ was filed in November 2007.

Underutilization of the Non-Secure Detention Facility (Project 29)

Although our Office did not perform an operational audit of the programs, we found that the County underutilized the Project 29 facility. From 2004 through 2006, non-Nassau County children were housed at Project 29 for almost 2,800 care days as compared to approximately 2,100 care days provided to Nassau County children. We noted the following during our examination of the utilization of Project 29:

³ All expenses include indirect costs, which are reimbursed as a percentage of direct costs, and non-program expenses such as conference center repairs/construction and bad debt expense.

⁴ IRS Form 990, *Return of Organization Exempt From Income Tax* is the return filed with the Internal Revenue Service by an organization that is exempt from income taxes.

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Year	Care days - Nassau County	Care days - All Other Counties	Greatest number of Nassau children in Project 29 on a given day	Total number of days in year where greatest number of Nassau Children in residence	Average daily number of Nassau children (a)	Computed per diem paid by Nassau County (b)
2004	953	1072	7	2	2.61	\$622.14
2005	767	814	7	3	2.10	\$959.67
2006	347	897	5	1	0.95	\$2,041.37

Note (a): this amount was computed as the Care-days Nassau County divided by 365 days.

Note (b): this amount was computed based upon the actual expenses reimbursed by the County divided by the actual number of care days utilized by County children.

As further explained in Audit Finding 1, other NYS Counties paid LTI a per diem rate of \$282.02 for each care day. The County's contract with LTI provided for a fixed payment of \$736,128 in each year 2003 through 2006. As the chart above indicates, the County paid far more to LTI for each care day provided to County children, when the expenses paid are compared to the number of care days provided. Had the County written its contract to pay LTI on the same per diem basis as other counties the County would have saved approximately \$1.454 million over the audit period (\$324 thousand, \$520 thousand, and \$610 thousand in 2004, 2005, and 2006, respectively).

Audit Scope, Objective, and Methodology

The scope of our audit was limited to a financial and internal control review, focusing on the three programs funded by Nassau County. Our objective was to examine LTI's compliance with the terms of the three contracts with the County for the period January 2003 through December 2006. LTI's compliance with New York State law and NYSOCFS regulations governing the contracts were reviewed. We examined evidence, on a test basis, to support transactions recorded in LTI's operating records. We reviewed policies and procedures, interviewed managers and staff, and reviewed relevant accounting records and reports. Claims for reimbursement from the County were traced to supporting documentation, including payroll and time and attendance records, contracts, bills and invoices. An audit includes examining documents and other available evidence that would substantiate the accuracy of the information tested, including all relevant records and contracts. This includes testing for compliance with applicable laws and regulations, and other auditing procedures necessary to complete the examination. We believe that the audit provides a reasonable basis for the audit findings and recommendations.

Significant Audit Findings

LTI collected over \$426,000 in revenues from other New York State Counties for housing their children in its non-secure juvenile detention group home while, at the same time, LTI billed Nassau County for all eligible program costs. Our audit of LTI also noted a pattern of over-allocation of costs to the County-funded programs, submitting excessive or unreasonable expenses, or neglecting to credit the County-funded programs with correcting entries.

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As a result of our audit findings, LTI should reimburse Nassau County \$834,345 in expenditures, which have been disallowed and over-reimbursed. These costs, detailed within this report, have been summarized in a table (*Exhibit I*) at the end of this report. The significant audit findings are noted below.

Revenues Collected by Agency and Not Credited to County

From June 2005 through December 2006, LTI collected over \$372,830 in revenues⁵, as “Fees for Services” which represent the per diem costs for housing non-Nassau County children at its non-secure group home known as Project 29. However, during this same period, Nassau County reimbursed LTI 100%⁶ of its eligible program costs for running Project 29, (or 93% of its total Project 29 general ledger expense for 2006 and 82% for June-December 2005) resulting in LTI effectively double-billing for this period. The contract between LTI and DSS specifically prohibits the duplication of payments. In addition, LTI collected \$53,584 in revenues in 2004 from various NYS Counties for the use of beds exclusively reserved for the County’s PINS. These revenues were not credited back to the County as per the contract.

Inequitable Allocation of Administrative Salaries

LTI overcharged Nassau County \$286,313 in salaries and benefits during the audit period. This overcharge was a result of the over-allocation of administrative salaries to County-funded programs. During the audit period, over 96% of the salaries paid to the agency’s top administrators, including the executive director’s salary, were allocated to the County-funded programs, even though the agency also managed several non-County programs. Due to these inaccurate allocations, the County over-reimbursed LTI a total of \$286,313 over the audit period, for their salaries and related benefits such as FICA, health insurance, deferred compensation, and life insurance.

Bonus Payments Charged to Nassau County

In December 2003, at the direction of the executive director and without any supporting documentation, LTI paid \$47,865 in bonuses to 27 employees. One employee, who received a bonus paid under the County contract, was the executive director’s daughter. Some of the bonuses were paid to employees who had not worked for the County-funded program under which the bonus was paid.

Lack of Board of Director Oversight

Our audit noted several situations that appeared to indicate a lack of oversight by the agency’s Board of Directors, apparent conflicts of interest, and non-compliance with federal guidelines with respect to capital projects.

The Board minutes for the audit period lacked significant details as to the business discussed or items voted on at the meetings. In addition, there was no mention of significant issues such as construction approvals or salary actions.

Conflicts of Interest

Under certain circumstances, the executive director was the sole discretionary determinant in employee compensation. We noted instances where the executive director determined compensation paid to his immediate family member. In addition, the executive director has an affiliation with another not-for-

⁵ Revenues of \$372,830 do not include June 2005 revenues.

⁶ Except for bad debt expense, indirect costs and some conference center construction costs.

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profit that received monthly rental fees from LTI, even though it was not entitled to *all* of the rental fees, as it was not the Lessor on all the leases.

Misclassification of Indirect Costs

Contracts with the County permit LTI the reimbursement of a percentage of direct expenses to cover indirect costs such as space rental, office maintenance, certificates and awards, and depreciation. An examination of expenses paid by the County determined that certain expenses, indirect in nature, were submitted by the agency as direct expenses. During the audit period, LTI received \$37,466 from the County for indirect expenses billed as direct expenses.

Unreasonable Expenses Charged to Nassau County

During the audit period, we noted that numerous expenses billed to County-funded programs were not reasonable expenses, per OMB A-122 guidelines. The guidelines state that, for costs to be reasonable, they must be recognized as ordinary and necessary. Examples of these unreasonable costs include, newspaper and magazine subscriptions delivered to the executive director's home, over \$2,800 in video game systems, accessories and games purchased on the last day of a fiscal year, and the reimbursement of almost \$1,000 in optical costs for the executive director, who was the only employee of the agency who used the optical fringe benefit for 2005 and 2006.

Financial Reporting

During the audit period, LTI issued its financial statements and filed its IRS Form 990 as much as two years *after* the reporting periods had ended. As of February 2008, LTI had not yet issued its 2006 audited financial statements. We also discovered that audit fees paid in 2006 were reported as current expenses in the revised 2003 and 2004 general ledgers. Consequently, the Board of Directors and officers of the agency did not have timely or accurate financial information on which to base their financial decisions.

Capital Projects

During the audit period, LTI implemented two capital projects: the purchase and installation of carpeting at both group homes, and construction related to a conference center located on the property of the Project 29 group home. There was no evidence of bids submitted for either project, and neither project was budgeted in their respective contracts. Significant budget modifications were made to the Project 29 2005 contract to ensure that monies were available to cover the construction expenses. However, a budget modification of almost \$70,000 was not processed until October 2006, which was after the agency had actually incurred the 2005 expenses.

Other Findings

- Inadequate and erroneous time keeping that resulted in the over-billing of expenses to the three County programs;
- Over-billing of health care premiums for employees assigned to the County-funded programs;
- Submitting claims to the County for the medical expenses of children from Albany and Westchester;
- Billing the County for the cost of beverages that were not provided to the children or are not allowable. We noted a purchase of beer that was charged to the County.

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- Telephone charges for a dentist's 1-800 number that was erroneously billed to the agency, and submitted by the agency to the County under Project 350;
- Double-billing the County for the same expenses;
- Internal control deficiencies including evidence of overview of bank reconciliations;
- Inadequate inventory of fixed assets;
- Lack of proper documentation supporting payroll distributions; and
- Exceeding budgeted salaries for key program positions.

On March 8, 2008, our Office submitted this report in draft to LTI for comments. The matters covered in this report were discussed with LTI management and the agency's attorney(s) in an exit conference held on March 25, 2008 and follow-up meetings on April 4, 2008, and May 1, 2008. We provided LTI with all back-up documentation requested. After reviewing LTI's comments, received on May 15, 2008, we submitted a revised draft report to the agency on August 7, 2008. LTI's comments, along with comments to the revised report received from LTI's outside counsel on August 20, 2008, and our responses to the comments, are included as Appendices 1 and 2 to this report. The exhibits to LTI's submission are provided as separate documents. We also met with LTI's attorneys in connection with settlement discussions between LTI and the County Attorney's office. The outcome of those meetings have not been included in this report.

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Audit Findings and Recommendations

Audit Finding (1):

Revenues Collected by Agency and Not Credited to Nassau County for Project 29

In accordance with the contract between LTI and DSS, Nassau County reimbursed LTI a percentage of its eligible expenses incurred for Project 29, based on the number of beds reserved, or used, by County PINS remanded to its care.

DSS informed the auditors that beginning in June 2005, Project 29 expenses were reimbursed by the County at 100%,⁷ based upon a verbal agreement between LTI and DSS, because Project 29 was now only housing Nassau County children, and LTI was no longer providing care to children from other New York counties. The 2005⁸ and 2006 Project 29 general ledgers showed that LTI earned an additional \$372,830 in revenue reported as “Fees for Services.” These revenues represented per diem costs charged primarily to Albany and Westchester Counties for housing PINS from those counties in LTI’s non-secure juvenile detention facility.

According to the Project 29 contract between LTI and the County:

- LTI is to reduce charges to the County by the amount of funds received from other sources under the County-funded program;
- There will be no duplicate payments made to LTI;
- All beds are reserved for the exclusive use of DSS. Any request for use of a bed from a source other than DSS must be referred to DSS, and acceptance of any child from any source other than DSS may only be after approval by DSS.
- All billings for non-Nassau County eligible juvenile delinquents and/or PINS placed in a bed reserved exclusively for the County must be made to DSS. LTI must provide DSS with all necessary documentation to allow DSS to bill the other counties for reimbursement.

LTI did not notify DSS that it was housing non-Nassau County PINS from June 2005 through December 2006, which was the period when DSS reimbursed LTI for 100%⁹ of their program costs, or 93% and 82% of all Project 29 general ledger expenses for 2006, and June - December 2005¹⁰. In addition, LTI did not reimburse DSS for the per diem costs they collected from the other counties.

In 2004, in accordance with the contract between LTI and the County, the County reimbursed LTI approximately 66.67% of the Project 29 program expenses, which reserved 8 of the program’s 12 beds for County PINS. While reviewing children’s attendance records for 2004, which were obtained from the New York State Office of Children & Family Services, we noted that there were 190 care days in that year, where non-County PINS used beds reserved for the County’s PINS. In addition, there were 7 days in June 2004 where the number of beds used by all PINS exceeded the 12 beds authorized by the State. LTI collected \$53,584 in fees for services in 2004 from the other counties for beds reserved by Nassau County but used by PINS from other NYS counties. DSS indicated that they had no knowledge that non-County PINS were utilizing beds reserved for the County’s use per the contract.

⁷ Except for bad debt expense, indirect costs and some conference center construction costs.

⁸ For the period July 2005 – December 2005.

⁹ *Id.*

¹⁰ All expenses include indirect costs, which are reimbursed as a percentage of direct costs and non-program expenses such as conference center repairs/construction and bad debt expense. Included in the calculation of the June-December 2005 percentage are supplemental claims and resubmissions of prior disallowed claims from LTI to the County.

Audit Findings and Recommendations

According to children's attendance records provided by LTI and records obtained from the NYSOCFS,¹¹ in September of 2006, LTI did not provide care to any children from Nassau County and, in July of 2006, the agency only provided four care days to Nassau County children. During both of these months, children from other Counties were housed at the facility for a total of 200 care days.

Even during the periods when the County had little or no utilization, LTI continued to bill the County for items such as children's activities (i.e., bowling, movies, and stipends), gasoline, and food. We also noted numerous instances where the medical bills for non-County children were billed to the County. These findings were discussed with LTI and DSS, but are not included in the disallowances in Exhibit I.

Audit Recommendations:

LTI should:

- a) remit a total of \$426,414 to the County for the revenues collected from the other counties for the fiscal year 2004 and the period of July 2005 through December 2006. This includes:
 - 1) the entire \$372,830 it collected from the other Counties during the period that Nassau County paid for all expenses related to maintaining the program. This included food, medical (see *Audit Finding (10), Health Insurance and Medical Costs*) and educational costs for the non-Nassau County PINS; and
 - 2) the \$53,584 in 2004 fees earned from other NYS Counties for using beds reserved for County PINS; and
- b) work with DSS to review whether there were non-Nassau County revenues collected in 2007 and 2008 for housing non-Nassau County children, and if so, determine how much should be remitted to the County.
- c) comply with the terms of the contract, which requires that DSS approve the acceptance of non-Nassau County PINS. If LTI is to continue accepting children from other Counties for its group homes, then the agency must coordinate with DSS to have DSS bill the other Counties directly.

¹¹ New York State Office of Children and Family Services.

Audit Finding (2):

Inequitable Allocation of Administrative Salaries and Benefits

LTI overcharged Nassau County \$286,313 in administrative salaries and benefits during the audit period.

LTI over-allocated administrative salaries to the County-funded programs. During the audit period, LTI operated seven to 12 different programs, however, the majority of the administrative salaries were charged to the three County programs. The executive director worked in California, pursuing opportunities to reorganize LTI as an agency there. During that time, the executive director's salary was billed to the County-funded programs.

During the audit period:

- the executive director's entire salary¹², which averaged approximately \$180,000 annually, was allocated to the three County programs;
- approximately 96% of the fiscal officer's salary was allocated to the County programs in 2003, and 91% from 2004 through 2006.

From 2003 to 2005, 97% of the total salaries of five administrators (including the executive director and fiscal officer) were allocated to the three County-funded programs, even though, LTI had non-County programs in operation; this percentage was 96% in 2006. As a result of these allocations, 25% (on average) of all employees' salaries charged to the three County-funded programs were paid to the five administrators. LTI does not have an administrative department in its ADP payroll register or general ledger to capture the costs of administrative salaries.

The services of administrative employees benefit all of LTI's programs; therefore, all programs should have received an allocated portion of their salaries using a reasonable allocation method. Without the benefit of a time study to track employees' hours worked under each program, an alternative method to reasonably allocate the administrators' salaries would be based upon the percentage of direct salaries incurred for each program as a percentage of total direct salaries. Using the program salaries for the entire agency¹³ as the base, the County-funded programs accounted for 62.98% of the total program salaries in 2003, 73.18% in 2004, 80.50% in 2005, and 82.16% in 2006.

We utilized these percentages as allocation factors in determining the disallowance of the administrative salaries. Applying these allocations, rather than those used by LTI, would have resulted in a lower reimbursement (totaling \$251,444) to LTI over the audit period (see *Table 1*).

Over-Allocation of Related Fringe Benefits

LTI similarly overcharged the County-funded programs for the administrators' fringe benefits (FICA, health insurance, deferred compensation, and life insurance) due to the over-allocation of the administrators' salaries. *Table 1* details the amounts over-reimbursed by the County.

¹² Except for a one-time payment of \$15,357 that was not reimbursed by the County (see *Audit Finding (16), Transfer of Program Funds to Payroll*).

¹³ Total agency salaries less the administrative salaries of the administrative employees listed above.

Audit Findings and Recommendations

Table 1

Category	Over Reimbursed				
	2003	2004	2005	2006	Total
<u>Over-Allocation of Administrative Salaries</u>					
Administrative Salaries	\$88,141	\$69,270	\$44,935	\$49,098	\$251,444
<u>Over-Allocation of Fringe Benefits</u>					
FICA	4,341	3,986	2,107	2,797	13,231
Health Insurance	3,080	3,555	2,901	3,916	13,452
Deferred Compensation	2,143	1,839	1,490	1,290	6,762
Life Insurance	309	331	375	409	1,424
<i>Subtotal Fringe Benefits</i>	<i>9,873</i>	<i>9,711</i>	<i>6,873</i>	<i>8,412</i>	<i>34,869</i>
Total Over-Reimbursed by the County	\$98,014	\$78,981	\$51,808	\$57,510	\$286,313

Audit Recommendations:

LTI should:

- a) remit a total of \$286,313 to the County for the over-allocation of administrative salaries and related fringe benefits during the audit period;
- b) promulgate a reasonable allocation method for administrative salaries that complies with the requirements of OMB A-122, which should be based on a time study of employee hours worked on each program;
- c) establish an administrative department code in the ADP payroll register and the general ledger to capture all administrative salary costs, to enable the agency to allocate administrative costs to all programs accordingly; and
- d) determine what amounts related to 2007 and 2008 should be reimbursed.

Audit Findings and Recommendations

Audit Finding (3):

Non-reimbursable Bonuses

We noted that, in December 2003, LTI generated an extra payroll, where 27 LTI employees received bonuses, totaling \$47,865. *All* of these bonus payments were charged to two of the three County programs, Project 350 and SAMP. Eleven of these bonus payments, totaling \$22,232, were charged to Program 350 even though the employees did not work for this program.

The auditors requested supporting documentation for these bonuses. The executive director indicated that the payments were salary adjustments and that he decided which employees received them and the amount each employee would receive, without any written evidence supporting his decision. The executive director indicated to the auditors that the bonuses were charged to programs that had funds available in their budgets.

Our review of agency payroll records noted:

- one employee who appeared only on the July 18, 2003 bi-weekly payroll for Project 350, and was paid a salary of \$750, received a \$2,987 bonus;
- the executive director's daughter, identified as a Caseworker on the claim submitted to the County, received a bonus of \$6,285 even though payroll records indicated that she never worked for Project 350 in the entire year prior to the payment of the bonus; and
- one of the employees receiving a bonus payment of \$2,540 was a family member of the financial officer, identified on the claim as an Educator.

Based upon our review of the payroll records for the pay periods prior (and subsequent to) these payments, we determined that the extra payroll represented bonuses and were not salary adjustments. We came to this conclusion because we noted that the salaries of the 27 employees in subsequent pay periods were the same as they were in the pay periods prior to these payments. There was no record in the Board minutes indicating that the Board was aware of, or approved, bonus payments to the employees (see *Audit Finding (4), Lack of Oversight by Agency Board of Directors*).

The contract between the County and LTI requires that LTI provide non-secure juvenile detention services; the County reimburses the agency for the salary expenses associated with the daily operations of the program. Bonus payments to employees, regardless of whether the employee worked for a County or a non-County program, are not a cost of the daily operations of the program; therefore, the \$47,865 in bonuses should not have been reimbursed to LTI. Additionally, had these payments been indicated clearly as bonus payments on the claims submitted to the County for reimbursement, the Nassau County Comptroller's Office would have disallowed their reimbursement. In no event should the County have been charged for bonuses to employees who did not work for County-funded programs.

Audit Recommendations:

LTI should:

- a) remit \$47,865 in bonus payments reimbursed by the County and \$3,662 in related FICA payments;
- b) discontinue making any salary payments without supporting documentation; and
- c) only bill the County for the compensation of employees who work on County programs.

Audit Finding (4):

Lack of Oversight by Agency Board of Directors

We noted several examples where the Board of Directors was lax in its oversight of the agency's activities, particularly with respect to oversight of the agency's senior management. Our review found that the Board of Directors' minutes did not evidence Board approval on the majority of major issues or initiatives affecting the not-for-profit, or Board review of financial data including financial reports, employee compensation, and or Board review of apparent conflicts of interest.

Lack of Oversight by Agency Board of Directors

During a review of LTI's Board of Directors ("Board") meeting minutes for the period of 2003 through September 2006,¹⁴ we noted that:

- other than for two meetings (6/19/03 and 9/11/06), there was no formal adoption of the previous meetings' minutes noted;
- there was no signature of the Secretary of the Board or any other Board member to evidence the Board's acceptance and approval of the minutes;
- the only indication that financial reports were presented to the Board was where the:
 - a) 12/6/04 meeting minutes indicated that the Board reviewed the audited 2002 financial statements and the 2003 IRS Form 990; and
 - b) 9/11/06 meeting minutes noted that the Board members reviewed financial reports;
- the meeting minutes did not indicate that the Board approved the financial reports (other than those noted above), annual budgets, or contracts with any entity, including Nassau County;
- there was no evidence in the minutes that the Board reviewed or approved:
 - a) the compensation and salary actions of the executive director and other officers on an annual basis;
 - b) any compensation or raises to employees of the agency; and
 - c) there was no evidence in the minutes that the Board was provided with, reviewed or approved any bids for accounting or construction services;
- the only issues noted as having been voted upon by the Board members were the:
 - a) motion to hire a federal tax attorney to discuss the legality of LTI purchasing out-of-state property;
 - b) payment of a Department of Labor settlement;
 - c) approval of the hiring of a new auditor;
 - d) approval of the Executive Director to work from his home in Los Angeles, California, while researching opportunities for LTI to provide services in the Southern California region, with the goal to reorganize and reestablish the agency as a viable agency in the Californian area; and

¹⁴ We were not provided with the meeting minutes for December 4, 2006.

Audit Findings and Recommendations

- e) establishment of a committee to initiate fundraising.

The New York State Attorney General's Charities Bureau supervises charities and their officers and directors to ensure that they properly carry out their duties in managing, using and preserving charitable assets. The Charities Bureau provides guidance to directors and officers with publications outlining the responsibilities of those managing the charities. One of these publications, *Right From the Start: Responsibilities of Directors and Officers of Not-for-Profit Corporations*, available on the Attorney General's website,¹⁵ outlines the responsibilities and duties of Board members of not-for-profits. Although a Board is not typically involved in the day-to-day operations of an agency, the Board is responsible for managing the not-for-profit and making crucial decisions with respect to the direction of the organization, and must fulfill fiduciary duties to the agency and the public. Board duties include, but are not limited to, ensuring that:

- the minutes of prior meetings are complete and accurate, especially the voting record on proposals;
- a process exists for the approval of major obligations such as fundraising, professional fees (including auditors), compensation arrangements, and construction contracts;
- monthly or quarterly financial reports are available to the Board or finance and audit committees, that they are clear and communicate proper information, and that the reports compare actual revenues and expenses to budget with all discrepancies explained;
- there is involvement in the selection and periodic review of the performance of the organization's Chief Executive Officer, Chief Financial Officer and other key employees responsible for the daily activities of the organization;
- directors and officers act in the interest of the organization by always disclosing any conflict of interest, real or possible, and fully documenting in the Board's minutes, all transactions involving real or possible conflicts; and
- significant financial transactions and new program initiatives are authorized.

Further guidance from the Attorney General's Office publication, *Internal Controls and Financial Accountability for Not-for-Profit Boards*¹⁶ recommends not-for-profits:

- ensure that timely and appropriate financial reports are distributed to all directors and officers and are reviewed by them; and
- establish an audit committee to be composed of Board Members independent of any financial interest in the organization with at least one member who has expertise in accounting.

Based upon our review of the audit period's minutes, it does not appear that the Board has adequately performed its fiduciary responsibilities as described by the Charities Bureau.

The Board lacked a formal policy regarding employees' eligibility for fringe benefits, which could lead to discrimination. During our testing of the expenses billed by LTI and reimbursed by the County, we noted that the agency was reimbursed \$985 for eye doctor and eyeglass expenses incurred by the

¹⁵ New York State Attorney General, revised-January 2005, http://www.oag.state.ny.us/charities/not_for_profit_booklet.pdf.

¹⁶ New York State Attorney General, January 2005, http://www.oag.state.ny.us/charities/internal_controls.pdf.

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executive director. Neither this benefit, nor the deferred compensation benefit,¹⁷ is included in LTI's Personnel Codes & Procedures Manual, although other benefits offered to employees, such as health benefits and life insurance, were included. We also noted that no other employee had used the optical fringe benefit for 2005 and 2006.

Conflict of Interest

According to LTI, the agency has employed family members since its inception. We noted that some employees are related to the Board and senior management of the agency:

- On claims submitted to, and reimbursed by, the County over the audit period, the executive director's daughter was identified by LTI as an Educator, a Child Care Worker, a Caseworker, a Caseworker Supervisor, a Teacher, a Program Coordinator, Educational Coordinator, and Director of Child Care.
- The financial officer's brother-in-law and an additional family member worked at the agency and were identified as a Detention Aide, a Program Assistant, an Educator, a Teacher, and as the agency's information technology employee.
- A Casework Supervisor is the parent of a Board member, who, according to Board minutes, was the Chairperson of the Board in 2006.

As discussed in other findings, there are circumstances where management is the sole discretionary determinant of an employee's salary and other compensation considerations, without written documentation to support the payment, including the following examples:

- the executive director:
 - a) decided and authorized the 2003 payment of a bonus to his daughter and a family member of the financial officer without any supporting documentation (see *Audit Finding (3), Non-reimbursable Bonuses*);
 - b) determined and authorized payment to his daughter and the brother-in-law of the financial officer under a non-County program, without any timesheets or other supporting documentation (see *Audit Finding (16), Transfer of Program Funds to Payroll*). These costs were not submitted to or reimbursed by the County; and
 - c) approved one of his daughter's timesheets (see *Audit Finding (5), Inadequate and Erroneous Time Keeping of County Programs*).

The agency provided us with a copy of its Conflict-of-Interest Statement, which LTI indicated is signed and dated by each employee. The current statement does not specifically prohibit family members deciding their relatives' pay or supervising relatives, however, the policy implies that such situations may be prohibited where they present a conflict of interest. Based upon our review of the Board minutes, there was no evidence that the Board was aware that family members supervised or reviewed the work of, or authorized remuneration to another family member. The Charities Bureau of the NYS Attorney General's Office charges Boards to always disclose any conflict of interest, real or possible, and fully document, in the Board's minutes, all transactions involving real or possible conflicts.¹⁸ As such, these situations should have been disclosed by senior management to its Board;

¹⁷ The deferred compensation plan was outside the scope of our audit.

¹⁸ New York State Attorney General, revised-January 2005, *Right From the Start: Responsibilities of Directors and Officers of Not-for-Profit Corporations*, http://www.oag.state.ny.us/charities/not_for_profit_booklet.pdf.

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the Board should have been allowed to determine whether the situations violated the agency's conflict of interest policy, and take appropriate action, if necessary.

During our audit, we also noted that in 2005 LTI paid over \$130,000 in rental expense to Village of Hempstead Employment Opportunity Corp. ("HEOC"), a not-for-profit organization providing career counseling to adolescents and young adults.¹⁹ Of this amount, the County reimbursed the agency almost \$64,000. According to LTI's financial statements for the year-ended December 31, 2005, "LTI is affiliated with Hempstead Employment Opportunity Corporation (HEOC) by virtue of commonality of directors and management."²⁰ LTI's executive director is also the executive director of HEOC²¹. We requested all of LTI's lease agreements, but were not provided with any lease agreements between LTI and HEOC.

Based upon our review of LTI and HEOC documents we noted the following:

- LTI uses two suites in an office building, for its administrative offices. According to documents provided by LTI to the auditors, one suite is leased by LTI from the rental agency, while the other is leased by HEOC from a third-party.
- LTI also subleases space on a month-to-month basis from HEOC at a separate location in Hempstead. Monthly rent varies based upon the number of programs in operation.
- HEOC's mailing address, reported on its IRS Form 990s that coincided with our audit period, was the administrative office suite leased by LTI from the rental agency, however, based upon our review, HEOC did not reimburse LTI for use of a portion of the premises.
- Per LTI's 2005 and 2006 general ledgers,²² all of its rental expense was paid to HEOC, even though one of LTI's administrative suites is leased directly from a third-party rental agency, and not HEOC.
- The only revenue reported on each of HEOC's IRS Form 990s (that coincided with our audit period), was gross rents. Based upon our review, it appears that HEOC, although acting as a pass-through for the rental expense payable to LTI's third-party Lessor, reported this collection as revenue on its tax return. In addition, HEOC appeared to have collected more revenue than it paid out as rental expense, according to its tax returns.

Because of the lack of a clear audit trail of rental payments, we cannot determine if the rental expense reimbursed by the County for the agency's administrative offices was accurate.

The Board's failure to provide oversight of the agency's management ultimately runs the risk of threatening the agency's tax-exempt status and may subject the Board members and management to fines and penalties under the IRS Code²³ and New York State laws.²⁴

¹⁹HEOC 2005 IRS Form 990, primary exempt purpose.

²⁰ LTI's *Notes to the Financial Statements For the Year Ended December 31, 2005, Note 10. Related Party Transaction*, page 12.

²¹ According to HEOC's 2003-2006 IRS Form 990, the executive director did not earn any compensation from this not-for-profit, except for the fiscal year August 1, 2002 – July 31, 2003 when he earned \$27,000 in that period. There was no other compensation reported on the IRS form.

²² We could not determine this for the 2003 and 2004 fiscal years because the auditors were not provided with an agency-wide general ledger for those fiscal years.

²³ See footnote 13.

²⁴ Not-for-Profit Corporation Law, § 720.

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Audit Recommendation:

LTI's Board of Directors should:

- a) ensure that all Board members are familiar with the duties of not-for-profit directors as outlined by the *New York State Attorney General's Charities Bureau*;
- b) ensure that meeting minutes are completed and adopted;
- c) review and approve the agency's annual budgets;
- d) require that financial reports be prepared for all meetings, and are reviewed and approved by the Board at each meeting;
- e) review and formally approve any agency contract with any entity, including Nassau County;
- f) review and approve bids for services and capital projects;
- g) annually review and approve the compensation of the executive director and other key employees. In addition, the Board should review and approve:
 - i. all raises and any additional payments made to the employees; and
 - ii. all expenses incurred by the agency's officers and charged to agency programs.
- h) authorize compensation levels and any other transaction having a financial impact to the agency, where the affected employees are related to the agency's officers, administrative personnel, supervisors or Board members, and the Board should do so only after having reviewed supporting documentation;
- i) require that all of LTI's rental agreements are adequately documented and contracted with the correct parties; and
- j) ensure that policies covering all fringe benefits granted to eligible employees are:
 - i. formally adopted; and
 - ii. included in a policy manual and in the agency's employment package.

All eligible employees of the agency should receive, in writing, documentation of all fringe benefits available to them. These documents should be reviewed and updated on a periodic basis by the Board and senior management. The agency should only be reimbursed for fringe benefits formally adopted by the Board of Directors, or mandated by NYS Labor Laws.

The agency should ensure that:

- a) all employees adhere to its conflict of interest policy;
- b) the Board is made aware of any employee who is related to another, and that this relationship is documented in the Board minutes;
- c) procedures are implemented to ensure that a family member cannot:
 - i. report to another family member; and
 - ii. verify or approve timesheets, leave requests, expenses, or other financial remuneration of another family member.

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- d) all related party transactions are transparent and adequately documented, and are approved by the Board;
- e) the rental expense for the administrative suites are paid from the general account of the agency's general ledger, and that a portion of the expense is allocated to all programs within the agency; and
- f) rental expense is paid to the correct party and adequately evidenced by lease agreements.

Audit Finding (5):

Inadequate and Erroneous Time Keeping of County Programs

Each agency employee is assigned to at least one department, each department representing an agency program. A review of the agency's payroll records did not provide a suitable basis for determining how the employees' salaries are allocated to each program.

Our initial examination of 34 timesheets for the December 2003 payroll found that 26 did not properly indicate the employee's program assignment. Fifteen timesheets listed "group homes" instead of Project 350 or Project 29; another five did not have any program indicated and six listed "LTI" as the program assignment.

We expanded our scope of testing to review two consecutive pay periods in 2005 and 2006. We examined 169 timesheets from County-funded programs and noted that 135 timesheets (80%) did not indicate which program the employees had worked for during the pay period. Without this indicator, we cannot be assured that the County reimbursed LTI only for those employees who worked on County-funded programs.

Our review of payroll for the audit period also noted several instances where employees' time was billed to the County-funded programs, although the agency's ADP payroll register and/or timesheets showed that those same employees were assigned to a non-County program. The exceptions noted included the following:

- In the December 2004 payroll, one employee appeared to work for a non-County funded program, Intensive After Care; LTI's ADP payroll register showed that the employee worked for the non-County program and the employee's corresponding timesheet did not indicate any program. LTI, however, included this employee's salary in its reimbursement claim for Project 29, claiming a total of \$2,646, of which the County reimbursed \$1,764, for the period of November 1 through December 31, 2004. The January 2005 Project 29 claim did not include this employee.
- Included in the October and November 2005 SAMP program expense claims were salary costs totaling \$3,300, representing three pay periods for the executive director's daughter who, according to the ADP payroll register, was not assigned to the SAMP program. Only one week of this six-week period showed an allocation of hours worked, however this timesheet was neither verified nor approved. A second timesheet indicated that the employee was out sick for an entire two-week period, while a third timesheet seemed to indicate that the employee was out of the office during this period. These costs were added to the County-funded program's general ledger via a general journal entry during each pay period. It should be noted that:
 - a) the executive director authorized one of these timesheets, although this employee is related to the executive director (see *Audit Finding (4), Lack of Oversight by Agency Board of Directors*) and there was no verifier signature on the timesheet; and
 - b) for one pay period in July of 2006, LTI was reimbursed under two separate claims for Project 350, resulting in a duplicate payment reimbursed for this employee of \$256.

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- In July and December 2006, two employees were billed to the SAMP program, although the ADP payroll register had them assigned to non-County programs. We reviewed their timesheets for the period and noted that the SAMP program was not charged for any of the time. The total salary amount reimbursed by the County was \$4,210. The timesheets may have been erroneous but the billing correct, because subsequent payrolls indicated that the employees worked for a County-funded program.
- Two employees, assigned to one County-funded program per the ADP register, were paid through another County-funded program for the June 16, 2006 payroll. The County reimbursed LTI \$2,479 under the incorrect programs.

Each employee is required to complete and sign a bi-weekly timesheet, which is then to be verified and approved. However, we noted numerous occurrences where this control was not followed. In our testing of the 169 2005 and 2006 timesheets from County-funded programs tested, as noted above, there were 61 instances (36%) where the timesheets were approved but not verified.

Our examination of the timesheets demonstrated that employees are not adequately accounting for their time spent on County-funded programs. Without timesheets clearly indicating which program employees worked for, it is difficult to ensure that the employee's salary was billed to the correct program.

Audit Recommendation:

LTI should:

- a) review all bills to ensure that the agency only charges the County for time spent on county-funded programs;
- b) remit a total of \$6,129 to the County comprised of \$5,064 for salaries incorrectly charged to the County-funded programs, \$256 for the duplicate salary payment reimbursed by the County, \$407 in related FICA and \$402 in related health and deferred compensation benefits;
- c) require that the specific program for which the employee is working be clearly noted on all timesheets. If the employee is an administrative employee, it should be noted on the timesheet and reported in an administrative department in the ADP payroll register;
- d) consider implementing a timesheet for each program with each employee signing in and out on a daily basis, including any employees assigned to the program on a temporary basis;
- e) document in writing all employee program reassignments – which should be clearly noted on the timesheets, and reflected in the ADP payroll records; and
- f) ensure that all timesheets have been verified and approved in accordance with agency policy.

Audit Finding (6):

Indirect Costs Misclassified as Direct Costs and Disallowed Indirect Costs

Misclassification of Indirect Costs

Under OMB A-122, direct costs are defined as “those that can be identified specifically with a particular final cost objective (project)”²⁵ while indirect costs are defined as “those that have been incurred for common or joint objectives.”²⁶

In accordance with LTI's three contracts with the County, LTI is reimbursed for indirect costs as part of the contract's budget. The County pays LTI a percentage of the direct costs to fund indirect costs, up to a predefined dollar limit stated in the contract's budget. The contracts include the following statement regarding indirect costs:

“Indirect costs will include, but not be limited to: space rental, office maintenance, advertising/public relations, printing, certificates and awards, volunteer expenses, refreshments, utilities, telephone, administrative expenses, insurance, depreciation, and recognition items.”

The three contracts with the County reimburse LTI a percentage of the direct costs to fund indirect costs, up to a predefined dollar limit stated in each contract's budget. The percentage of the direct costs paid to LTI for the period 2003 through 2005, ranged from 5.44% to 6.92%, depending on the contract. However, in the 2006 budgets, rental costs were reclassified as a direct cost line item and, therefore, the 2006 allowance for indirect expenses was reduced to approximately 2%.

LTI was reimbursed \$37,466 for several items the agency classified as direct expenses that were actually indirect costs of the County programs, as defined by OMB A-122. These included:

- *Administrative Office Copier:* Under Project 29, LTI submitted for reimbursement the cost to lease a copier. This copier was not at the Project 29 location but instead was located in LTI's administrative offices; therefore, the lease expenses should be considered indirect costs to the program. From 2003 through 2006, the County reimbursed LTI \$3,598, \$6,192, \$7,978, and \$1,548, respectively.
- *Screen Printed Mats and Runner:* LTI purchased, and requested reimbursement through Project 350 for the total cost of custom printed floor mats and a custom screen-printed runner. Two of the mats and the runner were located at LTI's administrative offices. The runner, according to the executive director, is only used for special occasions. Additionally, there were no mats observed by the auditors during a tour of the program location. The mats and runner are not a direct expense of providing for children however, the County reimbursed LTI \$2,775 for the mats and runner.
- *Access to Internet Recruiting Website:* LTI requested reimbursement for the cost to access a database of potential employees. As this expenditure was not for a specific position within the County programs, it should have been considered an indirect cost. In 2003, 2004 and 2005, the County reimbursed LTI \$1,085, \$1,968, and \$618, respectively.

²⁵ See Footnote 7.

²⁶ *Id.*

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- *Website Hosting:* LTI submitted the cost for hosting a website, an agency-wide expense that should have been submitted as an indirect cost. During 2003, LTI allocated \$470 to the County programs, of which the County reimbursed approximately \$351. The amounts reimbursed by the County in 2004 through 2006 were \$292, \$348, and \$987, respectively.
- *Fixed Assets:* In 2003 and 2004, LTI purchased several computers that were billed to the County as direct costs to the County-funded programs. Several computers, valued at \$9,410 were located in LTI's administrative offices of the agency, including a notebook computer that was purchased for \$2,240 for the executive director.
- *Other Items:* During 2005, LTI submitted and was reimbursed by the County for several expenses that should have been classified as indirect costs, including a telephone bill for the administrative office, and checks for LTI's general bank account. These costs totaled \$316.

These items should not have been included in requests for reimbursement as direct expense budget lines of the contracts; however, they may have been appropriate as indirect expenses. As a result, LTI was over-reimbursed \$37,466 in indirect costs billed as direct costs.

Disallowed Indirect Costs

Under the reimbursement formula, any audit disallowance of direct costs would result in a corresponding decrease in the reimbursable indirect costs that LTI is entitled to receive.

For repayment purposes, we calculated the disallowances on the lowest reimbursement percentage for each applicable year, 6.37% for expenses reimbursed in 2003 through 2004, 5.44% for 2005, and 2% for 2006. *Table 2* illustrates the computation of the indirect expense disallowance due to the corresponding disallowance of direct expenses:

Table 2

	<u>Total</u>	<u>2003</u>	<u>2004</u>	<u>2005</u>	<u>2006</u>
Total Direct Expenses Disallowed (a)	\$386,605	\$165,351	\$93,724	\$66,054	\$61,476
Indirect Cost Percentage		6.37%	6.37%	5.44%	2.00%
Total Indirect Expenses Disallowed	\$21,326	\$10,533	\$5,970	\$3,593	\$1,230

Note (a): Represents the total of all direct expenses disallowed per our audit. See Exhibit I at the end of this report.

Exhibit 1 (see page 37) details the total direct expenses disallowed of \$396,579, which include the indirect expenses misclassified as direct expenses. As a result, LTI was over-reimbursed \$21,326 in indirect costs resulting from the disallowance of direct costs.

Audit Recommendation:

LTI should work with the County to review all purchases for its administrative offices that were billed as direct costs and should have been treated as indirect costs. LTI should reimburse the County all improperly billed indirect cost items after this review. The reimbursement must include \$37,466, which this audit identified.

In addition, LTI should:

- a) properly classify program expenses as direct or indirect costs in accordance with the contract terms and OMB A-122 definitions;

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- b) bill the County programs accurately by recording indirect costs in an administrative general ledger and then allocating costs to all agency programs based upon contract terms;
- c) not bill the County for more indirect costs than they have actually incurred and allocated to the County-funded programs; and
- d) LTI should remit a total of \$21,326 to the County representing the indirect costs corresponding to the disallowed direct costs detailed in the other findings.

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Audit Finding (7):

Excessive and/or Unreasonable Expenses billed to County Programs

During our review of the expenses claimed by LTI in 2005 and 2006, we noted numerous instances where expenses billed to, and reimbursed by, the County under the program contracts were not related to services contracted by the County. Examples include:

- \$985 for an eye doctor visit and eyeglasses for LTI's executive director. We noted that no other employee had used the optical fringe benefit for 2005 and 2006 (see *Audit Finding (4), Lack of Oversight by Agency Board of Directors*);
- \$2,807 in video gaming systems, video games, accessories, related protection plans and movies purchased on December 31, 2006 and billed to Projects 29 (\$1,440), 350 (\$1,217) and SAMP (\$150). Three of the video games, Family Guy, Call of Duty, and Gears of War had a Mature (over 17) rating due to violence. One purchase was for a movie, Saw II, to be played on a game system; it had an R rating.
- Four Bluetooth hands-free cell phone devices for a total cost of \$390;
- Magazine and newspaper subscriptions such as Newsday, Business Week, Newsweek, and Consumer Reports, some of which were delivered to the executive director's house;
- Smarte Carte luggage cart rental at Los Angeles airport; and
- University Club membership fees of \$103 paid to Hofstra University in 2005 for the executive director.

All of the above expenses were claimed by LTI as direct expenses under the programs. Funding provided by the County to the agency under the contracts is intended to cover reasonable and necessary expenses to maintain the programs for the benefit of the children serviced. The above examples of expenses claimed by the agency and reimbursed by the County do not appear to be reasonable for running the contracted programs. Per OMB A-122 guidelines, the consideration for the reasonableness of a cost is dependent upon whether the cost is "generally recognized as ordinary and necessary for the operation of the organization or the performance of the award".²⁷ The expenses cited above do not qualify as reasonable under this guideline.

Audit Recommendations:

LTI should:

- a) cease billing the County-funded programs for miscellaneous expenses that are not reasonable and necessary expenses for the operation of the organization or the performance of the program;
- b) implement an oversight process to review all expenses to be submitted to the County to ensure only allowable expenditures are claimed;
- c) reimburse the County \$1,478 comprised of the:
 - i. \$985 in optical costs, as the executive director was the only employee who received this benefit;

²⁷ Office of Management and Budget, Circular A-122, *Cost Principles for Non-Profit Organizations*, available at http://www.whitehouse.gov/omb/circulars/a122/a122_2004.pdf (2004).

Audit Findings and Recommendations

- ii. \$390 cost for the four Bluetooth hands-free devices. Hands-free devices are a requirement of NYS law for all drivers utilizing cell phones while driving and should not be billed to the County; and
- iii. university club fees of \$103.
- d) include all existing benefits, including the deferred compensation benefit, in its policy manual (see *Audit Finding (4), Lack of Oversight by Agency Board of Directors*).

Audit Finding (8):

Delayed and Inaccurate Financial Reporting

LTI did not issue its financial statements or file its IRS Form 990 on a timely basis.

- The 2003 financial statements were not issued until January 5, 2006, a full two years after the end of the fiscal year.
- The 2004 financial statements were issued on April 19, 2006, along with revised 2003 amounts.
- Amended IRS Form 990's for 2003 and 2004 were dated June 20, 2006.
- The 2005 financial statements although dated October 9, 2006, were finalized in August 2007 and provided to the auditors at that time.
- As of February 2008, the agency has not yet issued its 2006 audited financial statements.

As previously noted in *Audit Finding (4), Lack of Oversight by Agency Board of Directors*, the Board minutes covering the audit period reflect that there was not a consistent review of financial information. Therefore, there appears to be no pressure placed upon senior management to prepare these documents on a timely basis for presentation to its Board. As a result, the Board and the officers of the agency did not have timely financial information on which to base decisions on behalf of the agency.

While reviewing the documents, we noted that the amended 2003 IRS Form 990 had incorrectly reported program revenues. The amounts reported on this tax form differed by approximately \$18,000 from the amount on the general ledger for the related programs.

The 2003 and 2004 general ledgers for the three County-funded programs were revised to include audit fees paid in 2006 for services rendered in 2006 by the agency's new independent auditor. These additional expenses were also included in the amended IRS Forms. Accounting rules dictate that these expenses should be recognized in the period they are incurred.

Consequently, it is likely that the financial information provided to the Board and officers of the agency, as well as the governmental tax filings and the claims submitted to Nassau County under the three programs may have been incorrect.

According to the publication, *Internal Controls and Financial Accountability for Not-for-Profit Boards*, prepared by the New York State Attorney General's Office,²⁸ not-for-profits should implement procedures for monitoring assets including ensuring that timely and appropriate financial reports are distributed to, and reviewed by, all directors and officers.

Audit Recommendation:

LTI should:

- a) establish a timely closing for each fiscal period;
- b) ascertain that all expenses are posted to the correct accounting period;
- c) ensure that all financial records are consistent and may be adequately reconciled to each other; and

²⁸ Available at http://www.oag.state.ny.us/charities/internal_controls.pdf (2005).

Audit Findings and Recommendations

- d) ensure that its audited financial statements are issued within a reasonable period of time and that the Board of Directors, and the senior management of the agency have timely financial information with which to make informed management decisions.

Audit Finding (9):

Lack of Procedures for Capital Projects

In 2005 and 2006, the agency spent over \$230,000 in construction costs related to a conference center located at the Project 29 non-secure juvenile detention facility, of which the County reimbursed \$88,925. A detached structure on the property adjacent the group home was considered the agency's conference center. During our audit, we noted the following:

- LTI's 2005 budget of \$736,128 for Project 29, approved by the County during the contract process, did not include a line item for capital projects, or any projected costs for the construction.
- LTI did not obtain bids for the construction of the conference center.
- There was no evidence in the Board minutes of Board approval authorizing the project. We did see subsequent Board minutes where progress on the construction project appeared to have been discussed.
- There was no procurement process for the architectural services; instead, LTI utilized an architect, who the executive director said LTI has had a long-standing relationship with, to act as the general contractor and to provide architectural services. There was no evidence in the minutes of Board approval to use the architect, who was paid a 20% fee for these services.
- Board minutes for June 2006 indicated that the agency expected to rent the conference room to other organizations; however, according to the executive director, the room was never rented.
- LTI submitted multiple modifications to its 2005 budget to transfer monies to the *Repairs and Maintenance* and *Supplies and Equipment* expense lines. Documentation provided to DSS by the agency explained that the budget modifications were necessary to enact repairs, such as roof replacement and removal of mold and mildew at the conference center. Specific 2005 budget items of note include the fact that:
 - a) \$69,862 was transferred from multiple expense lines to the *Repairs and Maintenance* budget line in October 2006, a full year after costs were incurred, to adjust the 2005 budgeted expense to \$81,597; and
 - b) \$24,000 was reclassified in 2005 to the *Supplies and Equipment* expense line, and was taken primarily from salary expenses.
- As of the end of our fieldwork in August 2007, the agency had not yet obtained the certificate of occupancy for the construction.
- In December 2006, the County reimbursed LTI, under the 2006 Project 29 contract, \$4,637 for furniture purchased for the agency's conference center.

The total 2005 budget of \$736,128, which remained consistent during the audit period, appeared to have sufficient unexpended monies at the end of the year to have been able to fund a portion of the construction costs. The 2006 Project 29 budget was unchanged from the original 2005 budget.

We are concerned that either LTI may have cut back on program services budgeted in the contracts to fund its construction costs, which were billed to the County as direct costs, or that the contracts were over-funded.

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We also noted that, during 2003, LTI purchased approximately \$27,000 of carpeting for both of the non-secure residences. The invoices indicated that the installations occurred during November and December of 2003. LTI did not provide evidence that it obtained bids for the carpeting and that the work was performed by the lowest qualified bidder. There was no indication in the 2003 Board minutes that the Board approved this capital project, and the 2003 budget provided to the County in the contract for Projects 29 and 350 did not include any proposed expenditures for carpet purchase and installation.

OMB A-122 establishes parameters for defining the reasonableness of costs, including whether a cost is ordinary and necessary for the operation of an organization.²⁹ It cannot be determined if the construction costs were excessive because LTI did not obtain any bids

The New York State Attorney General's *Internal Controls and Financial Accountability for Not-for-Profit Boards* states that not-for-profits should implement procedures for approving contracts including securing competitive bids from vendors.³⁰ The bidding process helps assure the prudent and economic use of public monies and facilitates the acquisition of goods of desired quality at the lowest cost. By circumventing this control, the agency may not have paid a competitive price on the cost of the conference center construction or the installation of the carpeting.

Audit Recommendations:

LTI should:

- a) comply with all requirements of OMB A-122 and the Charities Bureau of the New York State Attorney General's Office. In complying, the agency should:
 - i. include in its annual budget, estimated costs for any planned capital improvements that are necessary for the operation of the program; and
 - ii. secure competitive bids from vendors.
- b) retain copies of the written documentation of the bids obtained for auditing purposes;
- c) require Board approval on:
 - i. all capital improvements in the budget; and
 - ii. the contractor or vendor selected for the capital project; and
- d) investigate other options to finance future capital projects.

LTI should cooperate with a DSS inquiry into whether the construction/repair project that the department approved was the project completed by the agency. If not, DSS should determine what monies need to be reimbursed to the County.

²⁹ Office of Management and Budget, Circular A-122, *Cost Principles for Non-Profit Organizations*, available at http://www.whitehouse.gov/omb/circulars/a122/a122_2004.pdf (2004).

³⁰ New York State Attorney General, January 2005, http://www.oag.state.ny.us/charities/internal_controls.pdf.

Audit Finding (10):

Health Insurance and Medical Costs

Children's Medical Care

As part of the two non-secure detention services contracts with the County, LTI is required to provide medical services to the children under its care. The cost of this care is billed to the project in which the child is housed. We reviewed claims from 2004 through 2006 that contained medical billings from LTI for the non-secure juvenile detention facilities and noted the following:

- In 2004 and 2005, 16 invoices totaling \$1,302, were billed to the incorrect program. Supporting documentation, such as LTI's census or New York State Office of Family and Children's Services reports, showed that invoices for five children actually housed by Project 29 were submitted for reimbursement under Project 350. The County reimbursed 100% of Project 350 costs; however, it only reimbursed 66.67% of the Project 29 costs. This resulted in an overpayment by the County to LTI of \$434.
- In 2005, LTI billed the County for \$404 in medical costs for two children from Albany County, one through Project 29 (\$154) and the other through Project 350 (\$250). The County reimbursed LTI 100% for these claims.
- In 2006, LTI billed \$860 in medical costs to the County for children from Westchester County. The County reimbursed LTI 100% for these costs.
- After expanding our scope, we found numerous other examples where the medical costs of non-County children were billed to the County; these examples were discussed with both LTI and DSS, and are not included in the recommendations below or Exhibit I of this report.

The medical costs for the children from Albany and Westchester Counties should not have been billed to Nassau County. The medical costs of \$404 paid for the children from Albany County should be reimbursed to the County by LTI. The costs associated with the Westchester County children will be recovered as part of the per diem recovery from LTI (see *Audit Finding (1), Revenues Collected by Agency and Not Credited to Nassau County for Project 29*) because the fees collected by LTI are based on a per diem rate that includes medical expenses.

Agency Employee Health Costs

LTI provided health insurance to full-time employees as a fringe benefit. The County reimbursed LTI for the cost of the health insurance premiums for those employees who worked for the County-funded programs.

On two occasions in 2004, LTI subsequently received credits from the insurer for some of these premiums and failed to allocate these credits back to the County; credits were blacked out on the claim form submitted to the County by LTI (see *Audit Finding (13), Miscellaneous*). The County should have been credited a total of \$612.

In addition, the County reimbursed LTI a total of \$224 related to employees' medical bills. These invoices should have been paid through LTI's workers' compensation insurance as they were related to an injury sustained on the job.

Audit Recommendations:

LTI should:

Audit Findings and Recommendations

- a) ensure that medical expenses incurred on behalf of the children in its care are claimed through the proper project; and
- b) remit to the County \$1,674 comprised of:
 - i. \$434 for the medical invoices that were allocated to the incorrect program;
 - ii. \$404 for the medical billings of the Albany County children;
 - iii. \$612 for the credits received from the health insurance carrier that should have been passed on to the County; and
 - iv. \$224 for payments that should have been made from LTI's workers' compensation insurance.

Audit Finding (11):

Non-reimbursable Beverage Purchases

LTI is required to provide meals to the children in accordance with New York State Juvenile Detention Facilities Regulations.³¹ The regulations state that the diet shall meet the nutritional standards recommended by the National Research Council. These regulations also require that LTI develop and maintain menus.

The food purchases made by LTI were compared to the menus that were maintained by LTI. In reviewing several months' of purchases, it was determined that LTI purchased soda and coffee, which were not listed on the menus. In addition, during an informal discussion with an agency supervisor, it was determined that LTI does not serve soda or coffee to the children. There was no evidence of soda at any location.

We expanded our review and determined that LTI purchased soda for \$367 and coffee for \$446. Of these amounts, the County reimbursed \$345 for the soda and \$383 for the coffee.

Additionally, one invoice included a \$27 beer purchase. Alcoholic beverages are not to be served to the children remanded to LTI's care, nor are alcoholic beverages reimbursable in accordance with OMB A-122. Additionally, this invoice included \$9 in sales taxes even though LTI is sales tax exempt. Pursuant to the contract for Project 29, the County reimbursed 66.67% of the total, or \$24.

We noted internal control weaknesses over the purchase of food. LTI purchased food directly from the supermarket and LTI employees did the shopping. There was no control in place to ensure that all of the food purchased was delivered to program locations.

Audit Recommendation:

LTI should:

- a) reimburse the County a total of \$752 for the purchases of soda, beer, coffee and the sales tax paid on the beer. LTI should immediately discontinue claiming reimbursement for the purchase of these beverages;
- b) ensure that it is not paying sales tax on any of its purchases; and
- c) provide for segregation of duties to ensure that all food purchased is received at the program sites. Alternatively, LTI should investigate using a food service vendor to deliver the food directly to the program sites, which would create greater control over food purchases.

³¹ 9 N.Y. Comp. Codes R. & Regs. §180.10(3)(xvii)(a) (2007).

Audit Finding (12):

Telephone Charges billed to the County

Toll-free number

During the audit period, the County reimbursed LTI for *all* long distance phone bills charged to Project 350. Included in these phone bills were charges for a toll-free number listed to a dentist's office. Upon further research, it was determined that this phone number had been disconnected but LTI continued to be charged for the service. Neither the executive director nor the financial officer was aware of the charges. During the audit period, LTI paid, and the County reimbursed, \$735 for this number. The agency did not bill the County for long distance service from October through December 2005 as it had received credits from AT&T for the erroneous billing of the disconnected toll-free number. Therefore, no reimbursement to the County is required for the toll-free number charges that were paid by the County to LTI.

Long distance charges

During the period from 2004 to 2006, LTI paid AT&T approximately \$43 to \$46 per month for long distance services, with minimal usage at the Project 350 group home. Our review noted that LTI:

- paid \$519 in long distance service charges during 2004 but made only 15 calls during this period;
- paid \$409 in long distance service charges from January through September 2005 but made only three calls during this period;
- paid \$570 in long distance service charges in 2006 but made only one 17-minute call for a total cost of \$20; and
- did not make any long distance calls for 27 months out of this 33-month period.³²

During an interview, the executive director and the financial officer explained that the costs were high, as they instituted an access code to allow long distance phone calls.

Audit Recommendation:

LTI should review:

- a) the monthly telephone bill for accuracy of charges prior to approval for payment; and
- b) its long distance services and determine if the services can be provided by another provider at a lower rate, or investigate canceling the long distance service and requiring that long distance calls be made only from the main office or with prepaid telephone cards.

³² January through December 2004, January through September 2005, and January through December 2006.

Audit Finding (13):

Miscellaneous

Outstanding checks

The December 2004 bank reconciliations performed for the County-funded programs showed 10 outstanding checks, totaling \$363, that were added back to LTI's book balances. A review showed that LTI requested, on County claim forms, reimbursement for the expenses related to these checks. There were 20 checks, including the 10, totaling \$880 that did not clear and were not reissued, but were claimed to the County. The County was not issued credits for the 10 checks voided but we cannot determine if the remaining 10 checks were reissued or written-off.

Blacked-out information on claims

In reviewing the documentation supporting the claims submitted to the County for fringe benefits, it was noted that information was blacked out on some of the invoices and others did not contain enough detail to determine if the amount allocated to the County program was reasonable. Upon request, LTI was able to provide schedules that detailed the amounts allocated to each program; however, this information was not detailed on the invoices submitted with the claims.

Erroneous billings to County

We reviewed the reimbursement claims, invoices, and cancelled checks for the purchase of the carpeting installed at the two group homes in 2003. LTI was reimbursed by the County under four invoices, all dated November 25, 2003, and all with the exact same description. Our review noted the following:

- LTI submitted an invoice for \$1,237 under Project 29 and was reimbursed \$693 by the County. The same invoice was submitted for reimbursement under Project 350; however, the claim was rejected by the County Comptroller's Office because the invoice had a Project 29 shipping address. Correspondence from LTI indicated that the invoice was issued to Project 29 in error and it obtained a corrected invoice issued to Project 350. However, LTI did not credit back the \$693, originally paid by the County, for the incorrect invoice charged to Project 29.
- One check for \$713, was issued in March 2004, but remained outstanding as of December 31, 2004. The County had reimbursed LTI \$570 for this expense. This amount was never credited back to the County, although the check was voided in May 2006.

Double billing of claims to County

During our audit, we noted that LTI submitted the same expenses more than once. In March 2006, LTI submitted medical expenses of \$170 under Project 350 for PINS housed at the group home; the County reimbursed 100%. In June 2006, LTI submitted a supplemental claim that included these same expenses.

In December 2006, the agency was reimbursed \$917 for auto insurance expenses, however, these costs represented January 2007 expenses, and should have been claimed under the 2007 contract with the County. Upon further investigation, we noted that LTI submitted this same expense in January 2007, and was again reimbursed by the County, however LTI provided a credit to the County in March 2007. Consequently, no reimbursement is requested.

Audit Findings and Recommendations

In addition, LTI submitted a claim in December 2004 and was reimbursed \$40 for the same purchase from Walgreens by both Project 29 and Project 350.

Audit Recommendations:

LTI should:

- a) investigate whether the 10 checks are still outstanding and reissue them if necessary or credit them back to the County programs that were originally charged;
- b) remit \$363 representing the 10 checks that were added back to LTI's book balance at December 31, 2004;
- c) discontinue blacking out items on the invoices submitted for reimbursement. Additionally, LTI should write the amount allocated to each program on every invoice. For items such as fringe benefits where the costs are allocated based upon the individuals actually working for the programs, LTI should submit the schedule that details all of the employees receiving the benefit and the amounts allocated to each program for each individual;
- d) repay \$693 to the County for the duplicate reimbursement of the carpet invoice charged to Project 29 but installed in the Project 350 location;
- e) investigate why the check for \$713 was not deposited by the payee and, if necessary, LTI should reissue the check or reimburse the County the \$570 that was paid to LTI;
- f) create a stamp that may be used for each invoice, to allocate expenses to each applicable program on a pro-rated basis;
- g) submit a hard copy of its Microsoft Excel monthly claims summary to the County and include check numbers on all copies of claims as well as including them in the Excel summary; also, on a monthly basis, copies of all cancelled checks should be submitted to the County;
- h) remit to the County \$210 for the duplicate reimbursement of the following:
 - i. \$170 for the medical expenses charged to Project 350; and
 - ii. \$40 for the Walgreens purchase; and
- i) implement a process to ensure that:
 - i. the correct amounts are billed to the County and not duplicated; and
 - ii. any credits issued to the agency for expenses that have already been paid by the County, are applied to subsequent claims.

Audit Findings and Recommendations

Audit Finding (14):

Internal Controls

A review of LTI's internal control structure revealed a few areas where risks exist. For example, LTI does not:

- have the preparer or reviewer sign monthly bank reconciliations;
- use pre-numbered purchase orders and does not require that the program to be charged the expense be listed on the purchase order;
- enforce the agency-stated procedure of requiring the verification and approval of timesheets prior to processing payroll to accurately bill the County for related program salaries (see *Audit Finding (5), Inadequate and Erroneous Time Keeping of County Programs*);
- have an adequate process to ensure that the agency does not submit duplicate expense reimbursement requests (see *Audit Finding (13), Miscellaneous*); and
- have a policy for obtaining bids prior to signing contracts for services or goods (see *Audit Finding (9), Lack of Procedures for Capital Projects*).

Audit Recommendations:

LTI should:

- a) require the preparer and reviewer sign all monthly bank reconciliations;
- b) institute the use of pre-numbered purchase orders and require that the program requesting any purchase be clearly noted on the purchase order;
- c) ensure that all time keeping records are verified and approved and reflect the correct programs or use the time clocks already purchased to provide adequate control over time keeping; and
- d) implement procedures to ensure that all reimbursements requested are an accurate reflection of actual program costs.

Audit Findings and Recommendations

Audit Finding (15):

Fixed Assets

During 2003 and 2004, LTI purchased 11 fixed assets³³ for \$15,360, of which \$11,590 was spent on desktop computers, servers and a notebook computer; also, a copier was leased for \$774 a month. The agency requested reimbursement from the County for these fixed assets as direct program costs. In performing a physical inspection of some of these items, we noted that:

- seven of the 11 fixed assets purchased (six computers and one server), valued at \$9,410, were located in LTI's administrative offices, including the notebook computer (see *Audit Finding (6), Indirect Costs Misclassified as Direct Costs*). Three fixed assets (two computers and one server) did not have an asset tag affixed. The leased copier, which was reimbursed under Project 29, was also located at the administrative offices.
- two computers, valued at \$2,180, were not located in the administrative offices or the project site;
- one computer, purchased by Project 350 for \$1,140, was located at the Project 29 site. This purchase was 100% reimbursed but had it been properly submitted under Project 29, only \$752, or 66.67%, would have been reimbursed; and

Based upon our review and observations at the agency's locations, it appears that LTI transferred assets between projects without regard to the sources of funding for the assets.

The County's contracts with LTI state that, "...title to all equipment, supplies, and material purchases with funds paid under this Agreement (the "Equipment") shall vest with the County and the Equipment shall not be disposed of without the prior written approval of the County." As such, the contract requires LTI to maintain an accurate physical inventory record of all equipment, with reasonable specificity so that the equipment can be readily identified.

The fixed asset inventory report provided to the auditors did not meet the requirements of the contract; specifically, the inventory report:

- was prepared on a Microsoft Excel spreadsheet without dates to indicate the time period to which the report referred;
- did not provide sufficient information regarding the description of each fixed asset, such as model numbers or colors;
- did not include equipment that had been purchased and reimbursed by the County, such as the two X-box 360 video game systems (see *Audit Finding 7, Excessive and/or Unreasonable Expenses billed to County Programs*);
- did not include serial numbers, purchase dates; assets costs or accumulated depreciation;
- included immaterial items such as keyboards, computer mouse devices, clocks and dinnerware; and
- appeared to be incomplete as it did not detail additions to, deletions from, and transfers between, programs.

³³ One of the fixed assets identified was a group of stack chairs.

Audit Findings and Recommendations

Audit Recommendations:

LTI should:

- a) only use assets for the project for which it was purchased or allocate the cost across programs;
- b) ensure that all fixed assets are affixed with asset tags; and
- c) consider the purchase of a fixed asset program to better manage the inventory of fixed assets.

If LTI continues to utilize Microsoft Excel to keep its inventory report of fixed assets, then the agency should:

- a) maintain detailed equipment descriptions that include serial numbers, costs and book value;
- b) remove immaterial items such as computer keyboards, mouse devices, clocks and dinnerware and expense such items upon purchase;
- c) perform a complete physical count of the assets in each location and properly report the assets at each location;
- d) perform a physical count of assets on an annual basis, investigate any discrepancies noted and adjust the fixed assets inventory as necessary; and
- e) accurately reflect all additions, deletions and transfers of assets from one location to another on the fixed asset inventory report.

LTI and DSS should review the equipment purchases made to determine if there was any over-reimbursement by the County, and request the funds be remitted by LTI.

Audit Finding (16):

Transfer of Program Funds to Payroll

In September 2005, LTI transferred \$75,000 from the bank accounts maintained for Project 29 and Project 350 to fund the payroll for a non-County-funded program, Child Care Worker Training (“CCW Training”). According to the March 2002 Board minutes, LTI was to receive a grant to implement a training program for childcare workers. The CCW program was performance based and therefore, the agency would not receive any monies until specific milestones were met.

The Board minutes for September 2005 indicate that: “Distribution of funds will be done now that we have the money (100,000) from 2003, no timesheets are involved. Management will make the decision as to who receive compensation and how much.”³⁴ This appears to give exclusive authority to the executive director to determine who will receive payment and how much each employee will receive. In our review of the 2005 agency-wide general ledger, we could not identify the deposit of the funds referred to in the Board minutes into LTI’s general ledger cash accounts. We also reviewed the agency’s bank accounts and did not see any deposit for this amount.

Our examination of the agency’s program general ledgers, bank accounts, and ADP records noted the following:

- The total regular payroll expense for the three County-funded programs for pay date 9/9/05 (Week 36 2005) was \$53,774 (employee gross pay plus employer payroll taxes). To fund the payroll, a total of \$61,400 was transferred from these County-funded programs’ cash accounts.
- On September 9, 2005 and September 12, 2005, three additional transfers were made from the County-funded programs’ bank accounts to the LTI general payroll bank account, as follows:
 - a) Two transfers (one on each of these dates) from Project 350 for a total of \$53,000;
 - b) One transfer on September 9, 2005 from Project 29 for \$22,000
 - i. We did not find any transfers *to* these accounts within the audit period subsequent to these dates.
- The ADP report for pay date 9/9/05 included a one-time payroll outlay of \$76,297 listed under CCW Training. This was paid to 12 employees and almost 50% was paid to four administrators; two of the payments were made to the relatives of senior management:

³⁴ Leadership Training, Inc. Board Minutes, September 6, 2005, under “New Business”.

Audit Findings and Recommendations

	<u>Payment</u>	<u>% of total</u>
Executive Director	\$ 15,357	20.1%
Bookkeeper	11,400	14.9%
Secretary	1,400	1.8%
Financial Officer	9,600	12.6%
Total administrators	\$ 37,757	49.5%
Director of Child Care	\$ 7,800	10.2%
Program Assistant *	6,100	8.0%
Case Worker	4,900	6.4%
Coordinator	4,760	6.2%
Program Coordinator *	4,300	5.6%
Child Care Worker	4,100	5.4%
Detention Aide	3,300	4.3%
Program Assistant	3,280	4.3%
Subtotal	\$ 38,540	50.5%
Total paid	\$ 76,297	100.0%

Source: Payment amounts from ADP payroll register. Titles were obtained from a September 2005 LTI employee listing, provided by LTI.

** Family member of executive director or financial officer*

- Furthermore, for the audit period, the County reimbursed the agency for the salaries of 11 of the 12 employees, as their payroll costs were billed to the County-funded programs. However, the CCW Training payroll was not billed to the County.

When questioned about these cash transfers, the executive director advised that since the County does not advance funds to the agency, but merely reimburses for expenses incurred, these are LTI's monies, and management may utilize them in any manner deemed necessary. However, Board minutes indicate that the monies for this payroll were received, and therefore there should not have been any need to transfer funds for this payroll. We were not provided with any information regarding the transfers or the program.

The Board minutes clearly indicate that there are no timesheets supporting the hours worked under this program, and that management decided which employees were paid and how much each received. While the County was not billed for this additional payroll, the regular salaries for all but one of the employees were billed to the County under the three County programs. For the four administrators noted above, nearly 100% of their salaries were billed to and reimbursed by the County. Employees, who work 100% and close to 100% of their time on County-funded programs, should not have had the time to work on the CCW Training program.

Audit Findings and Recommendations

Although this finding is outside of the scope of our audit, it supports our previous findings that address the lack of adequate time keeping procedures, conflict of interest transactions, and failure of the Board to provide necessary oversight of management's activities.

Audit Recommendations:

LTI should:

- a) reimburse the bank accounts for the County-funded programs for the extra monies transferred in September 2005, as the agency indicated that it received grant funds to cover the costs of the program;
- b) maintain adequate documentation, including time sheets and payroll allocation methodologies, to support payroll payouts; and
- c) obtain Board approval on payroll allocations, with particular emphasis on compensation for individuals related to agency management.

Audit Finding (17):

Over-Reimbursement for Salaries

LTI submits an annual budget for each of the three programs (Project 29, Project 350 and SAMP), as part of their annual contracts with the County. The County reimburses the agency for expenses incurred under each program by budgeted expense line item, up to the total contracted amount. All expense line item modifications must be submitted in writing to the County for approval.

LTI paid the Executive Director, the Financial Officer, and the Casework Supervisor more than the salary approved by the County in 2005 and 2006. It funded these extra payments by keeping a position, which was included in the County approved budget, vacant. LTI's 2005 and 2006 budgets for Project 29 included \$55,412 and \$52,000, respectively, for a Director of Child Care, a position not filled in 2005 and only filled to a cost of \$5,310 in 2006.

In 2005 and 2006, LTI billed and the County reimbursed, a total of \$345,758 in salary expense for the executive director's three positions, \$31,652 more than the combined approved budgets.

In 2005 and 2006, LTI billed and the County reimbursed \$119,600 in salary expense for the casework supervisor's two positions, \$53,600 more than the combined approved budgets.

In 2006, LTI billed and the County reimbursed a total of \$86,233 in salary expense for the financial officer's three positions, \$5,874 more than the combined approved budgets.³⁵

The salaries LTI paid to these employees may not have been clear to the County because the budgets submitted by LTI included the salary expenses by employee position; however, there was no indication if the position was full-time or part-time. We found that several employees hold a position under more than one contract, including the executive director, the financial officer, two of their family members, and the caseworker supervisor. It is not transparent in the budgets submitted to the County that one employee is assigned to more than one County-funded program. Specifically:

- LTI allocated 100% of the executive director's annual salary to the three County-funded contracts. The budgets for the Project 29 and Project 350 contracts each include a salary expense of \$44,872 for a Director of Social Services. The SAMP contract budgeted \$67,309 in salary expense for an Educational Director. Based upon the reimbursement requests submitted by LTI to the County, these three positions were all filled by the executive director of LTI.
- The Project 29 and Project 350 contracts between the County and LTI, each budget an annual salary expense of \$29,427 for an Administrator. The SAMP program contract budgeted \$21,505 for a Financial Officer, which, according to the contract, was to represent 40% of that officer's time. Based upon the claims submitted by the agency, the financial officer of LTI filled all three of these positions.
- Both Project 29 and Project 350 budgeted \$16,500 for a Caseworker Supervisor and one employee filled both of these positions.

³⁵ In 2005, LTI was reimbursed \$76,723 for the salary paid to the financial officer, \$3,636 less than the combined total budgets of the three programs.

Audit Recommendations:

LTI should:

- a) ensure that it does not request reimbursement for amounts that exceed the budgeted amounts for individual salaries and if additional amounts are needed for a position, the agency should formally request a budget modification;
- b) specify whether positions listed on the annual budget are full-time or part-time, and, if part-time, indicate the estimated percentage of time to be spent on the program;
- c) annually review its budget to ensure that it is an accurate reflection of the budgeted costs; and
- d) work with the County to improve its budgeting in order to more accurately estimate its annual program costs.

Exhibit I

Leadership Training Institute

Audit Disallowances

Category	Audit Finding #	Total Disallowances	2003	2004	2005	2006
Out of County Revenues of Project 29	1	\$426,414	\$0	\$53,584	\$119,294	\$253,536
<i>Disallowance of Direct Expenses</i>						
Administrative Salaries and Benefits	2	286,313	98,014	78,981	51,808	57,510
Non-reimbursable Bonuses	3	51,527	51,527			
Inadequate and Erroneous Time Keeping	5	6,129	0	1,764	4,089	276
Misclassification of Indirect costs	6	37,466	13,529	12,142	9,260	2,535
Excessive and/or unreasonable expenses	7	1,478			493	985
Health and Medical	10	1,674	836	434	404	
Non-reimbursable Beverage Purchases	11	752	752			
Miscellaneous	13	1,266	693	403		170
Total Disallowed Direct Expenses		386,605	165,351	93,724	66,054	61,476
Indirect Cost Percentage			6.37%	6.37%	5.44%	2.00%
Additional Disallowance of Indirect Costs	5	21,326	10,533	5,970	3,593	1,230
Total Audit Disallowances		\$834,345	\$175,884	\$153,278	\$188,941	\$316,242

LTI's Response and Auditor's Follow-up

SUMMARY RESPONSE TO ALL FINDINGS

The Leadership Training Institute, ("LTI"), respectfully but fervently disagrees with the Comptroller's findings. The Comptroller has misinterpreted LTI's contract with Nassau County, ("County"), does not understand the dynamics of our organization and operations, finds deficiencies by applying incorrect or nonexistent accounting standards, and makes assertions of fact that are misleading or just plain wrong. Included in this response is the legal and factual evidence to support our position.

LTI is entitled to and did rely on the terms of the contract as approved by the County Executive, the County Legislature, as well as by the Comptroller. Through out the years, budget modifications were submitted and approved. We believe the duty of the Comptroller is to monitor compliance with the contract with regard to the expenditure of county funds. The Comptroller has no authority to unilaterally and retroactively amend contracts previously approved. Given our compliance with the contract, we do not know what we could have done differently.

The Leadership Training Institute has been the pioneer agency in non-secure detention services for Nassau County and other municipal governments throughout New York State since 1976. Two such detention programs and a juvenile detention education program are operated by LTI as an independent contractor, and these three programs are the subject of the Comptroller's financial review.

LTI competes at the state and national level for the funds that provide supplemental support for the detention services provided to Nassau County. A few of the agencies that have provided this support are:

- The United States Department of Health and Human Services
- The United States Department of Labor
- Compassion Capital Funding
- New York State Division of Criminal Justice
- The United States Department of Education
- The United States Department of Justice
- New York State AIDS Institute
- Nassau County Department of Health

This funding plus the contribution of LTI's own revenues, and LTI's recruitment of donated services, result in substantial cost savings that is passed on to Nassau County. This cost reduction is critically important considering that state law mandates that each county provide for non-secure detention services, making this a mandatory item in the County budget. Implementation of the Comptroller's recommendations in the financial review would substantially and unnecessarily increase the cost to the County for provision of detention services.

We present a summary of our response to selected findings as follows:

Summary Response to Finding 1; Revenues Collected by Agency & Not Credited to Nassau County for Project 29.

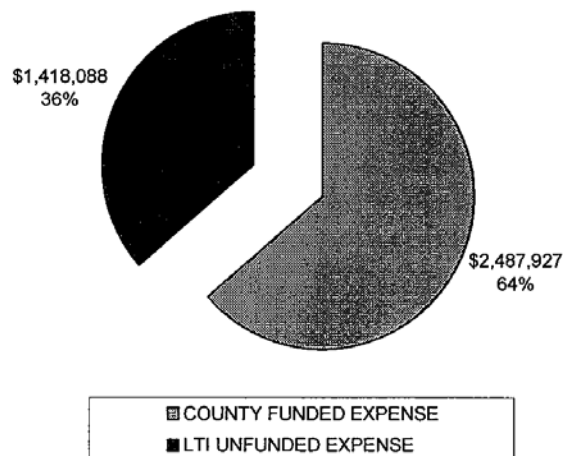
LTI credited the County for amounts due under the Project 29 contract for the use of County beds by reducing the gross amount of the allowable expenses and presenting to the County a claim for the net amount after the credit without showing the credit as a separate item on the claim form. An alternative method would have billed the County the full gross amount of the allowable expenses and shown the credit as a separate item on the claim form.

Appendix 1

The Comptroller's assertion that the "County reimbursed LTI a percentage of its eligible expenses incurred for Project 29, based upon the number of beds reserved, or used, by the County ... " is wrong. There is no contract provision relating County reimbursement to a percentage based upon beds reserved. Instead the Project 29 contract reserves 8 beds in the detention facility for exclusive use by the County; the contract provides that LTI may bill the County for allowable expenses of the facility up to the annual authorized dollar amount; and provides that the County receive a credit for any revenue earned from the use of one or more of the County's reserved beds. As mentioned, the reserved bed credits were made by reducing the allowable expense billed to the County.

The further assertion that the County paid 100% of the cost of Project 29 for a certain period is also untrue. As previously mentioned, other sources of support subsidized the Project 29 cost and in almost all years the County has realized substantial savings, including in those years previous to 2003. Over \$1.4 million saved, 2003-2006.¹

PROJECT 29
Relative Contribution to Total Costs
2003 - 2006



Summary Response to Finding 2. Inequitable Allocation of Administrative Salaries and Benefits.

The administrative salaries and benefits allegedly overcharged to the County are authorized by the contracts as direct costs, not allocable costs. These direct costs are specifically identified in the budget that is part of the contract and this budget has been approved each year by the County Comptroller, County Executive, and County Legislature. It is well known that the Director of Social Services position in the Project 29 and Project 350 contracts, and the Director of Education position in the SAMP contract, is a position held by the same person, and that said person also holds the position of Executive Director of the agency. As explained in the "Overview" below, and in our full response to this finding, LTI follows the more efficient organizational model known as a matrix organization, where highly trained personnel perform several functions. The identity of the program managers, and more specifically that these managers share titles across programs and vertically in the agency, is routinely disclosed every month as

¹ The pie chart includes the value of donated services, see the Financial Accounting Standards Board, Statement #116, regarding services that "require specialized skills, are provided by individuals possessing those skills, and would typically need to be purchased if not provided by donation."

Appendix 1

part of the reimbursement process to DSS and the Comptroller's office.

LTI personnel are also well known to the Probation Department, the Family Court, the Police Department and other institutions. These costs are allowable as direct costs under accounting standards because the programs are directly benefited, and the services to the agency are donated services, as more fully explained in the full response.

Summary Response to Finding 3. Non-reimbursable bonuses.

The one time payment to employees was a Salary Enhancement, not a bonus. Salary enhancements are encouraged by both New York State and Nassau County to increase the compensation of underpaid day care and child care workers. The Comptroller's recommendation to disallow this employee compensation is against public policy, and is in any event predicated on an incorrect reading of the proper accounting standard. The Comptroller's review says "Bonus payments to employees, regardless of whether the employee worked for a County or non-County program, are not a cost of the daily operations of the program; therefore the \$47,865 in bonuses should not have been reimbursed to LTI." [Emphasis Added]. The proper accounting standard is not "the cost of daily operations of the program"; it is instead, whether or not the cost is *reasonable, ordinary and necessary*. Further the one time payment, even as incorrectly categorized by the Comptroller as a "bonus", is nevertheless specifically allowed by the applicable accounting standard, set by the United States Office of Management & Budget, as further developed in our full response.

Where time sheets were not available to show that compensation expense was properly charged to a program, there was nevertheless alternative evidence such as case worker notes in the resident's case charts to show the caseworker performed the required services. Additional proof is presented in our full response below. Accordingly the \$47,865 is allowable and properly charged to the County programs.

Summary Response to Finding 4. Lack of Oversight by Agency Board of Directors.

The Comptroller misapplied the applicable standard regarding the role and function of a community based organization board of directors. LTI's board of directors meets regularly and discusses all operational and financial activities of the organization. We agree that better documentation of board activity is necessary. The implication that the employment of family members suggests a conflict of interest is erroneous. There has been no finding that OMB A-I22 guidelines governing compensation to family members was violated, and there is no violation. Rental expense is based upon an arms length transaction.

Summary Response to Finding 5. Inadequate and Erroneous Time Keeping of County Programs

The Comptroller's disallowance of \$5,873 for salaries charged was based on bookkeeping errors over the four year period reviewed, with the exception of one duplicate payment in the amount of \$256. All errors were adjusted and corrected when found, and the County programs properly charged. The suggestion that the use of the ADP time clock was ineffective and the cost be disallowed discourages efforts to implement technological improvements.

Summary Response to Finding 6. Indirect Costs Misclassified as Direct Costs & Disallowed Indirect Costs.

The treatment of costs as direct costs or indirect costs is governed by the budget approved as part of the contract and LTI must bill for reimbursement in accordance with said budget, or face disallowance of its claim. If the \$37,466 is misclassified, it was nevertheless misclassified with the express approval of the

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Comptroller during the contract review process, and LTI should not be held liable for seeking reimbursement in reliance upon an approved budget.

Summary Response to Finding #8. Delayed and Inaccurate Financial Reporting.

The Comptroller's findings and recommendations attack the soundness of LTI financial reporting. Yet LTI's financial reports have been audited in accordance with the auditing standards generally accepted in the United States, and each audited report presents an unqualified opinion that the financial statements fairly present in all material respects the financial position of LTI.

We note that the Comptroller's "audit" does not state that it was conducted in accordance with any accounting standard, including GAGAS, which are guidelines for audits of not for profits that receive government funds. We believe that the findings of the Comptroller are picayune and have no bearing on the integrity of LTI's financial system.

Summary Response to Finding #9. Lack of Procedures for Capital Projects

LTI, as evidenced by the unqualified opinion of two audit firms, is substantially in compliance with applicable guidelines as promulgated in the cited publication by the Attorney General. However, LTI is entitled by contract to rely on the budget modification approval received from DSS, authorizing these expenditures on the line item for repairs and maintenance. All of these expenditures were billed in accordance with said approval. We do not agree with the Comptroller's finding regarding repairs to the Conference Center.

Summary of Response to Finding #10. Health Insurance and Medical Costs.

The Comptroller's findings regarding minor unapplied credits and inadvertent billing exaggerate the few errors found. To disallow a one time medical expense that is less than an ordinary annual co-payment amount is unreasonable. The decision to refrain from filing a workers' compensation claim was a prudent decision considering the likely increase in monthly premium said claim would have caused.

Summary of Response to Finding #15. Fixed Assets

LTI has never been apprised that contract requirements called for a more comprehensive accounting for fixed assets. The specifics for the inventory control as mentioned in the contract were never defined. LTI agrees to upgrade its accounting for fixed assets and will seek approval from the county to purchase the required software.

Summary of Response to Finding #16. Transfer of Program Funds to Payroll

LTI program bank accounts hold LTI funds, not County funds. It is patently false to assert that any transfer of moneys from the program bank accounts represents a transfer of County funds. Transfers to and from said accounts or to payroll bank accounts are for the convenience of LTI, and do not in any manner reflect the use of County funds. Employees reimbursed by the County for a standard work week routinely donated time or worked overtime in other positions or other programs. The CCW payroll was not billed to the County and does not involve County money.

Summary of Response to Finding #17. Over-Reimbursement for Salaries

With respect to line-item modifications County policy and widely accepted practice is to allow the agency to transfer within a particular object class without prior authorization. This would permit budgeted salaries for individuals to be increased as long as the total budgeted line for salaries remains the same, without the need for a budget modification.

OVERVIEW

Our Organization

Background

The Leadership Training Institute (LTI) is a New York not-for-profit tax-exempt 501 (c)(3) corporation established in 1968. Minority-led and community based, LTI has pioneered for four decades to explore and introduce programmatic solutions for the difficult and complex problems of disadvantaged children, youth, their families and the community-at-large. LTI staff, volunteers and interns from local colleges and universities mirror the agency's clientele in their diversity and serve clients with knowledge and dedication. LTI's work has been praised by counties through out the state.

Governance

LTI's governing board is both multicultural and multidisciplinary, drawing board members from education, business and industry, health care, government, and concerned citizenry. LTI enjoys widespread support from its clients, which include county, state and federal agencies that have selected us to implement research-based programs in accordance with their requests for proposals and community needs. The organization's peerless performance has, over the years, resulted in steady growth as an efficient and reliable service provider.

Purpose

Leadership Training Institute's organizational purpose is to teach and develop the arts and skills of leadership to indigenous individuals with leadership potential but limited formal education, to provide supervised volunteer work with organizations primarily in minority communities, to develop and implement innovative educational, social, and economic programs that assist in the solution of individual, family and community problems, and to organize, establish and operate alternative educational services, group homes, foster care and detention facilities for youth.

Program Review

The programs reviewed are those subject to a contract between LTI and the County. The contracts give the Comptroller the right to audit and inspect LTI's records pertinent to the performance of the contract. Two of the three programs under review are for non-secure detention services, services that each county is mandated to provide by state law. The County fulfills its mandate by hiring LTI as an independent contractor to perform this service.

The Matrix

The Leadership Training Institute's organizational structure is Matrix type. It is a results oriented organizational culture. It is not patterned after civil service; a linear and hierarchical organization not suited at all to program needs and which requires the additional labor cost of hiring a person for each title or function. This is a fundamental concept that the Review report misses. The Review report assumes that

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each manager should perform only one function, either an administrator or a program director, or i.e. staff should work either for program A or B. It has been a long standing, well known, and highly successful and low cost strategy of LTI to recruit pools of personnel with training in various disciplines and experience in running different programs and assign them to services for several programs simultaneously. The principal requirement of all top level positions in LTI is to function as a leader for an ever changing set of programs and not follow some rigid and unworkable organizational formula.

Accounting for a Matrix Organization.

Given the matrix type of organizational structure, two accounting concepts will appear through out this response, 1) the use of donated time or services and 2) the sharing of titles, otherwise known as the "cross utilization of human resources", or the more modern "strategic management of human resources"²

Donated Time or Service

Without substantial contributed time our organization's survival is not possible. Because of the nature of the services that we provide, our management is accessible and available 24 hours a day and seven days a week. We serve a population of youth who are passing through the court system for various violations of civil and criminal laws. LTI cannot help but disagree with the review findings precisely for not fully recognizing the extent and magnitude of the cost involved in providing these critical services.

Community and faith based organizations extensively use donated services to fulfill their function. During the years reviewed, LTI hourly and salaried employees routinely worked additional hours, often overtime hours, in both their "home" programs and in other programs as needed, by donating time beyond their paid day. The top management personnel worked 50% additional hours beyond their full-time weekly work. In the past the U.S. Department of Labor cited LTI and required it to pay the salaried employees who had contributed additional time, additional pay at one and halftimes their normal rate, in 2003, 2004 and 2005.

Nevertheless, for the aforementioned salaried management and of course non-employee donated service, donated time and service continues to be the practice and this practice is fully supported by the various accounting standards, including the Federal Office of Management and Budget Circular A-122, Cost Principles for Non-Profit Organizations ("OMB A-122")³, as a cost recognizable for cost allocation purposes albeit not directly reimbursable. The 2004 version of OMB A-122 is attached and made a part of this response as Exhibit 0-1.

[Auditor's Follow-up Response: Due to the size of the above Exhibit referenced, we have provided the link directly to the Office of Management and Budget and OMB Circular A-122 <http://www.whitehouse.gov/omb/circulars/a122/a122.html#b>]

We disagree with the Review report where there is a failure to credit the donated time of salaried management for cost allocation to the non-county funded programs, as more fully explained in this response.

Strategic Management of Human Resources

² United States General Accounting Office, Comptroller General of the United States, "A Model of Strategic Human Capital Management", an exposure draft, GAO -02-373SP, March 2002.

³ OMB Circular A-122, "Cost Principles for Non-Profit Organizations", Revised May 10, 2004, promulgates accounting standards for government paid cost reimbursement contracts with not-for-profit organizations such as LTI. Under the contracts between Nassau County and LTI, A-122 is to be used as authority for accounting procedures and allowable reimbursement, (allowable costs). Naturally the Comptroller's recommendations must also comply with these standards. All references are to the 2004 revision, in effect during most of the years covered by the Review.

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A related issue to donated time is the sharing of titles, a/k/a cross utilization of human resources. Service organizations such as LTI are of course labor intensive. In such organizations considerable cost savings for labor can be achieved if employees are qualified to fulfill more than one title, rather than hiring separately for each title as would be required by government civil service. At LTI, considerable labor cost savings are in fact achieved by the sharing of titles. In the Nassau County funded programs for example the Director of Social Services of the residences and the Director of Education for the education program are shared titles with one incumbent, who also serves as LTI's executive director. The director provides the legally required performance for each program and the county benefits by getting the performance of an executive director for free, (donated time). Duplication of this sharing of titles across other management functions saves Nassau County hundreds of thousand of dollars each year. We respectfully disagree with the Review report to the extent of its advocacy for a civil service type one title-one incumbent practice, or to the extent the report reclassifies the director title and other titles approved in the contracts, and then seeks to reallocate the costs to manage Nassau County programs to other LTI programs and customers.

Long Established Course of Conduct

Contractual Background

By state law each county must provide non-secure detention service either directly or through an independent contractor such as LTI. LTI owns two detention facilities referred to as Project 29 and Project 350. Our Project 29 facility is state licensed for 12 beds, 8 of which are under contract with the County for their exclusive use in fulfilling their state mandate. Our remaining 4 beds are available to other counties for an agreed fee. Our Project 350 is licensed for 8 beds and in this case all 8 beds are reserved for the exclusive use of the County.

The contracts for Project 29 and 350 each year set the maximum cost that the County pays for the detention center, and LTI is responsible for any cost in excess of the County's maximum liability. In each of the years from 2003 to 2006 inclusive, the County's cost for fulfilling their mandated service was less than the maximum cost allowable under the contract. Since the County under the contract has been deemed to have paid for the use of its reserved beds, if one of these beds is used by a person who resides outside of Nassau County, LTI credits to the County our revenues received for the non-resident stay. The credit may be in the form of a reduced claim to the County.

The contracts with the County are based upon the cost reimbursement principle, requiring LTI to use its own funds to pay expenses and then forward to the County a claim for reimbursement of the expended funds. The County does not advance any county funds for LTI's use until the reimbursement is processed, leaving LTI in a perennially negative cash flow position. This is further exacerbated by the extreme lateness of the contract approval, in some years more than 5 months late.

Further, each contract contains a budget which dictates the determination of cost type, i.e., direct cost vs. indirect cost. There is no provision in the contracts supporting the Comptroller's direction and action to amend the approved budgets. The contracts specify the accounting procedures used for determining, allocating and reviewing reimbursement of costs. Each and every one of the monthly claims for reimbursement was supported with complete documentation and was reviewed by both DSS and the Comptroller's office. For the Comptroller's office to now disallow payments that it had previously approved, where the basis of the current disapproval is solely the retroactive application of an accounting standard and not because of any failure to support the claim with evidence, is simply unjust.

A Limited Review

We respectfully disagree with the major findings of the Comptroller, but first and foremost we ask the reader to maintain an appropriate perspective. The Limited Financial Review of the Leadership Training

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Institute dated May 6, 2008 ("Review") is not intended to report on performance of the programming run by LTI. The Review does not report, for example, the success in reintegration of persons in need of supervision ("PINS") into their homes, schools and community.

The Review also is not designed to measure the efficiency of the organization, that is, how well it spends its funding to perform the services. Such a study would measure the savings the County realizes by utilizing LTI as a low cost provider, far less expensive than the County could do for itself under civil service rules. An efficiency study would measure performance and show the savings to the taxpayer, providing the reader with a balanced and objective view of the organization. The steadily growing client list of counties utilizing LTI's non secure detention service is itself strong evidence that LTI is a reliable low cost provider.

With respect to the financial arena, the Review is as suggested by its title a "limited review", is not intended to be as thorough as an audit and does not expressly comply with the guidelines for government audits of not for profit organizations receiving government funds.⁴ LTI accepts the Review as welcome criticism to the extent that the findings are supported by the appropriate standards or evidence. We recognize that in some areas, such as governance and board oversight, better documentation of board and management activity is desirable and will contribute to the future growth of the organization. The points of disagreement are generally attributable to the finer points of law and accounting, such as the appropriate interpretation of the terms of the contract with Nassau County or the appropriate accounting standard to be applied for reimbursement of cost under OMB A-122. In many cases we simply proffer additional evidence.

RESPONSE TO FINDING #1

Revenues Collected by Agency & Not Credited to Nassau County for Project 29.

LTI credited the County for amounts due under the Project 29 contract for the use of County beds by reducing the gross amount of the allowable expenses and presenting to the County a claim for the net amount after the credit without showing the credit as a separate item on the claim form. An alternative method would have billed the County the full gross amount of the allowable expenses and shown the credit as a separate item on the claim form.

LTI owns the Project 29 facility and bears the economic risk.

It is important to recognize that Project 29 is primarily operated to fulfill the County's legal obligation to maintain a non-secure detention facility.⁵ But LTI is the owner of the facility and it alone bears the economic and financial risk. We believe that LTI has been a cost effective provider to the County and we note that in three out of four years covered by the Review LTI has come in under budget. See Table 1.

⁴ *Government Auditing Standards* (the "Yellow Book") contains standards for audits of government organizations, programs, activities, and functions, and of government assistance received by contractors, nonprofit organizations, and other nongovernment organizations. These standards, often referred to as generally accepted government auditing standards (GAGAS), are to be followed by auditors and audit organizations when required by law, regulation, agreement, contract, or policy. These standards pertain to auditors' professional qualifications, the quality of audit effort, and the characteristics of professional and meaningful audit reports. Adherence to these standards assures an independent, objective and nonpartisan assessment of the program and its operations. An audit following GAGAS would expressly state so in the report. The Yellow Book is published by the U. S. Government Accountability Office, ("GAO"). GAO is known as "the investigative arm of Congress" and "the congressional watchdog."

⁵ See New York State County Law, §218-a (1).

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Table 1

BUDGET COST VS. ACTUAL (Project 29)					
	2003	2004	2005	2006	CUMULATIVE TOTAL
Budgeted County Cost⁶	\$736,128	\$736,128	\$736,128	\$736,128	\$2,944,512
Reimbursement by County⁷	\$450,603	\$592,897	\$736,071	\$708,356	\$2,487,927
Savings to County	\$285,525	\$143,231	\$57	\$27,772	\$456,585
Percent Under Budget	38.8%	19.5%	0.0%	3.8%	15.5%

The cost savings to the County are made possible due to LTI's cost efficient matrix organization and shared operations as well as revenue contributions from other sources. Nevertheless LTI is exposed to economic risk on its Project 29 operation because the County's risk is limited by contract to allowable costs³ up to the budgeted amount, whereas LTI as the owner of the facility is at risk for actual expenditures above the budgeted amount and for any disallowed costs. In the years covered by the Review, LTI's actual expenditures for Project 29 exceeded the amount paid by the County by substantial amounts, amounting to almost a million dollars, as disclosed in Table 2 below.

Table 2

LTI FINANCIAL RISK (Project 29)					
	2003	2004	2005 ⁸	2006	TOTAL
Total LTI Expense⁹	\$825,990	\$886,836	\$950,424	\$765,881	\$3,429,131
Reimbursement by County	\$450,603	\$592,897	\$736,071	\$708,356	\$2,487,927
Expense At Risk to LTI	\$375,387	\$293,939	\$214,353	\$57,525	\$941,204

The economic risk and actual financial shortfall is covered by LTI's own revenues earned by marketing its services to other clients. For Project 29, LTI markets the 4 beds that are not under an exclusive contract with any customer to other counties, on a per diem basis. Nassau County also benefits from LTI's marketing efforts to the extent that if one of its reserved beds are used the County gets a credit equal to the revenue earned at the per diem rate, a higher rate than what the County pays LTI.¹⁰

⁶ The maximum allowable reimbursable amount per the contract. Each contract duration is for one y[ear].

⁷ The amount paid to LTI by the County, as reported by the county's Nassau Integrated Financial System (NIFS).

⁸ The 2005 expenditures include over \$200,000 in repair and maintenance expenditures approved at the time but that now the Comptroller seeks to reclassify as capital expenses and seeks to disallow as to the amount previously reimbursed. These expenditures are included here because they represent cash money expended and they further underscore the economic and financial risk LTI bears, in this case from a retroactive disallowance of a previously approved transaction.⁹

⁹ Amounts from the LTI general ledger.

¹⁰ A per diem rate is computed taking into account that the revenue is sporadic and can not be relied upon for long periods. So as in any rental, the daily rate is higher than a weekly rate, a weekly rate is higher than a monthly rate, etc. The County pays a lower rate theoretically based upon the fixed cost to operate an 8 bed facility for one year.

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There is no support for the Comptroller's demand for LTI's revenues.

The Comptroller alleges that a "verbal agreement" in 2005 gives the County the right to demand all of the revenues from LTI's unreserved beds for the period from June 2005 to December 2006. This is not true.

The written contract with the Nassau County (the "Agreement") requires us to have 8 beds together with all management, teachers and other staff available 24 hours a day and seven days a week. The contract provides for the payment of all costs of making available 8 beds that are exclusively reserved for County use. Note that because this facility fulfills the County's mandated requirement for a non-secured detention residence, the cost of these 8 beds must be paid by the County regardless of their utilization, even if no beds are utilized. The Project 29 contracts for 2003 to 2006 are attached and made a part of this response as Exhibit 1-1.

The Agreement therefore requires the County to pay the full costs of 8 beds. If any of these 8 beds is used by another county, Nassau County is reimbursed for that use.

Our obligation to the County is defined in contract paragraph 2.¹¹ "Services."

(a) The County, acting for and behalf of the Department, hereby hires and retains the services of the Contractor to:

(1) Maintain and reserve for the exclusive use of the County, **eight (8) beds** for the non-secure detention of eligible PINS and JD's." [Emphasis added].

Leadership Training Institute has an additional 4 beds in the detention facility that do not affect the fixed costs of operation and are not contracted to the County. The variable costs of these beds are paid by LTI. The revenues from these additional beds cannot be paid to Nassau County. Any such payment will result in LTI further subsidizing Nassau County's State mandated obligations to pay for a detention service. The extrapolation of this argument would result in the County's cost being reduced to zero.

For this reason, the "Agreement" only requires LTI to reimburse the County when a non-county resident is placed in one of the eight beds reserved and paid for by the County.

The reimbursement for the use of one of the County beds under the Agreement is governed by contract paragraph 2(d):

"The Contractor agrees that all beds are reserved for the exclusive use of the Department. Any request for use of a bed from any source other than the Department shall be referred to the Department. Acceptance of any child from any source other than the Department shall be made only upon request and after approval by the Department." [Emphasis on "all beds" added].

"The Contractor agrees that all billings for non-Nassau County eligible JD's and/or PINS placed in a bed reserved exclusively for Nassau County shall be made to the Department which shall seek reimbursement from the source which requested said placement. The Contractor agrees to supply to the Department all necessary documentation necessary for the department to obtain reimbursement from the source which requested said placement."

Any fair reading of these terms would find that the term "all beds are reserved for the exclusive use of the

¹¹ The contracts may differ with respect to the paragraph numbering from year to year.

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Department" in (2)(d) above, should be given the same meaning as the similar language in paragraph 2(a)(1) which defines the scope of the contract as 8 beds, such that "all beds" means all of the beds subject to this Agreement, or 8 beds.

We take particular note of the "all beds" language because the Comptroller's position is that all beds means all 12 beds, the County beds plus the LTI unreserved beds, and has demanded payment of all of the revenues from LTI's 4 beds. There is no legal basis for that claim.

Other terms of the Agreement have had their plain meaning obscured in order to support the Comptroller's claim to LTI's revenues. Paragraph 3(1) says in relevant part:

"Payment."

"It is further agreed by the Contractor that charges to the County will be reduced by the amount of any funds received by the Contractor from other sources for care provided by the Contractor *under this Agreement.*" [Emphasis Added].

The phrase "under this Agreement" is also omitted from the Comptroller's Review. This serious omission changes the meaning of the text to include all the Project 29 revenues, instead of the revenues from the use of the 8 beds under the agreement. Other contract terms such as the prohibition of duplication of payments are in the same way misapplied in order to support the view that all of LTI's revenues belong to the County.¹²

The Agreement clearly indicates that the County is entitled to any revenues received by LTI for the use of the 8 beds reserved by the County under the Agreement. The Comptroller's further demand for all of the revenues earned by an independent contractor is unprecedented and without legal or factual basis.

We also note the following:

1. As mutually agreed at our meeting with the Comptroller's office, all contractual issues will be resolved with the County Attorney.
2. Note that the project 350 agreements use the same "all beds" language, but at the Project 350 site the total capacity is 8 beds. The funding amounts for both the Project 29 and Project 350 Agreements are identical for each year under review, further evidence that the funding amount is intended to pay for the cost of 8 beds. The Project 350 contracts are attached and made a part of this response as Exhibit 1-2.
3. Nassau County did not pay 100% of the program cost. The claims submitted to the County do not reflect the total cost of the non secure residential program. The general ledger supports the claims but does not reflect the value of donated services because said value is not reimbursable under OMB A-122.¹³ Further LTI offset the billing to Nassau County by out of county revenue, including revenue for the use of County beds.
4. The evidence is clearly contrary to the Comptroller's interpretation of the "verbal agreement" in 2005, to the effect that LTI was no longer housing non-county residents but only County residents. The use of the County beds/days as noted above for years 2004, 2005 & 2006 is due to the utilization of the

¹² As previously mentioned, the duplication of payments argument when extrapolated would result in all of LTI marketing efforts to rent the 4 beds being forfeited to the County until the County's cost of the detention service was reduced to zero. This is obviously not the intention of the parties.

¹³ OMB A-122, Attachment B, 12 "Donations and Contributions", (b)(1). Donated services are allowable to meet cost sharing or matching grant requirements.

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reserved County beds in each of those years.

5. The purpose of the "verbal agreement" was simply to accelerate the County's payment of their obligated costs. Prior to the "verbal agreement" the County had been asked to pay only two thirds of the fixed cost under the incorrect allocation of the fixed and variable cost distributed over 12 beds. The correct allocation is 100% of the fixed cost to the 8 beds, because the 8 beds reflect a mandatory cost of the County under state law which must be borne by the County. The cost of the additional 4 beds and the servicing of these beds is a variable cost borne by LTI. After the "verbal agreement" the County began paying its full obligation of the cost for the mandated service under the Agreement, said cost subject to any reduction for non-county use of the 8 beds that the County pays for.
6. The advance notice and approval provision for admissions using County beds found in Paragraph 2(d) are not practicable, as LTI must accept residents on an emergency basis and no mechanism exists for 24/7 emergency pre-approval of admissions.
7. The same form of contract has been approved by the County Attorney for many years and should be read without omitting important language. Further the interpretation of the contract terms are evidenced by the course of conduct of the parties, the County as represented by the Nassau County Department of Social Services, (DSS)¹⁴ and LTI. The contract interpretation must also be viewed in the context of its essential purpose, which is to fulfill the County's mandatory obligation to fund non-secure detention services.
8. The economic viability of the non-secure detention facility is dependent upon LTI's ability to market the unreserved beds in order to cover the full actual annual cost and to accumulate a reserve for future years. LTI's reserve for 2003 to 2006 is noted in the Table 3.

Table 3

RESERVE ACCUMULATION (Project 29)					
	2003	2004	2005	2006	Total
Total Revenues ¹⁵	\$801,757	\$896,953	\$964,788	\$962,154	\$3,625,652
Total Expenses	\$825,990	\$886,836	\$950,424	\$765,881	\$3,429,131
Reserve	(\$24,233)	\$10,117	\$14,364	\$196,273	\$196,521

Auditor's Follow-Up Response:

LTI did not seek Nassau County's permission or inform Nassau County when accepting an out-of-County child. LTI did not credit Nassau County for any portion of its revenue from out-of-County children. LTI did not reduce the gross amount charged Nassau County nor did it net the out-of-County revenues from its bills to Nassau County. LTI has not produced any documentation to show that it credited Nassau County with its out-of-County revenues. Further, the contract requires that Nassau County, not LTI, authorize other Counties to use its beds, and Nassau County bill and collect directly from other governments that use beds reserved for Nassau County. While LTI argues it was not practical to inform Nassau County

¹⁴ DSS is the initiating agency for the county contracts under discussion here, and it is the county agency that supervises LTI's contract performance and is LTI's customer.

¹⁵ Revenues are as actually paid, net after disallowances on claims submitted. The Comptroller's Review shows revenues as claimed.

before accepting out-of-County children, in those instances when pre-approval was not an option, the approval should have been obtained on the next available business day.

LTI offers no reason why it should have been allowed to keep revenue from out-of-County children using any of the 8 beds reserved for Nassau County's use. The Project 29 contract between LTI and Nassau County reserved eight of the agency's 12 beds for the exclusive use of Nassau County children. For this exclusive use, Nassau County agreed to pay the agency the eligible program costs incurred up to \$736,128, in accordance with each year's budget. LTI acknowledges that Nassau County is entitled to the revenues that are earned on the use of those beds by children from any County other than Nassau County but during the years under audit, non-Nassau County children used those beds and LTI failed to reimburse Nassau County or even notify DSS. LTI made no attempt to reimburse Nassau County until the auditors brought this to the attention of DSS in 2007.

LTI further contends that if non-Nassau County children were placed in the 4 beds not reserved by Nassau County, the per diem payments represent variable costs only, and that the eight beds reserved for Nassau County should absorb 100% of the fixed costs. LTI presents no documentation to support their claim that fixed costs, such as salaries, rent and utilities also are not intended to be covered by the out-of-County per diem payments. In addition, LTI billed Nassau County and was reimbursed for 100% of what should have been variable costs for the non-Nassau County children including food, cost of outings, medical care and rewards for good behavior. LTI has not provided any documentation to show that it incurred any direct program expenses that were not reimbursed by Nassau County once Nassau County began reimbursing 100% of LTI's direct program expenses in June 2005.

LTI's documentation, the 2005 and 2006 Project 29 general ledgers, contain all expenses, including any indirect expenses allocated on the program ledger. In 2006, Nassau County reimbursed LTI for 93% of the total direct and indirect expenses reported in LTI's Project 29 general ledger. The remaining expenses included conference center construction costs and a bad debt expense related to a prior year for Suffolk County and were not submitted by LTI nor reimbursed by Nassau County as these were unbudgeted non-program expenses. Excluding the non-program expenses and indirect costs, Nassau County reimbursed 100% of the direct program expenses, and in some cases, Nassau County reimbursed more than 100% of expense categories as reported in its program ledger. For example, in 2006, LTI reported food expenses on its Project 29 general ledger of \$15,068, but the agency submitted claims for \$15,252 in food expenses, or 101.2% of the full-year general ledger expense, that Nassau County fully reimbursed; Nassau County also reimbursed \$1,428 or 107.5% of the \$1,329 reported on the agency's Project 29 general ledger for children's Activities and Allowances. According to records provided by LTI, in 2006, there were 28 Nassau County children (for a total of 347 care days) and 124 non-Nassau County children (for 899 care days) in attendance in the facility during the year. Nassau County paid the entire food bill for this program, but the per diem for the non-Nassau County children surely should have covered their food. This type of duplicate billing occurred for every program expense. Duplicate billings also occurred for the period June 2005 – December 2005, as Nassau County reimbursed 100% of the direct program expenses (which exclude conference center costs incurred in 2005) and 82% of the total direct and indirect expenses reporting in the Project 29 general ledger.

Furthermore, each claim that is submitted for reimbursement requires an authorized employee of the agency to sign the following certification:

“I hereby certify that this claim voucher is just, true, and correct; that the amount claimed is actually due and owing and has not been previously claimed; that no taxes from which the County is exempt are included; and that any amounts claimed for disbursements have actually and necessarily been made. I further certify that all items and/or services were delivered or rendered as set forth in this claim, and for all items and/or services delivered or rendered in accordance with a purchase order or contract that prices charged are in accordance with the reference purchase order or contract. For all claims made as reimbursement for employee expenses, I further certify that the amounts set forth were actually and necessarily expensed for the benefit of Nassau County, and that the monies expended have not been reimbursed not do I expect to be reimbursed from any source.”

The financial officer of LTI, used the title of Deputy Executive Director, signed this certification.

LTI’s response shows it made a significant profit by billing Nassau County and other Counties for the same services and keeping all the revenues, which it terms its “reserve”. Its “Reserve Accumulation” Table 3 presented in its response, shows almost \$200,000 profit earned in 2006, the year that Nassau County paid 100% of its direct program costs. The profit was only possible because LTI billed two Counties for the same expenses.

LTI also argues that it should keep the out-of-County revenue because some of its expenses were covered by donated services. Donated services do not have an associated cost that needs reimbursement. LTI’s argument that the change in 2005 from paying 66.67% of LTI’s costs to paying 100% was to accelerate Nassau County’s payment of their obligated costs. Since reimbursements were made at 100% of program costs, they were not an acceleration of payment. An acceleration of payment would be accomplished through a change in the timing of payments, such as an advance, and not in a change of the percentage paid.

Finally, while LTI is correct that New York State law requires that Nassau County provide or assure the availability of non-secure detention facilities for Nassau County children, there is no provision of law that requires that Nassau County taxpayers pay LTI for the cost of housing non-Nassau County children.

RESPONSE TO FINDING #2

Inequitable Allocation of Administrative Salaries and Benefits

The administrative salaries and benefits allegedly overcharged to the County are authorized by the contracts as direct costs, not allocable costs. These direct costs are specifically identified in the budget that is part of the contract and this budget has been approved each year by the County Comptroller, County Executive, and County Legislature. It is well known that the Director of Social Services position in the Project 29 and Project 350 contracts, and the Director of Education position in the SAMP contract, is a position held by the same person, and that said person also holds the position of Executive Director of the agency. As explained in the "Overview" below, and in our full response to this finding, LTI follows the more efficient organizational model known as a matrix organization, where highly trained personnel perform several functions. A pointed example is the Executive Director who is university trained and

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credentialed in engineering, management and education. The identity of the program managers, and more specifically that these managers share titles across programs and vertically in the agency, is routinely disclosed every month as part of the reimbursement process to DSS and the Comptroller's office. LTI personnel are also well known to the Probation Department, the Family Court, the Police Department and other institutions. These costs are allowable as direct costs under accounting standards because the programs are directly benefited, and the services to the agency are donated services.

Direct Costs expressly authorized by the Budget

LTI is required to abide by the contract determination of cost type or be subject to disallowance of its claims or disallowance by annual audit. The contracts specifically say:

"It is further agreed by the Contractor that the Line-Item Budget attached hereto and made a part hereof shall be utilized for the purpose of claiming and payment. The Line Item budget may also be used for the purpose of an annual audit and an annual review of services rendered and claims submitted."¹⁶

Further, the contracts authorize these salaries as direct costs pursuant to OMB A-122, under the heading "Compensation for Personal Services". The guidelines of OMB A-122 are incorporated by reference into the contract. The cost allocation planning of the Leadership Training Institute meets the requirements outlined under Generally Accepted Accounting Principles (GAAP) as well as all federal and New York State rules and regulations. Our planning includes, but is not limited to the guidance provided by OMB Circular A-122 for non-profits.

Principle Functions

The principal functions of the top level personnel of the Leadership Training Institute are essentially programmatic, not overall administration of the organization as a whole. This major characteristic of our organization and its staffing requirements is missed in the Review report. Most high level personnel hours are expended in leading and administrating programs.

Administrative Functions Miniscule

The amount of administrative functions performed in running the LTI as an organization is miniscule and financially immaterial. There is insufficient benefit to other LTI programs to require allocation. The Executive Director and Deputy Executive Director positions are non-reimbursable donated time, in accordance with OMB A-122, Attachment B, "Donations and Contributions", I2(b)(1).¹⁷ None of the county contracts provide for compensation of the Executive Director. None of the county contracts provide for compensation of the Deputy Executive Director. No claims have been submitted for compensation for the Executive Director or for the Deputy Executive Director, and the County has not paid for these positions.

A Matrix Organizational and Operational Entity

¹⁶ See for example Contract for Project 29, for 2006, paragraph 3(3).

¹⁷ The primary concern of the Comptroller seems to be the disclosure of the sharing of titles, for example, that the Director of Social Services for the county program is also the Executive Director of LTI. However this is a transparency issue, not an accounting issue. Accounting wise, it is required that the cost be reasonable and necessary for the operation of the program. Better disclosure of the sharing of titles is best achieved by amending future contracts, not by distorting the accounting.

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The Leadership Training Institute's organizational structure is a Matrix type. The civil service type; linear and hierarchical organization is not suited at all to program needs. This is a fundamental concept that the Review report misses. It seems that the Review report assumes that each manager should perform only one function, either an administrator or a program director. The staff should work either for program A or B. It has been a long standing and highly successful strategy of LTI to recruit personnel with training in various disciplines and experience in running different programs who could provide services for several programs simultaneously. The Review report's error in distinguishing different functions performed by each employee is evidenced by the reference made to the Director of Social Services as Executive Director, who is credentialed and has many years of experience in management, engineering and education.

It is important to note that under the Federal and State regulations there are many acceptable methods for allocating administrative and programmatic costs. These methods include conventional time distribution, random sampling, client counts, transaction counts, random time sampling, systematic work sampling, stratified work sampling, worker self-recorded work sampling, and other reasonable methods. The cost allocation method suggested by the Review Report, "the percentage of direct salaries incurred for each program as a percentage of total direct salaries" is just one possible method. It should be noted that this method is neither authorized by our contracts nor required by OMB A-122.

The LTI has developed its cost allocation method empirically based on consideration of the extent and complexity of the tasks performed the client counts, the time sampling and several other factors. To require LTI to use a simplistic direct labor cost percentage would result in serious misallocation. It is to be clearly understood that Project 29 is a coeducational residence facility for teenagers in detention as compared to Project 350 which is only for girls. The amount of time required of the Director of Social Services for Project 29 is obviously much greater. Also, the Director of SAMP is the central and crucial element of that Program. The director designs the curriculum, superintends the program implementation, keeps abreast of State of New York educational requirements and is involved in all phases of instruction. It is difficult to understand how his salary should be based on the salary of the persons under his supervision when the more responsibility he undertakes and lowers the other direct labor costs, a lesser percentage of his salary should be allocated to SAMP.

Contracts with DSS are for personal service and stipulate the negotiated salaries and job titles for each program as follows:

1. The salaries for the job titles specified are reasonable, ordinary and necessary for the operation and performance of the programs.
2. The contracts for Project 29 & 350 are based upon performance of the services by the Director of Social Services and administrator and not based upon time spent in each program, nor do they provide for allocation of indirect salary cost. For SAMP contract that specifies a percentage of management time required as direct service, the reference is to the percentage of reimbursable time, and does not take into account non-reimbursable donated time. (OMB A-122 authorizes donated time for cost sharing and matching requirements, but donated time can not be reimbursed).¹³
3. Even if the contractually authorized direct costs could be categorized as indirect administrative costs, OMB A-122 requires an equitable allocation method or an allocation based upon the relative benefit to each program, and such as allocation would still place all the cost with the county programs since these programs utilize all of the reimbursable (non-donated) time of the

¹⁸ OMB A-122, Attachment A, "D. Allocation of Indirect Costs and Determination of Indirect Cost Rates", (2), (3).

- managers.¹⁸
4. The county benefits to the extent there are cost savings in the performance of the contract. LTI utilizes the same employee where the tasks are substantially the same, rather than hire separate employees for each contract.
 5. The cost allocation method used by the comptroller conflicts with the comptroller's recommendations in Finding #17, where the source of authority for the accounting treatment as direct costs is properly placed with the contract.
 6. The same form of contract has been approved by the county attorney for many years, and the interpretation of the contract terms are evidenced by the course of conduct of the parties, DSS and LTI. The identity of the program managers and the fact that one person held a common title in several contracts was well known between the parties, and the Comptroller. Note that the Comptroller audits each claim, and each claim for personnel cost has payroll information attached, including the name of the employee. This is a transparency issue which is best resolved in future contracts by mutual agreement.

Auditor's Follow-Up Response:

There is no criticism in this finding of LTI's decision to have the same people hold multiple positions under Nassau County contracts, although we adhere to our recommendation that LTI be more transparent. LTI should disclose that it is billing multiple salaries to DSS for the same people so that DSS can monitor whether it is receiving all the services it anticipated getting from the job titles listed under each program budget. LTI presents no reason why it cannot take this step.

The administrative staff's compensation expense, however, should have been allocated to all agency programs for which they worked, and not only to the three Nassau County-funded programs. LTI asserts it has "miniscule" administrative expenses. This is contradicted by LTI's documentation. LTI's 2006 tax return claims \$295,673 in management and general expenses. While LTI claims that the Executive Director's entire salary is reimbursable as a program charge to Nassau County contracts, its 2006 tax return claims that 10% of the Executive Director's salary was incurred for administrative duties.

LTI also contends that it properly billed Nassau County for 100% of the Executive and Deputy Executive Directors' salaries on the theory that to the extent that they spend time on non-Nassau County funded programs, that time is donated. LTI's management are salaried employees, as such they are not paid on an hourly basis but rather paid an annual salary. LTI's position that hours worked on reimbursable Nassau County contracts are all performed for pay while other hours spent on non-reimbursable activities are "donated", is not credible. Senior management is paid an annual salary to work all the hours necessary to perform the duties required for the agency's operation. Part of these hours cannot be considered to be performed gratis while others were performed for pay.

LTI's response does not address our finding that while the Executive Director was in California pursuing business opportunities to reorganize LTI in that location, it charged the Executive Director's salary and some expenses incurred in California to Nassau County.

While LTI states that it "has developed its cost allocation methodology empirically based on consideration of the extent and complexity of the tasks performed, the client counts, the time

sampling, and several other factors.” LTI did not provide a time study nor any evidence of any empirical cost allocation methodology to support its allocations.

LTI erroneously alleges that the cost allocation method used in the report conflicts with the recommendations in Audit Finding 17. The allocation methodology used in the report to compute the disallowance of administrative salaries was a suggested methodology, as no time study existed. The recommendations made in Audit Finding 17 do not suggest a methodology for allocating administrative salaries; they merely point out that budget modifications should be performed on a title-by-title basis.

RESPONSE TO FINDING #3

Non-reimbursable bonuses

The one time payment to employees was a Salary Enhancement, not a bonus. Salary enhancements are encouraged by both New York State and Nassau County to increase the compensation of underpaid day care and child care workers. The Comptroller's recommendation to disallow this employee compensation is against public policy, and is in any event predicated on an incorrect reading of the proper accounting standard. The Comptroller's review says "Bonus payments to employees, regardless of whether the employee worked for a County or non-County program, are not a cost of the daily operations of the program; therefore the \$47,865 in bonuses should not have been reimbursed to LTI." [Emphasis Added]. The proper accounting standard is not "the cost of daily operations of the program"; it is instead, whether or not the cost is reasonable, ordinary and necessary. Further the type of cost involved, as categorized by the Review, is specifically allowed by OMB A-122.¹⁹

Where time sheets were not available to show that compensation expense was properly charged to a program, there was nevertheless alternative evidence such as case worker notes in the resident's case charts to show the caseworker performed the required services. Proof of the donated time includes the findings of the U.S. Department of Labor as agreed to by LTI, showing unpaid wages.

Accordingly the \$47,865 is allowable and properly charged to the County programs.

1. The one time payment to employees was a Salary Enhancement, not a bonus. Both are essentially one time payments, and both are reimbursable as reasonable, ordinary and necessary costs assigned to a specific objective. A bonus is essentially a performance award. A salary enhancement is designed to temporarily boost the salary in recognition of a low wage or low salary in comparison to a reasonable compensation for the work performed.
2. The County endorses salary enhancement efforts on behalf of chronically underpaid professions.
 - a) Legislative action supporting salary enhancements range from the May 2000 opposition to cuts of 2.3 million for salary enhancement for day care professionals to the passage of the Living Wage law in 2005.
 - b) Community based organizations such as LTI have difficulty paying for enhancements or for the living wage because authorized funding has tended to remain stagnant from year to year or to decrease.

¹⁹ OMB A-122, Attachment B, "8 Compensation for personal services", (a).

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c) It is impossible to budget in advance for salary adjustments or for permanent increases in compensation because there is never any assurance that funding will be sufficient to pay the higher compensation in succeeding years. Accordingly salary enhancement is the only viable method of addressing low compensation.

3. Even if the salary enhancements were "bonuses", the issue is a red herring as bonuses are authorized for reimbursement, under the definition of "Compensation for Personal Services", OMB A-122. The definition includes incentive awards, incentive pay, hardship pay, and cost of living differentials.¹⁹

Table 4 The per hour enhancement is modest, and should not be opposed by the Comptroller.

Position	Hourly Rate	Enhancement		Enhanced
		Amount	Per Hour	Hourly Rate
Teacher	\$13.22	\$1,163.47	\$ 0.58	\$13.80
Child Care Worker	10.00	800.00	0.40	10.40
Child Care Worker	10.15	812.00	0.41	10.56
Child Care Worker	9.25	1,628.00	0.81	10.06
Detention Aide	10.25	1,230.00	0.62	10.87
Supervisor	12.50	1,590.00	0.80	13.30
Child Care Worker	9.00	1,080.00	0.54	9.54
Child Care Worker	10.15	487.20	0.24	10.39
Bookkeeper	16.00	1,280.00	0.64	16.64
Child Care Worker	9.00	720.00	0.36	9.36
Case Work Supervisor	28.75	4,600.00	2.30	31.05
Secretary/Program Asst.	10.00	2,000.00	1.00	11.00
Teacher	14.47	2,315.24	1.16	15.63
Teacher	15.88	2,540.00	1.27	17.15

¹⁹ OMB A-122, Attachment B, "8 Compensation for personal services", (a).

4. Some employees received salary adjustments to compensate them for donated service. During the years covered by the financial review, employees were expected to contribute time to LTI, in addition to their paid employment hours. This practice ceased after the U.S. Department of Labor found that the donated service policy violated labor law. See U.S. Department of Labor, "Summary of Unpaid Wages", attached to and made a part of this response as Exhibit 3-1. Salaried employees however continue to expend more time than the standard number of hours per week, the extra time being non-reimbursable donated service. This is consistent with the matrix operational structure.

Table 5

THE ELEVEN and WHAT THEY DID		
Personnel	Number	Service Provided to Project 350
Teachers	2	Worked evenings on curriculum revision
Childcare workers	4	Assisted with transportation and medical care for children
Maintenance	1	Worked on building and grounds maintenance
Caseworkers	2	Worked as counselors for children in detention
Detention Aid and Secretary	2	Helped with preparation and maintenance of records
Total	11	

5. The Review makes specific reference to the compensation paid to the daughter of the executive director, charging that she "never worked for Project 350 or any County funded program." In fact there are 5 months of time sheets for direct services to project 29 by said employee, and evidence of uncompensated services to project 350, for which evidence of work performed is found in the records of the residents and daily time in/time out logs, said records not reviewed by the Comptroller's office. See the timesheets for this employee and the case notes made by this employee in Project 350, both attached and made a part of this response as Exhibits 3-2 and 3-3 respectively.
6. All payments, whether salary enhancement or salary adjustments or in many cases partially both, were based upon criteria applied equally to all individuals, primarily their current pay rate and the extent to which they had not been paid for donated time, and other contributions to LTI. Regarding family members, see our Response to Finding #4, numbered paragraph 5.

Auditor's Follow-Up Response:

We reiterate our recommendations with regard to this finding. Bonus payments:

- ***were sometimes charged to Nassau County programs although the employees did not work on these programs;***
- ***were not agreed upon in the contract;***
- ***were not necessary to the program;***
- ***were arbitrary and paid without any supporting documentation of the basis of the amounts or the approval of the Board; and***
- ***are not compensation for "donated time." By definition, a donation is something provided without compensation.***

In addition, we found evidence that there was an overlap in the period covered by the Department of Labor settlement (which Nassau County reimbursed LTI for) and the bonus payments made for six employees. Both were reimbursed by Nassau County.

Table 4 in LTI's response lists the "enhancements" paid, however, the payment of \$6,285 to the Executive Director's daughter is not reflected here. LTI asserts, "all payments.....were based upon criteria applied equally to all individuals, primarily their current pay rate, and the extent to which they had not been paid for donated time and other contributions to LTI." However, the increases do not appear to be consistently applied.

RESPONSE TO FINDING #4

Lack of Oversight by Agency Board of Directors

The Comptroller misapplied the applicable standard regarding the role and function of a community based organization board of directors. LTI's board of directors meets regularly and discusses all operational and financial activities of the organization. We agree that better documentation of board activity is necessary. The implication that the employment of family members suggests a conflict of interest is erroneous. There has been no finding that OMB A-122 guidelines governing compensation to family members was violated, and there is no violation. Rental expense is based upon an arms length transaction.

Most of the Controller's recommendations have been in place since the inception of the agency. As LTI continues to grow, it is of course in the best interests of the organization to adopt more complex board level management activity, such as formalizing the review of financial reports and providing better documentation of board discussion, review and adoption of resolutions. LTI is committed to implementing those improvements not already adopted, and the LTI's Board will consider other improvements at the next board meeting, and convey the results of their deliberation to the County.

However we point out that the harm cited in the Review is exaggerated, as follows:

1. In practice board members of community based organizations tend to have direct sources of information about organizational activities from employees of the organization and are less reliant on formal settings such as board meetings for such information. This is especially true when it comes to lump sum compensation payments, items of special interest to an employee. Executive directors of such organizations tend to live in fishbowls.
2. It should not be inferred that the absence of notations in the board minutes or the absence of formal resolutions for certain items means that the items were not discussed or that the board was unaware of said items. In many instances items appear on the board meeting agenda, but may not be reflected in the minutes.
3. The management of service organizations such as LTI naturally emphasizes performance management reports over financial reporting, because the performance reports directly indicate the organization's achievement of its primary mandate, while financial reports are incidental to the primary mandate. In such organizations, even the design of the financial reporting system often mimics the requirements of the funding sources, i.e. to support the submission of claim forms which don't include the value of donated services.

Conflict of Interest

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The conflict of interest section of Finding #4 is misleading because it melds several issues; conflict of interest standards for board members, cost guidelines applicable to family members, and transparency issues. We respectfully submit the following:

4. The conflict of interest guidelines cited in the Review, *"Right From The Start: Responsibilities of Directors and Officers of Not- For-Profit Corporations"* is aimed at board members or prospective board members. It warns that board members "should avoid transactions in which they or their family members benefit personally."²⁰ The compensation of family members issue did not arise at the board level because as the Review pointed out, the salary enhancement and salary adjustment issues were not formally presented to the board. Moving forward, LTI is willing to implement procedures for board approval of compensation and related issues by the disinterested board members, (those with no familial or business relationship to the affected employees).
5. Contrary to the implication in the Review, there is no prohibition against to the employment of family members. Nassau County and local governments literally employ whole families in multiple generations within their employment ranks. Instead OMB A-122 simply provides the standard for reviewing the costs in familial situations. That standard says "*determination should be made that such compensation is reasonable for the actual services rendered rather than a distribution of earnings in excess of costs.*"²¹ No family member was compensated in excess of a reasonable compensation for the work performed and no family member received a distribution of earnings in excess of costs. No evidence to the contrary has been put forward.

Transparency

6. The transparency issue, meaning the disclosure of a familial or business relationship where a conflict of interest is present, should always be documented and conflict of interest policy followed, and to this extent LTI agrees with the Review. We note for emphasis that the mere presence of a conflict does not create the harm; the harm is created by the failure to disclose a conflict of interest to the party that might be harmed by the conflict.
7. The transparency issue applies also to the space rental from the Hempstead Employment Opportunity Corp. ("HEOC"). HEOC and LTI no longer share a common board and officers, except as to the Executive Director, a staff position. There is no "commonality of directors and management", as cited in the Review from an LTI audited financial report, and transactions between HEOC and LTI are not related party transactions.
8. During the years reviewed HEOC invoiced LTI for actual space usage on a month to month basis, pursuant to a month to month tenancy. County programs maintain permanent office space at the HEOC location, (at 50 Clinton Street), but the total monthly usage varies depending upon the use of conference rooms for staff training, parent conferences, etc. The HEOC billing for office space was based upon an arms length bargaining since that cost is determined by the lease agreement with an independent third party, the landlord. OMB A-122 has been satisfied.²²

Auditor's Follow-Up Response:

We are encouraged that LTI has agreed that better documentation of Board activity is required. We concur with the corrective actions agreed to by LTI to formalize the review of

²⁰ N.Y.S. Attorney General, rev January 2005, www.oag.state.ny.us/charities/not_for_profit_booklet.pdf

²¹ OMB A-122, Attachment B, "8 Compensation for personal services", (d)(1) "Compensation to members of non-profit organizations, trustees, directors, associates, officers, or the immediate family thereof."

²² OMB A-122, Attachment A, A "3. Reasonable costs", (b).

financial reports, review, and approval of resolutions, and to document Board discussions. We reiterate our recommendation that the Board specifically approve employee compensation and contracts. We are also encouraged that LTI agrees that conflict of interest policies should be followed and that conflicts of interest should always be documented. We reiterate that the conflicts of interest policy should be adhered to, any employee of the agency who is related to another employee should be brought to the Board's attention and so noted in minutes, and that procedures be implemented to avoid one family member from supervising or having any control over another family member's time sheets and compensation.

LTI's response acknowledges that the same person is Executive Director of both HEOC and LTI, but maintains that the Executive Director is a staff position. Executive Directors are normally the highest-ranking employee and as such are administrative positions.

LTI's response does not address our findings that:

- *rental payments were made to HEOC for space that was not rented from HEOC. We reiterate our recommendation that the lease payments be made to LTI's landlords; and*
- *LTI Board failed to adopt a formal policy establishing eligibility for fringe benefits and not all benefits were outlined in LTI's Personnel Codes and Procedures Manual.*

RESPONSE TO FINDING #5

Inadequate and Erroneous Time Keeping of County Programs

The Comptroller's disallowance of \$5,873 for salaries charged was based on bookkeeping errors over the four year period reviewed, with the exception of one duplicate payment in the amount of \$256. All errors were adjusted and corrected when found, and the County programs properly charged. The suggestion that the use of the ADP time clock was ineffective and the cost be disallowed discourages efforts to implement technological improvements.

A better understanding of the timesheet and payroll function in a matrix organization is found by examining the flow of the time transaction records and the resolution of what appear to be differences in time records and work performed: In addition, the payroll and documentation system has been improved, since 2003 -2006, particularly in the areas of maintaining records of extra services, after hours work, contributed time and overtime:

Payroll System Flow:

1. Every program or site has at least one daily time in/out log for program employees. Residential sites have an additional log recording all activities related to the site, including phone calls, visits by anyone including LTI employees, the entry/exit of residents, meetings and group activities.
2. The time in/out log is a payroll transaction-supporting document. It is signed by each employee as they begin or end their workday at a particular location. Employees working in more than one site or more than one program will have signed a time in/out log for each program or site. This log contains a sheet for each day and shows the entry and exit time for each employee working that

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- day. Each daily sheet is verified by the on-site supervisor documented by the supervisor's signature on a verification line.
3. At the conclusion of each biweekly pay period, the biweekly payroll timesheet is filled out by the employee, signed by the employee and submitted to the on-site supervisor. The supervisor verifies the timesheet by comparing the information submitted with the timesheet's supporting document, the daily time in/out sheets. The supervisor will approve the timesheet by signing the timesheet on the line marked "verification".
 4. For the years covered by the Review, the biweekly timesheets contained information for only one program or site. Employees working additional programs or sites submitted a time sheet for each program/site. Biweekly timesheets now consolidate multiple program hours into one sheet and show the allocation of hours worked in each program, (the labor distribution).
 5. The timesheets, along with the supporting daily timesheets, are forwarded to the central office, where a senior manager will review and approve the timesheet before submission to the payroll office. This review often included the allocation of hours to the various programs from multiple timesheets per employee. This review may also involve input from other logs, such as the residential activity log. The senior management approval is documented by a signature on the "approved" line of the biweekly timesheet.
 6. After senior management approval the payroll information is transmitted to Automatic Data Processing Corp, ("ADP"). The ADP payroll register will indicate by code a home department, (program) for each employee and show the earnings for the home department and other departments. Note that as further explained below, an employee's home department designation may not be significant, as many employees work in several programs on a regular basis.
 7. Exceptions: For employees such as caseworkers who provide services to multiple program/sites in a professional capacity, timesheets are submitted directly to the central office, where the signature of the senior manager acts as both the verification and the approval.
 8. Corrections: When errors are recognized, the correct labor distribution data is reported via a journal entry into the accounting records maintained in QuickBooks®. To maintain the audit trail, the original records are maintained intact; no corrective markings are made either to the timesheets or to the ADP payroll register. However, all of the information that has been corrected is recoded in the QuickBooks® by a distinct journal entry. When a claim form is submitted to the County for reimbursement, the data is obtained from the QuickBooks® accounting records. Apparently, the Comptroller's audit staff in performing their examination of the claim form for payroll reimbursement examined the biweekly time sheets and the ADP generated reports, but did not examine the primary source documents (the daily verified time in/out sheets or activity logs, case management notes, and the audit trail of the time sheets) all of which provide an evidentiary source for the corrections made by the journal entry.

Timekeeping

Claim for \$2,646

LTI's claim for \$2,646 reimbursable expenses of the Project 29 is supported by the following facts. This employee was a caseworker who worked for both County and Non-County programs. Although the employee's home department on the ADP register was recorded only as a non-County program, the employee had also performed services for Project 29. The supervisory review of the payroll records located the error and the appropriate correction was made in QuickBooks. The billing to county is accurate.

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Claim for \$3,300

LTI's claim for \$3,300 reimbursable expenses of SAMP is supported by the following facts. This employee served as an educator for SAMP and also worked for other County and Non-County programs. Incorrect payroll information was submitted to ADP in connection with department and allocation percentages. Supervisory review of the payroll records located the error and appropriate correction was made in QuickBooks®. The subsequent corrected ADP records from the pay period ended 11/13/2005 support the fact that the billing to the County is accurate.

The Executive Director's family member applied for employment and her credentials were reviewed by the senior staff of LTI. The recommendation to hire her was made on the basis of her educational and professional background, a Master of Arts Degree in Education from Adelphi University and credits toward a doctorate in Educational Psychology from Capella University.

For one pay period in July of 2006, LTI was reimbursed under two separate claims for Project 350, resulting in a duplicate payment reimbursed for this employee of \$256. We regret the error and will reimburse the \$256.

With respect to the two employee expenses billed to SAMP for July and December 2006 and two employees for June 2006, the supervisory review had already indicated the error in payroll register and the corrections were made in QuickBooks® and subsequent ADP registers.

LTI has properly charged the county programs with the correct payroll. We disagree with the findings to remit \$5,878 back to the county. It is unfortunate that at times, bookkeeping errors have occurred. However, corrections were made to the computer accounting program, which is the basis for filing and submitting the claim for reimbursement. We are attaching copies of the computer journal entry that support this claim. See Exhibit 5-1, attached and made a part of this response.

Timesheets approved but not verified.

The policy of LTI required at least one signature, as verification or approval. However, frequently both signatures were obtained. The lack of a verifier signature on a timesheet is not significant, because the supporting daily times in/out sheets are verified. In the case of professional level employees, their work is reviewed by senior management directly, so the midlevel supervisory signature, the verifier signature, is superfluous.

ADP Time Clock

The time clock installation was an attempt to automate the daily verified time in/out sheets. After spending considerable time implementing this system, and running the paper system in parallel, the automated system had to be discontinued as unreliable. The system software was not flexible enough to capture work shifts that span more than one geographic location, where an employee would time in at one location and time out at another. The system recorded this as two open work shifts rather than closing out the work shift on the second input. Another problem was that the hardware could not be installed on property not owned or rented by LTI, such as the Nassau County Detention Center, therefore requiring manual input to record work performed. Had the system functioned properly, the time and cost would have been fully justified. Requesting that the implementation cost be paid back to the county serves to discourage the organization from implementing the kind of improvements suggested in the Review.

Preparing the payroll for distribution of payroll checks is an extremely labor intensive operation. LTI's

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pay period is biweekly and ends on a Sunday. The information is forwarded to LTI's main office where the timesheets are reviewed and the information is prepared for submission to ADP. LTI employees are paid based upon a weekly rate, or an hourly rate. Once payroll information is gathered for ADP, LTI manually transmits the data by telephone. During the time period the time clocks were in use, LTI maintained a parallel system to assure the information generated by the time clocks were accurate.

The Comptrollers audit staff in reviewing the data for the time clock expenditures failed to realize some of the major functions provided by the time clock system were more than just reporting the information for generating the payroll. Some examples of these features were:

- Automatically collect time and attendance information (1)
- Automatically calculates regular and over time hours
- Ensures company policies are applied accurately and consistently
- Allows supervisors to maintain time and attendance data
- Provides valuable payroll and management reporting
- Automatically interfaces with payroll
- Provides security controls that only authorized employees have access to
- Allows supervisor to monitor tardiness and absence patterns
- Provides audit trail of users access as well as identifying problem areas
- Provides an immediate history of employee's time and location for daily review.

LTI encountered many errors in the use of the time clock system. Some of the system's software contained flaws that generated inaccurate data, and some user confusion resulted in too many errors in time and hours worked.

The audit findings states two points for disallowing the cost associated with the time clock systems. The first point was the time clocks were not used for the intended purposes; and the second point was no time clock was located at the site of the SAMP program. Prudent procedures for installing a new computerized system required continuing the old system until the new system was observed to work accurately and efficiently. While the 29 month period for installing the system and running a parallel system may appear lengthy, had the system functioned properly, the time and the cost for this expenditure would have been fully justified. It should also be emphasized that if a parallel system were not maintained, the end result would have been chaos. Examples of the computer generated reports from the time clock system are attached hereto and clearly provide evidence that were used to support the hours worked by LTI. Unfortunately, the information was not sufficiently accurate to satisfy the payroll function. Therefore, the cost charged to the county programs for implementing this new time clock system was correct and proper. The time clock system was used to ultimately benefit all the County programs.

The second point states that the time clock was not located at the site of the SAMP program. The time clock was located at the administrative offices and not at SAMP because the Juvenile Detention Center, a Nassau county facility, would not permit the installation. Information for SAMP employees was entered at the administrative office. Example of time clock reports is attached hereto. This report clearly indicates that data for SAMP employees were incorporated into the time clock system.

In conclusion, the disallowed cost of \$9,057 is not warranted. We request the County to allow this expenditure as a valid cost for reimbursement as originally submitted on the County claim.

Auditor's Follow-Up Response:

Nassau County reimburses the agency based upon original support such as invoices and ADP payroll registers, which are submitted with the claims under the program contracts. We do not reimburse based upon adjustments made to QuickBooks. Without proper timekeeping support, we cannot be assured that the correct expenses have been claimed. Payroll adjustments should have been performed in ADP to ensure proper accounting and reconciliations. We reiterate our recommendation that LTI remit \$6,129 as reimbursement to Nassau County for salaries and fringe incorrectly charged.

After discussion with LTI, we have removed our finding concerning the use of time clocks.

RESPONSE TO FINDING #6

Indirect Costs Misclassified as Direct Costs & Disallowed Indirect Costs

The treatment of costs as direct costs or indirect costs is governed by the budget approved as part of the contract and LTI must bill for reimbursement in accordance with said budget, or face disallowance of its claim. If the \$37,466 is misclassified, it was nevertheless misclassified with the express approval of the Comptroller during the contract review process, and LTI should not be held liable for seeking reimbursement in reliance on an approved budget.

As part of the review process, a budget is submitted which includes line item budget amounts for specific costs, as well as a grouping of line item costs in two categories, direct and indirect costs. Because the budget has been through this approval process, it is incorrect to say that "LTI was reimbursed for \$37,466 for several items the *agency classified* as direct expenses that were actually indirect costs of the County programs, as defined by OMB A-122. [Emphasis added]. It is not an agency classification, it is the County approved budget's classification which the agency is legally bound to adhere to when submitting claims for reimbursement.

The Copier Machine

This leased copier is located in the administrative office used by Project 29, rather than in the residential facility itself. Based upon its location, the Review classifies the lease cost as incurred for a common or joint objective, the definition of an indirect cost.

We believe the appropriate standard is the *use* of the copier, not its location. The copier is located in the administrative office because that is where the bulk of the administrative work of the Program is performed. The copier is a remote copier accessible directly from the residence facility. It is password protected and can generate a utilization report by user. Its use is driven by the reporting requirements of the County programs, but the utilization between the programs can not be documented sufficiently.

Screen Printed Mats and Runner

Again the Comptroller uses location or site of storage rather than use. These mats are rolled out when needed, and when not needed they are stored in a secure location. There is no legitimate basis for this disallowance.

Appendix 1

Access to Internet Recruiting Website

LTI's line item budget allows for this cost.

Website Hosting

LTI's line item budget allows for this cost.

Fixed Assets

The Review cites computers billed as direct costs. Again it is the use not the location which should determine the assets classification. And in any event the classification was agreed to during the budget process. With respect to the laptop computer used by the Executive Director, we note that his time is substantially spent in program operation performing direct services as the Director of Social Services or the Director of Education, as fully explained in our Response to Finding #2.

Disallowed Indirect Costs

The Comptroller refers to a "reimbursement formula" that links direct costs to indirect costs, such that any reduction in allowable direct costs automatically reduces indirect cost reimbursement. This discussion of course awaits the settlement of the direct cost disallowances.

Auditor's Follow-Up Response:

LTI is reimbursed a percentage of the direct costs to fund indirect costs, up to a predefined dollar limit stated in the contract's budget. The contract includes the types of costs that can be incurred and paid for with Nassau County's contribution toward indirect costs. LTI's response does not provide evidence that the copier machine, floor mats, website expenses and access to an internet-recruiting website are direct program costs.

In its response, LTI has indicated that much of the Executive Director and other senior management's services are donated, including the program services to non-County programs. This implies that the computers, including the laptop assigned to the Executive Director are used for other programs as well as administrative functions. As such, these computers, especially the Executive Director's laptop, should not have been billed 100% to the Nassau County-funded programs. Instead, the cost of this equipment should have been allocated to all programs and the portion representing Nassau County-funded programs' share of the indirect cost, should have been billed in that manner. Any equipment used by LTI senior management or staff that benefits multiple programs should be allocated to each program; equipment used for administrative purposes should be allocated as indirect costs across each program that benefits from its use.

We reiterate our recommendations that LTI reimburse Nassau County as detailed in this finding.

RESPONSE TO FINDING #7

Appendix 1

Excessive and/or Unreasonable Expenses billed to County Programs

The Bluetooth device is allows the manager to continue working while driving a motor vehicle. The magazines are used in the education and training program, supporting the reintegration of the teenagers into school or the job market. The eye care is a medical expense that is covered by the employee plan and available to all employees.

Auditor's Follow-Up Response::

Our finding pointed out that to be reimbursable, the cost must be generally recognized as ordinary and necessary for the operation of the organization or performance of the award. LTI's response does not address the necessity of magazines sent to employee homes, Bluetooth devices, mature- rated video games, an R-rated movie or a luggage cart rental in Los Angeles. We have not been provided evidence that optical care is a benefit authorized by the Board and available to all employees.

We reiterate our recommendation that LTI reimburse Nassau County \$1,478.

RESPONSE TO FINDING #8

Delayed and Inaccurate Financial Reporting

The Comptroller's findings and recommendations attack the soundness of LTI financial reporting. Yet LTI's financial reports have been audited in accordance with the auditing standards generally accepted in the United States, and each audited report presents an unqualified opinion that the financial statements fairly present in all material respects the financial position of LTI.

We note again that the Comptroller's "audit" does not state that it was conducted in accordance with any accounting standard, including GAGAS, which are guidelines for audits of not for profits that receive government funds. See earlier footnote.⁴ We believe that the findings of the Comptroller are picayune and have no bearing on the integrity of LTI' s financial system.

We note further that the Comptroller's reference to IRS form 990 is misplaced. Form 990 is not designed to detail the revenues and expenses of individual programs within an organization. Form 990 is designed to disclose a not for profit organization's source and use of funds, in a manner that reflects on the compliance or lack thereof with its tax exempt purpose. Consequently the Comptroller's use of the 990 to discredit the program reporting has no evidentiary significance.

Still further to this point, the Review's indication that the amended 990 for 2003 had incorrectly reported program revenues is wrong. The total revenue reported on line 12 of \$2,864,764 is also reflected in our audited financial statement for that year and the general ledger is in agreement.

LTI, as evidenced by the unqualified opinion of two audit firms, is substantially in compliance with the applicable guidelines for internal controls as cited in the publication by the Attorney General.²³ Please see also Lack of Oversight by Agency Board of Directors, Finding #4, item 3.

²³ New York State Attorney General, Jan. 2005, http://www.oag.state.ny.us/charities/internal_controls.pdf

Auditor's Follow-Up Response:

We acknowledge that LTI's audited financial statements obtained a clean opinion; however, the fact remains that expenses incurred in 2006 were improperly recognized in prior periods. We reiterate our recommendation that expenses be posted to the period in which they are incurred.

LTI's response does not address our finding that financial statements were not available on a timely basis. Board decisions should be in the context of the financial condition of LTI and timely financial statements are critical to providing that context.

We did not take issue with total revenues per the audited financial statements. The Grants and Allocations amounts disclosed on LTI's IRS Form 990 did not agree with program- by-program revenue amounts in the general ledger.

We reiterate our recommendations that LTI's books be closed and financial statements be prepared on a timely basis.

RESPONSE TO FINDING #9

Lack of Procedures for Capital Projects

LTI, as evidenced by the unqualified opinion of two audit firms, is substantially in compliance with applicable guidelines as promulgated in the cited publication by the Attorney General.²³ However, LTI is entitled by contract to rely on the budget modification approval received from DSS, authorizing these expenditures on the line-item for repairs and maintenance. All of these expenditures were billed in accordance with said approval. We do not agree with the Comptroller's finding regarding repairs to the Conference Center for the following additional reasons:

- In order to comply with the strict building codes promulgated by Village of Hempstead, a routine repair job became a major repair job. See GAAP policies and procedures and IRS rules attached and made a part of this response as Exhibit 9-1. More work was needed than originally expected, including electrical, plumbing, and roof repair.
- The repair job was necessary for environmental purposes because of severe water leakage, and mold.
- The second floor of this facility was already in existence prior to 2003 and was not added during the review period as the Comptroller has claimed.
- Competitive bids were obtained for the repair project by the Architect serving as General Contractor.
- The professional services exception to bidding requirements of GML § 103 applies to the selection of the architect. LTI conducted an informal request for proposal process. The architect selected was the architect of record on the original building plans filed with the local building department, and therefore had special skills in relation to this project in addition to specialized expertise as an architect.
- Board minutes reflect discussion of work progress and potential usage for the conference center.

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- The Certificate of Completion has been received for the Conference Center.
- The facility is used for conferences with parents, residents and other individuals directly related to the children that are assigned to Project 29. Furniture suitable for this purpose was properly acquired and charged to the program.

Carpet purchase: This was made pursuant to bids obtained at the time of purchase and the low-cost bidder was selected. At no time was any work performed that was not subject to the bidding process. LTI concurs with the statement that the bidding process helps assure that prudent and economic use of public monies facilitates the acquisition of quality goods at the lowest cost. LTI has complied with this requirement.

Auditor's Follow-Up Response:

LTI states that it is entitled to rely on budget modifications authorizing expenses; however, we note that the budget modifications were not requested until September 2006, while the costs were incurred in 2005, prior to approval.

We reiterate our recommendation that LTI obtain competitive bids or multiple quotes for construction work. Without comparing bids, LTI cannot be assured that prices are reasonable. We also find that LTI's reliance on the architect to obtain bids ignores the possibility of a conflict of interest, as his fee increases as the costs of the project increases.

We requested bid documents to support the purchase of carpeting, however they were not provided. LTI's response indicated that a certificate of completion for the conference center construction was received. We requested this document both during the fieldwork, and during a post-audit meeting, but it was not provided.

After discussion with LTI, we have removed our reference to the second story of the conference center.

RESPONSE TO FINDING #10

Health Insurance and Medical Costs

Children's Medical Care

LTI agrees to reimburse the county for any medical costs that were inadvertently billed to Nassau County for children from other counties.

Agency Employee Health Cost

We reviewed employee health cost for 2004. It appears there were credits received from the insurer. The \$612.00 will be credited to the County.

\$224 reimbursed:

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An employee was assaulted by a resident and received emergency medical treatment at the medical center. The agency paid for the entire medical bill of \$224 because the employee did not have medical coverage. Reporting this incident to workers' compensation would have increased the agency's workers' compensation premium resulting in a greater expense to the county in the long run.

Auditor's Follow-Up Response:

We concur with LTI's corrective actions to reimburse Nassau County for the medical costs of non-Nassau County children billed to Nassau County and for the credit received from the employee health insurer. LTI should review its billings to Nassau County for all years to determine if any other non-Nassau County residents' medical bills were charged to Nassau County and reimburse Nassau County for those amounts.

We reiterate our recommendation that the agency should have filed a workers' compensation claim for the injury sustained by its employee and reimburse Nassau County the \$224 in medical expenses.

LTI's response did not address our finding that it billed 17 invoices to the wrong programs resulting in Nassau County's overpayment of \$434. We reiterate our recommendation that LTI refund Nassau County that amount.

RESPONSE TO FINDING #11

Non-reimbursable Beverage Purchases

LTI reviews all invoices prior to submission claims. The purchase of beer was inadvertently missed by all parties including the auditor of the claim at the comptroller's office. LTI will credit the County for \$24 for the cost of beer and sales tax.

Beverages including soda, coffee and tea are purchased for residents, visitors including parents and have been an integral part of the program since inception. We will continue to vigorously check all purchases and ensure all food in the accordance with the program policies and practices.

Food Vendor direct delivery

There are sufficient controls in place to ensure the purchase of food is received at the program site. In reference to the Comptrollers recommendation for using food service vendor, the LTI not only shops directly but does use food vendors to deliver food directly to the program site.

Auditor's Follow-Up Response::

We concur with LTI's corrective action to reimburse Nassau County for the beer purchase. We reiterate our recommendation with regard to the purchase of soda and coffee.

LTI did not provide any evidence to demonstrate that there were sufficient controls in place to ensure that food purchased was received at the program site.

RESPONSE TO FINDING #12

Telephone Charges Billed to the County

Long Distance Charges: Telephone companies require customers to select and pay for a long distance service as a mandatory service for a landline. The minimum long distance monthly service charge must be paid despite low usage or even no usage. The service selected was the lowest cost available amongst the available carriers.

Auditor's Follow-Up Response:

LTI's statement "Telephone companies require customers to select and pay for a long distance service as a mandatory service for a landline" is incorrect. We confirmed with Verizon (LTI's phone carrier) that long distance service is not a requirement for a landline; customers without long distance service can make long distance calls with a 10-10 number, or calling card, which was one of the audit report recommendations.

We reiterate our recommendation that LTI should review its bills more carefully to ensure that it is not billed for services it did not use and that it does not submit those erroneous bills to Nassau County.

RESPONSE TO FINDING #13

Miscellaneous

Outstanding Checks: We investigated the outstanding checks totaling \$879.90. These checks range from \$4.49 to \$163.40. We located one check for the total amount of \$232.35, it was cleared. The remaining checks appear to be outstanding. We will continue to investigate and reissue if necessary; if not, we will credit the remaining balance to the appropriate county funded programs.

Blacked out information on claims: We accept the Comptroller's recommendation to discontinue blacking out items on the invoices submitted for reimbursement.

Erroneous billing to County: The billing for carpeting \$570 (80% of 713) and duplicate reimbursement of \$693 will be investigated; the appropriate group home will be issued a credit if there was an error in billing.

Double billing of claims to County: The \$917 claim for the auto insurance paid in January 2007 was in error. This error was discovered by LTI and the county given credit in March 2007.

The \$170 for medical expenses charged to project 350 appears to be a duplicate submission. This will be further investigated and if an error is found Project 350 will be credited.

Project 29 and Project 350 expenses are segregated and claims are reviewed and processed. It appears that the \$40 Walgreens charge was submitted to both programs. We are looking into this to determine how the

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error occurred. Appropriate action will be taken to ensure that these errors are minimized. It should be noted: LTI exerts a tremendous effort not to double bill, duplicate bill or bill in error. A review of this issue indicates that In a 48 month period, there were four instances of double billing.

Auditor's Follow-Up Response:

LTI did not provide evidence of the outstanding check identified as having cleared. We concur with the corrective actions to be taken by LTI, specifically ending its practice of blacking out data on claims submitted to Nassau County, and investigating the outstanding checks, erroneous and double-billings. However, LTI is not correct when it states that "A review of this issue indicates that in a 48 month period, there were four instances of double billing." Our audit tested only a sample of transactions; we did not review all claims within that four-year period. Consequently, we do not know how many instances of double billing may have occurred.

We reiterate our recommendation that LTI indicate, on the face of each invoice, the program(s) and amount(s) charged to agree to the total invoice amount.

We concur with LTI's investigation of the double billings, and reiterate that any expenses that were double billed be credited to Nassau County.

After discussion with LTI, we confirmed that Nassau County received the \$917 credit for the auto insurance and revised the report accordingly.

RESPONSE TO FINDING #14

Internal Controls

Bank Reconciliations: LTI will comply with the Comptroller's recommendation to have the preparer or reviewer sign monthly bank reconciliations.

Check Stamps: The fiscal officer is responsible for custody of the check stamps, but said person is not a signatory on the account. There is no signatory that has access to the check stamps. Prior to printing and issuing checks, a warrant of expenditures to be paid is prepared. Said warrant is prepared by a bookkeeper and reviewed and signed by a Board member prior to the use of the check stamp. In some instances one signature is hand written and the second signature is stamped. The check signature stamps are secured under a lock box and are only available for check signing purposes.

Purchase orders: Purchase orders are dated. While pre-number purchase orders are preferred, the cost of printing said purchase orders would have to be allocated as indirect cost to various county programs. LTI prefers to forgo this expense.

Computer passwords: LTI employees are required to change their computer passwords periodically. A centrally managed domain wide account policy is enforced on all users. This policy among other things includes password expiration, password age, password complexity requirements, as well account lockout policy.

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Time Keeping Records: LTI concurs with these recommendations. New procedures will be developed to facilitate and implement strict controls for the time keeping purposes. In addition, any time a correction is made to the time keeping records and ADP computer journal, corrective entries will be marked with the dates and the corresponding journal entry that is posted to the QuickBooks(R) accounting program. Therefore, the claim for reimbursement will be in agreement with the time keeping records and the ADP journal.

Claims Duplication: LTI already has an adequate claims process. LTI submitted thousands of individual items for reimbursement over the 4 year period reviewed. Of that only 4 duplicate items were found. These 4 items represent a negligible number of duplicate items.

Procurement: LTI has always had a bidding process. However, the records for supporting this function have not been maintained adequately. LTI will now formalize the bidding process prior to signing contracts for goods and services. Additionally, it will retain said bidding document for examination by the auditors.

Auditor's Follow-Up Response:

We reiterate our recommendations that LTI require the preparer and reviewer to sign monthly bank reconciliations and that it implement pre-numbered purchase orders.

We concur with the corrective actions taken by LTI to implement stricter controls for time keeping purposes and formalize its bidding and procurement process.

We disagree with LTI's response that it has an adequate claim process because only four duplicate items were identified in this report. We audit on a sample basis; it is not our practice to review all claims, documentation, and entries. While four duplicate items may have been noted in our report based upon our test sample there may be other instances. We also found numerous instances of erroneous claims submitted to Nassau County, specifically the billing of non-Nassau County children.

After discussion with LTI, we have removed our finding concerning the check stamp and computer passwords.

RESPONSE TO FINDING #15

Fixed Assets

LTI has never been apprised that contract requirements called for a more comprehensive accounting for fixed assets. The specifics for the inventory control as mentioned in the contract were never defined. LTI agrees to upgrade its accounting for fixed assets and will seek approval from the county to purchase the required software.

Auditor's Follow-Up Response:

LTI's response does not address our finding or recommendations. LTI's claim that "...LTI has never been apprised that contract requirements called for a more comprehensive

accounting for fixed assets” is without merit; the contracts with Nassau County clearly stipulate requirements for inventorying fixed assets with the following language:

“The Inventory shall describe the Equipment with reasonable specificity so that the Equipment can be readily identified.”

We reiterate our recommendations with respect to this finding.

RESPONSE TO FINDING #16

LTI program bank accounts hold LTI funds, not County funds. It is patently false to assert that any transfer of moneys from the program bank accounts represents a transfer of program funds. Transfers to and from said accounts or to payroll bank accounts are for the convenience of LTI, and do not in any manner reflect the use of County funds. Employees reimbursed by the County for a standard work week routinely donated time or worked overtime in other positions or other programs. The CCW payroll was not billed to the County and does not involve County money.

Transfer of Program Funds to Payroll

LTI disagrees with the findings and the recommendations in the Review that these transfers are monies belonging to the county or that the bank accounts are county bank accounts. These are LTI bank accounts. In a cost reimbursement funded program, the agency must first expend its own money to provide the service, and then seek reimbursement for the expended funds. The reimbursed funds again become LTI funds and not county funds. LTI does not receive any contract advancements. The placement of the funds in the various bank accounts and the designation of certain accounts as program accounts is merely for the convenience of the LTI, and any such program designation does not confer on the county any right to those funds, nor imply that the use of the funds are restricted.

It should be noted, we were not asked for any details regarding the source of the payroll funds. The finding itself contains contradictions designed to discredit the agency. For example on page 35 of the Review, it says that no information was provided regarding these transfers or the program, yet the finding opening paragraph gives information about the CCW program and its payroll.

Time: Employees do not spend 100% of their time to county programs; they spend 100% of their reimbursable time on county programs, as earlier mentioned..

Failure of the Board to provide Oversight:

Please see Finding #4. Note that while the Board can set overall compensation levels, the executive director makes the recommendation.

Auditor’s Follow-Up Response:

We reiterate our recommendations with respect to this finding.

We do not assert that LTI has transferred money belonging to Nassau County, but rather point out that money has been transferred from accounts LTI established for Nassau County-funded programs to pay for non-Nassau County funded programs. Considering that the Board minutes indicate the money for this non-Nassau County program was received, we questioned why those monies were not used to pay for the payroll of that program, instead of transferring funds from bank accounts clearly used for Projects 29 and 350. We are concerned that no time records were kept and that the Board apparently delegated to Senior Management the decision as to who would receive payments and how much.

LTI incorrectly states in its response that: “It should be noted, we were not asked for any details regarding the source of the payroll funds.” The auditors requested the Executive Director’s explanation of these transfers on two separate occasions – once during the field work, and a second time after the draft report was issued. The Executive Director responded on both occasions that these were LTI funds and that the agency could do whatever it saw fit with monies in any accounts.

Once again, we reject LTI’s contention that its employees work for pay on reimbursable, Nassau County-funded programs, but work for free when on non-Nassau County funded programs.

The auditors discovered the CCW program from their review of the Board minutes; the payroll data was obtained by reviewing ADP reports and the general ledger. At no time during the audit did LTI provide the auditors with any information on this program.

There was no indication in any of the Board minutes for the audit period that the Board reviewed or discussed any compensation for any employee, including senior management of the agency. The Board explicitly delegated to senior management all decisions concerning the CCW Training payments made to senior management and staff.

RESPONSE TO FINDING #17

Over-Reimbursement for Salaries

Excess over approved budgets.

This is a common occurrence in government funded projects, and refers to budget line items, not the full budget. It is handled by a budget modification which transfers money from an over budgeted line item to an under budgeted item. DSS policy and widely accepted practice to allow the agency to transfer within a particular object class without prior authorization. At no time was the total budget item exceeded. See also Non-reimbursable bonuses, #3-2(d)

Several positions filled by one person

This is a transparency issue. See also footnote #17. Note that the sharing of titles contributes to cost efficiency, and allows for donated services. Ending this practice will substantially increase salary costs by requiring additional hiring and reducing donated services. Note as earlier mentioned, that the salaries of the Executive Director and Financial Officer are not billed to the county except for the Financial Officer in the SAMP program. See Inequitable Allocation of Administrative Salaries and Benefits.

END

Auditor's Follow-Up Response:

We reiterate our findings and recommendations.

A budget is an estimate of revenues and expenses that may or may not be achieved depending upon uncontrollable circumstances. The salary paid to each employee is controllable through Board decisions and can be accurately budgeted. LTI's response does not provide any credible explanation as to why the Executive Director, Caseworker Supervisor, and the Financial Officer were paid \$31,652, \$53,600, and \$5,874, respectively, more than budgeted for 2005 and 2006.

We agree with LTI that there are transparency issues with the budgets. These issues could be resolved by LTI implementing our recommendations. LTI's claim that the Executive Director's and Financial Officer's (with the exception of the portion charged to SAMP) salaries are not billed to Nassau County is incorrect. Nassau County funds 100% of the Executive Director's salary and over 90% of the Financial Officer's salary.

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August 20, 2008

VIA E-MAIL AND U.S. MAIL

Ms. Aline Khatchadourian
Deputy Comptroller for Audits and Special Projects
Office of the Comptroller
240 Old Country Road
Mineola, NY 11501

Re: Limited Financial Review
Leadership Training Institute

Dear Ms. Khatchadourian:

I am writing to you in my capacity as outside counsel to the Leadership Training Institute ("LTI").

The Office of the Comptroller of the County of Nassau ("OCC") conducted a review of the records of the LTI for the years 2003 through 2006. The review pertained to programs known as Projects 29 and 350 and SAMP. The County has consistently maintained that it pays LTI for the total costs of all of its three programs. This is a continuing misstatement of fact. The chart attached to OCC's Executive Summary, under the title "Background," clearly indicates that the three programs are not fully funded and that LTI is forced to subsidize all three programs in an amount in excess of \$3 million.

The claim by the County that LTI has been over-reimbursed is a total misstatement of fact and is the result of the failure of the OCC to adequately review the records of LTI. LTI has chosen to settle the claims against LTI for a variety of reasons. Because of the long delay in the review of the OCC audit, negotiations with the County Attorney and the coordination of the County's response with DSS, LTI has been severely prejudiced. LTI has provided services under all three programs since January 1, 2008 and has received zero reimbursement for the services it has provided from said date through the present date. This inordinate delay has forced LTI to draw upon its frugal reserves in an effort to keep these programs going to the benefit of Nassau County. Were LTI to contest the claims in the review, which it believes are overstated and without foundation, LTI would undoubtedly be forced to shut down all three programs for lack of adequate funding. LTI has been forced to become the "banker" to the County and the settlement being made with the County is being made under the highest degree of duress, as LTI is incapable of sustaining a long legal battle to challenge the OCC's questionable findings.

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Counselors at Law

August 20, 2008

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I wish to further address the issues of whether the County is reimbursing LTI for the full cost of the programs and whether there is any duplication of payments.

Under the Comptroller's contract interpretation, the County is not obligated to cover the costs of the facility and may in fact pay nothing. The Comptroller cites paragraph 3 (a) (1) of the Project 29 contract which requires a reduction in the charges to the County by crediting the County with revenues from all other sources. If interpreted literally, LTI cannot match any revenues to the expenses not paid by the County until the County has first recouped all of the reimbursement paid to LTI, and reduced the County's cost contribution to zero.

The purpose of the aforementioned contract provision is to reduce the county contribution by any extraordinary revenue received by LTI, such as grant revenue. If instead the County's obligation is reduced by operational revenue from other sources, the program would be perennially insolvent. This obviously defeats the essential purpose of the contract.

The Comptroller's interpretation also creates an imbalance of the obligations the County vis-à-vis other counties. By crediting Nassau County with the revenues from other counties on an "as received" basis, without regard to bed utilization or any other cost sharing arrangement, Nassau is essentially using LTI to transfer its cost obligation to other counties. It is unlikely that the state and the other counties will agree that the Nassau Comptroller's interpretation is just and fair, and it may in fact be in violation of law.

During the twenty years prior to the Comptroller's report, the understanding of the parties was that the County covers the operational costs of the Project 29 detention facility to the extent of the contract amount. This cost included the fixed cost of eight beds now reserved by the County, regardless of the utilization of these beds. Any expense above the County contract amount was LTI's responsibility, to be covered by revenues from other counties for the use of four beds that are not contracted for use by the County; and any other revenues such as grant revenue. The County would receive a credit for any revenues received as a result of the use of one of its eight County reserved beds.

For example, in 1987 a per diem rate schedule was established by the County based upon the budget submitted. That rate schedule established one rate for an unoccupied bed, and another rate, about 5% higher, for an occupied bed. The two tier rate, occupied versus unoccupied indicates an intention to cover the fixed cost of the facility's operation, and the additional variable cost of maintaining an occupied bed, which would include added labor, food, and the cost of activities. The letter from DSS establishing these rates are attached and made part of this letter as attachment "A".

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Since 1987, the reimbursement method used by Nassau County has switched from a per diem reimbursement to a direct reimbursement of operational expense upon submission of appropriate documentation. Other counties still pay LTI using a per diem rate for an occupied bed. LTI allocates the two sources of revenue, county and non-county, to expenses in such a manner as to facilitate cash flow and prevent duplication of payment for the same expense item. LTI usually billed 100% of salary to Nassau because that expense item is repetitive, easy to document and accordingly easier and faster for the county to audit and pay the claim. Budgeted and allowable expenses that occurred only occasionally, that were extraordinary, or otherwise unique were generally allocated to the per diem revenue and not presented on a voucher and not billed to Nassau County.

This allocation procedure of revenues to expenses would extend beyond the December end of the contract year, when the amount of the year's expense and revenue could be accurately ascertained. In the audit years 2003, 2004 and 2005, LTI was able to substantially balance the books by matching available revenue to expenses, and returning excess revenue over expense to Nassau County. Generally this return of funds was not in the form of a credit but instead by forbearance, that is, by not presenting allowable expenses to the County for payment. In 2006, LTI was unable to complete the matching of revenues to expenses and closed the books with a surplus of revenue over expense. In any event, there is no duplication of payment as each item of expense is charged to either the County or to the non-county revenue, but not both.

The Comptroller's use of the term "duplication of payment" is a misuse of the term. LTI allocated the non-County revenue to those expenses not paid by the County. The Comptroller is allocating the non-County revenue to those items of expense that were already paid by the County, creating the appearance of a "duplication of payment" for those items while leaving other items of expense unpaid, (and the program insolvent).

It is our understanding that LTI's in-depth response to the OCC's initial review, will be appended to the final report. Our other comments are as follows:

Auditor's Follow-up Response:

Nassau County paid 100% of eligible program expenses for the period of June 2005 through December 2006. Any revenues collected by LTI for services provided to other Counties represent a duplicate reimbursement of the same expenses. The contract states: "It is further agreed by the Contractor that charges to the County will be reduced by the amount of any funds received by the Contractor from other sources for care provided by the Contractor under this Agreement." Additionally, to the extent that Nassau County children did not use any of the eight beds reserved for Nassau County use, LTI was allowed, under the terms of the contract and with pre-approval from Nassau County, to let other Counties use the beds. The contract specified that the usage charges paid by other Counties for the use of those reserved beds were to be billed and collected by

Appendix 2

Nassau County. LTI did not notify Nassau County that the beds reserved for Nassau County had been used by non-County children, nor did the agency remit any of the revenues that it collected from the other Counties for the use of those beds.

We reviewed LTI's general ledgers for the period of June 2005 through December 2006 and noted that it charged all direct program expense to Nassau County. LTI did not credit Nassau County with any of the revenue that it received from the other Counties, either for the use of the Nassau County reserved beds, or the double billing of services. Furthermore, it charged Nassau County for expenses directly related to other Counties' residents.

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Audit Finding #1

LTI processes other non-county juveniles as part of its contractual obligations with said counties. Through unanticipated oversight, a number of the out-of-county placements were confined to beds reserved for Nassau County juveniles. LTI has made a full and fair offer to Nassau County based on its internal records to reimburse the County for out-of-county placements that occupied Nassau County beds. LTI has made a settlement with the County in the interests of keeping its facilities open and programs operating. Since the beginning of 2008, LTI has been fully funding its three programs with no reimbursement for those services.

Auditor's Follow-up Response:

We agree that LTI should reimburse Nassau County for the unauthorized use of the Nassau County reserved beds used by non-County children. We reiterate our recommendation that LTI reimburse Nassau County for the program expenses that were billed to Nassau County and collected from the other Counties as part of the per diem rate.

Finding #2:

LTI vehemently challenges audit finding #2. OCC has asked for an allocation of all salaries paid against programs. No formula currently exists to comply with OCC's request and LTI fully believes that its current system, in compliance with OMB standards, satisfies the law. LTI contests all of the claims made under Finding #2 and has made no offer to Nassau County in satisfaction of finding #2.

Auditor's Follow-up Response:

We reject LTI's argument that employees are paid a salary for their time spent related to Nassau County contracts, but work for free when working on non-Nassau Country related programs.

Finding #3:

LTI has made no offer as part of its settlement to satisfy finding #3 and believes that the claims made are questionable and doubtful.

Auditor's Follow-up Response:

We reiterate our finding that employee bonuses are non-reimbursable.

Finding #4:

LTI has agreed that its Board of Directors will follow a new set of standards in connection with its activities in behalf of the institute.

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With respect to the claimed "conflict of interests," LTI's position, supported by outside counsel, is that the hiring of family members does not violate any federal or state law. LTI's programs cannot always be fully staffed with available personnel and the hiring of family members for modestly paid staff positions is in no way a "conflict of interest."

Auditor's Follow-up Response:

A conflict of interest existed not because LTI employed senior management's relatives but because the Executive Director solely determined the compensation of his daughter and approved her timesheet.

Finding #5:

LTI has agreed to modify its internal processes to comply with any reporting standards in need of revision.

Auditor's Follow-up Response:

LTI's response does not address the requested reimbursement due Nassau County of \$6,129. We reiterate our recommendations.

Finding #6:

The findings under this category are an example of accounting overkill and are not valid, nor do they rise to the level of being matters that require reimbursement to the County.

All of these items could have been the subject of informal discussions and were not relevant to the in-depth review of overall program activities and expenditures.

Auditor's Follow-up Response:

Indirect costs should be allocated to all agency programs and should be billed to Nassau County in accordance with the contracts.

Finding #7:

See finding 6.

Auditor's Follow-up Response:

Nassau County taxpayers should not bear the cost of excessive and unnecessary charges.

Finding #8:

Appropriate corrections will be made.

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Finding #9:

OCC failed to fully investigate the basis of certain capital expenditures, nor did they do a follow up investigation once it was brought to their attention that their findings were incorrect. This is an example of inadequate document review by the OCC.

Auditor's Follow-up Response:

LTI did not provide any evidence that our findings were incorrect.

Findings #10 through #15:

LTI has offered to make all appropriate revisions to its records to comply with any of the valid items arising out of the review.

Auditor's Follow-up Response:

LTI has not addressed the recommendations outlined in these findings, including any monies that should be reimbursed to Nassau County. We reiterate our recommendations with regard to these findings.

I would appreciate if this response is made a part of your final report.

Sincerely,

ARTHUR J. KREMER

For the Firm

AJK:rmh

Attachment

Appendix 2
Attachment A

THOMAS S. GULOTTA
COUNTY EXECUTIVE



JOSEPH A. D'ELIA
COMMISSIONER

NASSAU COUNTY
DEPARTMENT OF SOCIAL SERVICES
COUNTY SEAT DRIVE
MINEOLA, NEW YORK 11501

October 13, 1987

Mr. Mel Jackson, President
Leadership Training Institute
137 Jackson Street
Hempstead, New York 11550

Re: Non-Secure Detention Program

Dear Mr. Jackson:

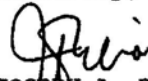
This is to confirm the per diem rates for the purchase of care for girls in your non-secure detention home. We approve the following rates effective July 1, 1987, for full time care of eligible children:

\$105.52 per day for occupied beds
\$100.26 per day for unoccupied beds

The above rates are for a combined maximum of ten beds. Rates are all-inclusive and no additional charges will be applicable except for the cost of medical care which is to be separately billed and documented. It is understood that charges to Nassau County will be reduced by the amount of any funds received by you from other sources for care under this program.

The rates are calculated on the basis of a budget, as per attached, totalling \$386,200. We thank you for your cooperation and our legal unit will be sending you a contract within a few days.

Sincerely,


JOSEPH A. D'ELIA
Commissioner

JAD:tg

cc: H. McDougal, Deputy Comm.
R. Guidone
C. Singer, Div. For Youth