



# City of New York

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## OFFICE OF THE COMPTROLLER

Scott M. Stringer  
COMPTROLLER



## FINANCIAL AUDIT

**Marjorie Landa**

Deputy Comptroller for Audit

Audit Report on YMS Management  
Associates, Inc.'s Compliance with Its  
Contract with the New York City  
Administration for Children's Services

FP16-057A

June 29, 2016

<http://comptroller.nyc.gov>



THE CITY OF NEW YORK  
OFFICE OF THE COMPTROLLER  
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NEW YORK, NY 10007

SCOTT M. STRINGER  
COMPTROLLER

June 29, 2016

To the Residents of the City of New York:

My office has audited YMS Management Associates, Inc. (YMS) and the New York City Administration for Children's Services (ACS) to determine whether YMS is in compliance with its contract and whether ACS is effectively monitoring YMS' compliance. The audit covered funds and expenditures during the audit scope period of Fiscal Year 2015. We audit entities such as YMS and ACS as a means of increasing accountability and ensuring that contractors operate in compliance with the terms of their contracts.

Our audit found that YMS generally complied with contract requirements, including that YMS properly processed voucher payments in accordance with ACS' instructions, provided the required number of clerical staff to ACS, installed and maintained a direct deposit system, properly paid ACS interest on programmatic funds, and maintained the required levels of insurance.

However, we also found that YMS did not comply with two contract obligations. Specifically, YMS failed to validate service provider Tax Identification Numbers (TINs) and as a result, during Calendar Years 2014 and 2015, a total of \$9.4 million in compensation was paid to service providers and reported to the Internal Revenue Service without proper TINs. Further, we found that YMS did not implement and maintain a debit card system as required in the contract. Nonetheless, YMS continued to receive the full amount of the fees provided for in the contract, which incorporated the costs associated with the debit card system. We also found that ACS did not exercise adequate oversight over YMS to ensure that it complied with the terms of the contract, including the requirement that YMS validate Service Provider Tax Payer Identification Numbers (TINs), and that it implement and maintain a debit card system.

The audit makes 12 recommendations, including that YMS review the service providers cited in the report and obtain a valid TIN, and repay ACS the implementation and maintenance costs of the debit card system. The audit also recommends that ACS continue to conduct a full review of service provider TINs and immediately enforce and continuously monitor compliance of all terms of its new contract with YMS.

The results of this audit have been discussed with both ACS and YMS officials and their comments have been considered in preparing this report. Their complete written responses are attached to this report.

If you have any questions concerning this report, please e-mail my Audit Bureau at [audit@comptroller.nyc.gov](mailto:audit@comptroller.nyc.gov).

Sincerely,

A handwritten signature in blue ink, appearing to read "Scott M. Stringer".

Scott M. Stringer

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# THE CITY OF NEW YORK OFFICE OF THE COMPTROLLER FINANCIAL AUDIT

## Audit Report on YMS Management Associates, Inc.'s Compliance with Its Contract with the New York City Administration for Children's Services

FP16-057A

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### EXECUTIVE SUMMARY

The New York City Administration for Children's Services (ACS) provides subsidized child care by, among other things, issuing day care vouchers to families certified as eligible that enables those families to choose day care services from qualified service providers (Service Providers).<sup>1</sup> To carry out its responsibilities under the day care voucher program, in 2007 ACS entered into a contract with YMS Management Associates, Inc. (YMS) to disburse payments to the Service Providers on a monthly basis and to carry out other fiduciary tasks necessary as the City's payment agent.

ACS' contract with YMS was for the period of May 1, 2007, to April 30, 2010, and totaled \$1,206,575,382; \$1,203,586,000 in program funds to be disbursed to Service Providers and \$2,989,382 in administrative funds as a fee for YMS (the Contract). The Contract also included a three-year renewal option that was exercised, which would extend it through April 30, 2013. In November 2012, ACS extended the Contract for one year through April 2014 in order to ensure the continuity of services. Using the negotiated acquisition method of procurement, ACS extended the Contract two more times through April 2016.<sup>2</sup> In connection with these procurements, ACS stated that it needed to enter into negotiated acquisitions to ensure continuity of services while it reviewed the child care voucher payment program and that it anticipated issuing a request for proposals (RFP) for a new contract with a service start date on or about May 1, 2016. Since 2013, the Contract has been modified three times to increase the amount of funds to be disbursed to the Service Providers. Total program funds and administrative funds were increased to \$3,991,238,297 and \$9,492,998, respectively. During the last year of the Contract

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<sup>1</sup> "Service providers" are defined to mean a corporation, whether for-profit or not-for profit, under the laws of New York State, or a person acting individually and independently who owns and/or operates a childcare program that is duly constituted and authorized to render childcare services within the venue where such services are to be performed, that renders childcare services, or that is prepared to do so upon placement of a child.

<sup>2</sup> A negotiated acquisition is a method of vendor selection authorized by the City's Procurement Policy Board Rules under which procurements can be made through negotiation due to circumstances in which it is not practicable and/or advantageous to the City to make a procurement through competitive sealed proposals.

(May 1, 2015 to April 30, 2016) YMS received \$451,704,542 in program funds and \$973,056 in administrative fees.

## Audit Findings and Conclusion

Our audit found that YMS generally complied with Contract requirements, including that YMS properly processed voucher payments in accordance with ACS' instructions, provided the required number of clerical staff to ACS, installed and maintained a direct deposit system, properly paid ACS interest on programmatic funds, and maintained the required levels of insurance.

However, we also found that YMS failed to comply with two other obligations. Specifically, YMS failed to validate Service Provider Tax Identification Numbers (TIN) and as a result, during Calendar Years 2014 and 2015, a total of \$9.4 million in compensation was paid to Service Providers and reported to the Internal Revenue Service (IRS) without proper TINs.<sup>3</sup> Further, we found that YMS did not implement and maintain a debit card system as required in the Contract. Nonetheless, YMS continued to receive the full contract fees, which incorporated the costs associated with the debit card system, even though it never had to pay for it.

We also found that ACS did not exercise adequate oversight over YMS to ensure that it complied with the terms of the Contract, including the requirement for TIN validation, and the implementation and maintenance of the debit card system. Finally, we found that ACS did not ensure the funds maintained by YMS were insured over the \$250,000 Federal Insurance Deposit Corporation limit.

## Audit Recommendations

ACS' Contract with YMS expired on April 30, 2016. In response to an RFP, YMS was awarded a new contract effective May 1, 2016. The new contract provides a specific methodology on how YMS should validate TINs and continues to require YMS to establish a debit card system. The report makes a total of 12 recommendations, 6 to ACS and 6 to YMS, including the following:

YMS should:

- Review the 112 Service Providers cited in the report and obtain a valid TIN. If a valid TIN cannot be obtained, withhold payment in accordance with IRS regulations until one is provided;
- Repay ACS the implementation and maintenance costs of the debit card system required under the old Contract;
- Validate TINs in accordance with the methodology outlined in the new contract;
- Implement the debit card system in accordance with the new contract requirement;

ACS should:

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<sup>3</sup> Service Provider TINs were reviewed to determine the effect of the lack of TIN validation. Our review of TINs was limited to those Service Providers who received more than one Form 1099 within a given year and those Service Providers who did not have a TIN on their Form 1099.

- Review the payment records associated with the 135 providers who were previously paid without valid TINs, and determine if any payments may have been erroneously made and take appropriate action to recoup any payments that were;
- Continue to conduct a full review of Service Provider TINs. If valid TINs cannot be obtained, ensure that YMS withholds payment in accordance with IRS regulations from the Service Provider until one is provided;
- Immediately enforce and continuously monitor compliance of all terms on the new contract.

## YMS Response

YMS officials disagreed with the report's findings and did not address the report's recommendations. In their response, YMS officials stated that "[i]t is YMS' position that it complied with all areas of the audited Contract and that the findings in the Audit related to technical issues with the knowledge or consent of ACS and that should in no way reflect upon YMS's abilities, integrity or satisfaction of its obligations under the Contract." YMS also stated that it and ACS were unaware that their TIN validation process was not meeting requirements until 2013, and YMS has met with ACS repeatedly to address the issue thereafter. According to YMS, it was unable to resolve the problem alone because it did not have access to confidential government databases or an accurate TIN matching database. In addition, YMS stated that it was ACS' decision not to implement a debit card system.

We do not agree with YMS' response and note that the root cause of the invalid TINs identified in the report stems from the methodology used by YMS at the onset of the Contract in 2007. Invalid TINs cannot be effectively identified by relying only on self-reported data provided by the Service Providers themselves. Moreover, some of the TINs YMS purports to have "validated" consisted of only zeros which were obviously illegitimate TINs on their face. Also, YMS failed to obtain copies of Service Provider Social Security cards as required by the Contract, which compounded the issue.

With regard to the debit card system, YMS stated it was ACS' decision not to go forward with its implementation but this was not documented as is required by the Contract. Further, there was no documented evidence that the system was even discussed for over six years since the inception of the Contract.

## ACS Response

In its response, ACS officials agreed with four of the six recommendations but disagreed with the report's findings. ACS officials stated that "[t]he difficulties in TIN validation stemmed from factors beyond YMS' control—specifically that the U.S. Internal Revenue Service would not allow vendors access to confidential, comprehensive government databases like the IRS eService TIN-Matching database." In addition, ACS officials stated that it was their decision not to implement the debit card system and that it "has been diligent in its oversight of the YMS contract. . . ." ACS did not agree to recoup the implementation and maintenance costs of the debit card system from YMS and did not address the recommendation that it review the payment records associated with the 135 providers who were previously paid without valid TINs.

For the reasons stated above in response to YMS' comments, we disagree with ACS' response to the findings. With regard to ACS' failure to monitor YMS' contract performance, we note that the fact that ACS was not aware that there were problems with Service Providers' TINs prior to

2013 illustrates the lack of contract monitoring we describe in the audit report. Because YMS was not performing its obligations and ACS was not properly monitoring it, the City had to expend resources to fix the failures associated with Service Provider TINs. Specifically, multiple City agencies, including the Law Department, the Comptroller's Office and ACS, were required to collaborate in order to rectify the issue.

# AUDIT REPORT

## Background

ACS was established in 1996 as the first New York City agency to focus entirely on protecting and promoting the safety and well-being of the City's children. As such, ACS is responsible for providing child welfare, juvenile justice, and early care and education services. Among other things, ACS administers the largest publicly funded early care and education system in the country, serving over 140,000 children throughout the City. Child care is funded primarily by the Child Care and Development Block Grant (federal funding for child care subsidies) and City tax levy funds. ACS provides subsidized child care through two programs, EarlyLearn NYC and with day care vouchers. EarlyLearn NYC funds licensed day care centers through direct agreements between the centers and ACS, while the voucher program provides families certified as eligible with a voucher that enables them to choose their own child care services from qualified Service Providers.

To carry out its responsibilities under the voucher program, ACS entered into a contract with YMS to disburse payments to Service Providers on a monthly basis.<sup>4</sup> That Contract was for the period of May 1, 2007, to April 30, 2010, and totaled \$1,206,575,382 (\$1,203,586,000 program funds for payments to Service Providers and \$2,989,382 in administrative funds as a fee for YMS). The Contract also included a three-year renewal option that was exercised. Based on this, the contract was renewed through April 30, 2013. In November 2012, ACS extended the Contract for one more year through April 2014, which it stated was necessary to ensure continuity of services. Thereafter, using the negotiated acquisition method of procurement, ACS extended the Contract two more times through April 2016, again stating that the continuation of the contract was necessary to ensure the continuity of services. ACS also stated that it was reviewing the child care voucher payment program and anticipated issuing a RFP for a new contract with a service start date on or about May 1, 2016. Since 2013, the Contract has been modified three times to increase the amount of funds to be disbursed to the Service Providers. During the last year of the Contract (May 1, 2015 to April 30, 2016) YMS received \$451,704,542 in program funds and \$973,056 in administrative fees. Total program funds and administrative funds were increased to \$3,991,238,297 and \$9,492,998, respectively, as shown in Table I.

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<sup>4</sup> Prior to 2007, the New York City Human Resources Administration (HRA) had responsibility for the day care voucher program and, among other things, had contracted with YMS to provide substantially similar services for HRA that the company currently provides for ACS. However, in 2007, HRA transferred certain child care related services to ACS, including the day care voucher program.



**Table I**

YMS Contract History  
May 1, 2007 – April 30, 2016

<b>Contract</b>	<b>Start Date</b>	<b>End Date</b>	<b>Programmatic Funds For Service Providers</b>	<b>Administrative Funds For YMS</b>
Original Agreement	5/1/2007	4/30/2010	\$ 1,203,586,000	\$2,989,382
Modification	5/1/2007	4/30/2010	57,965,831	-
Renewal	5/1/2010	4/30/2013	1,203,586,000	3,584,448
Extension Agreement	5/1/2013	4/30/2014	483,219,406	973,056
Modification	5/1/2013	4/30/2014	122,923,317	-
Extension Agreement	5/1/2014	4/30/2015	417,835,431	973,056
Modification	5/1/2014	4/30/2015	50,417,770	-
Extension Agreement	5/1/2015	4/30/2016	451,704,542	973,056
<b>Total</b>			<b>\$ 3,991,238,297</b>	<b>\$ 9,492,998</b>

The Contract requires YMS to make monthly disbursements of voucher payments to Service Providers based on the attendance of eligible children in day care and payment rates furnished by ACS. YMS is also required to carry out all other fiduciary tasks as provided in the Contract. Among other things, pursuant to the Contract, YMS is required to establish an interest bearing bank account designated solely for the safekeeping and administration of program funds. Interest, dividends, and bonuses credited by the bank must be paid to ACS on a quarterly basis. YMS is also required to provide ACS with a file after each of the payments to Service Providers. That file is supposed to list payment information for every invoice transmitted to the bank and an exception file that includes “on hold” payments that have since been issued, voided checks, returned checks, and voided and reissued checks. In addition to checks, YMS is supposed to offer the Service Providers the option of receiving their payments through either direct deposit or posting directly to a debit card given to the Service Provider by YMS. Accordingly, the Contract requires YMS to represent to ACS that it installed and successfully tested a direct deposit system and a debit card system and that the systems would be maintained for the duration of the contract.

The Contract also requires YMS to prepare and mail “Terms and Conditions Letters” and IRS Form W-9s (W-9) to Service Providers and to obtain copies of Service Provider Social Security

cards.<sup>5</sup> In addition, YMS is required to verify that any and all TINs, including Social Security Numbers (SSNs), Employer Identification Numbers or Individual Taxpayer Numbers used by any Service providers are valid. YMS is also required to prepare and file Form 1099-MISC (1099) at the end of the calendar year with the IRS.<sup>6</sup>

YMS is further required by the Contract to submit the “Payment Agent’s Monthly Financial Report,” which is to include a monthly and year-to-date recapitulation and reconciliation of cash receipts for voucher payments made on behalf of ACS and of disbursements of voucher payments for the preceding month. Finally, YMS is required to provide clerical assistance to ACS in the form of staff who are detailed to ACS, the number of which is calculated based on a formula stated in the Contract. Those staff members are to be responsible for filing, data entry, customer service, and document tracking related to the YMS payments.

This is the first of two audits on ACS’ child care voucher program. The second audit will focus on ACS’ administration of the program.

## Objectives

The objectives of this audit were to determine whether YMS is in compliance with its Contract and whether ACS is effectively monitoring YMS’ compliance.

## Scope and Methodology Statement

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives. This audit was conducted in accordance with the audit responsibilities of the City Comptroller as set forth in Chapter 5, §93, of the New York City Charter.

The scope of this audit covered Fiscal Year 2015 (July 1, 2014, through June 30, 2015). Please refer to the Detailed Scope and Methodology at the end of this report for the specific procedures and tests that were conducted.

## Discussion of Audit Results

The matters covered in this report were discussed with YMS and ACS officials during and at the conclusion of this audit. A preliminary draft report was provided to YMS and ACS and discussed at an exit conference held on May 18, 2016. On June 20, 2016, we submitted a draft report to YMS and ACS officials with a request for comments. We received a written response from YMS on June 22, 2016, and from ACS on June 23, 2016.

YMS officials disagreed with the report’s findings and did not address the report’s recommendations. In their response, YMS officials stated that “[i]t is YMS’ position that it complied with all areas of the audited Contract and that the findings in the Audit related to technical issues

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<sup>5</sup> The Terms and Conditions Letter is used to obtain the agreement of the Service Providers to receive voucher payments through YMS.

<sup>6</sup> Tax Form 1099-MISC is used to report payments to the IRS made in the course of a trade or business to a person who is not an employee or to an unincorporated business.

with the knowledge or consent of ACS and that should in no way reflect upon YMS's abilities, integrity or satisfaction of its obligations under the Contract." YMS also stated that it and ACS were unaware that their TIN validation process was not meeting requirements until 2013 and YMS has met with ACS repeatedly to address the issue thereafter. However, YMS was unable to resolve the problem alone because it did not have access to confidential government databases or an accurate TIN matching database. In addition, YMS stated that it was ACS' decision not to implement a debit card system.

We do not agree with YMS' response and note that the root cause of the invalid TINs identified in the report stems from the methodology used by YMS at the onset of the Contract in 2007. Invalid TINs cannot be effectively identified by relying only on self-reported data provided by the Service Providers themselves. Moreover, some of the TINs YMS purports to have "validated" consisted of only zeros which were obviously illegitimate TINs on their face. Also, YMS' failure to obtain copies of Service Provider Social Security cards as required by the Contract which compounded the issue.

With regard to the debit card system, YMS stated it was ACS's decision not to go forward with its implementation but this was not documented as is required by the Contract. Further, there was no documented evidence that the system was even discussed for over six years since the inception of the Contract.

In its response, ACS officials agreed with four of the six recommendations but disagreed with the report's findings. ACS officials stated that "[t]he difficulties in TIN validation stemmed from factors beyond YMS' control—specifically that the U.S. Internal Revenue Service would not allow vendors access to confidential, comprehensive government databases like the IRS eService TIN-Matching database." In addition, ACS officials stated that it was their decision not to implement the debit card system and that it "has been diligent in its oversight of the YMS contract. . . ." ACS did not agree to recoup the implementation and maintenance costs of the debit card system from YMS and did not address the recommendation that it review the payment records associated with the 135 providers who were previously paid without valid TINs.

For the reasons stated above in response to YMS' comments, we also disagree with ACS' response to the findings. With regard to ACS' failure to monitor YMS' contract performance, we note that the fact that ACS was not aware that there were problems with Service Providers' TINs prior to 2013 illustrates the lack of contract monitoring we describe in the audit report. Because YMS was not performing its obligations and ACS was not properly monitoring it, the City had to expend resources to fix the failures associated with Service Provider TINs.

The full text of YMS and ACS responses are included as addenda to this report.

## FINDINGS

Our audit found that while YMS was generally in compliance with certain Contract requirements, it was out of compliance with others. Further, we found that ACS has failed to adequately monitor YMS' compliance with the Contract. As a result, there is an increased risk that some of the disbursement of City funds by YMS may not have been properly made.

Among the items of Contract compliance identified in the audit, we found that YMS properly processed voucher payments in accordance with ACS' instructions, provided the required number of clerical staff to ACS, installed and maintained a direct deposit system, properly paid ACS interest on program funds, and maintained the required levels of insurance.

However, at the same time we found that YMS was not in compliance with other contract requirements. Specifically, YMS failed to validate Service Provider TINs and as a result, during Calendar Years 2014 and 2015, a total of \$9.4 million in compensation was reported to the IRS without proper TINs.<sup>7</sup> Further, we found that YMS did not implement and maintain a debit card system as required in the Contract. Nonetheless, YMS continued to receive the full contract fees, which incorporated the costs associated with the debit card system, even though it never had to pay for it.

We also found that ACS did not exercise adequate oversight over YMS to ensure that it complied with the terms of the Contract, including the requirement for TIN validation, and the implementation and maintenance of the debit card system. Finally, we found that ACS did not ensure the funds maintained by YMS were insured over the \$250,000 Federal Insurance Deposit Corporation limit.

### YMS Did Not Validate Service Provider TINs

YMS failed to validate Service Provider TINs as it is required to do by the Contract. As a result, \$9.4 million in compensation was paid to Service Providers and reported to the IRS without proper TINs. Among other things, issuing 1099s without TINs or with invalid TINs could result in fines and penalties imposed by the IRS on the City. In addition, the failure to make payments and issue 1099s without accurate TINs could enable unscrupulous recipients to avoid paying applicable taxes on income.

According to Article VII(T) of the Scope of Work, YMS is required to prepare, execute and file original and corrected 1099 MISC Forms with the IRS for each Service Provider. The Contract also requires "[t]he Social Security number or other Tax Identification Number . . . be verified by contractor as a valid Tax Identification Number."

We reviewed 1099s issued to Service Providers in 2014 and 2015 by YMS on behalf of the City and found that 247 did not include any TINs or they contained TINs that were invalid.<sup>8</sup> In total, we identified \$9.4 million in payments made to Service Providers who did not have a TIN or a valid TIN. Table II below contains a summary of the specific deficiencies we found.

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<sup>7</sup> Service Provider TINs were reviewed to determine the effect of the lack of TIN validation. Our review of TINs was limited to those Service Providers who received more than one Form 1099 within a given year and those Service Providers who did not have a TIN on their Form 1099.

<sup>8</sup> There were 25,123 Service Providers in 2014 and 21,992 Service Providers in 2015 based on the lists provided by YMS.

**Table II**

**Summary of Invalid TINs**

Deficiency Identified	2014		2015		Total	
	Number of TINs	Amount	Number of TINs	Amount	Number of TIN	Amount
No TIN	135	\$ 4,190,853	0	\$ -	135	\$ 4,190,853
Assigned to Deceased Individual	6	\$ 308,555	8	\$ 411,798	14	\$ 720,353
Assigned to Different Party	12	\$ 336,297	14	\$ 516,037	26	\$ 852,334
Invalid TIN <sup>9</sup>	32	\$ 1,630,482	40	\$ 2,034,325	72	\$ 3,664,807
Total	185	\$ 6,466,187	62	\$ 2,962,160	247	\$ 9,428,347

As reflected in Table II, we found 135 Form 1099s issued by YMS for 2014 that did not contain TINs. Instead, each of these 1099s had zeroes entered where the TINs should have been and indicated that payments had been made to the Service Providers ranging from \$665 to \$106,941, totaling \$4.2 million.

By contrast, for 2015 (after ACS was alerted to the absence of TINs on 1099s), we found no 1099s issued with zeros where the TINs should have been. However, we found that 1099s were not issued for 33 of the 135 service providers who had in the prior year received 1099s without a valid TIN, which indicates that none of these Service Providers were paid by the City in 2015. In addition, we found that an additional 12 of the Service Providers who previously had zeros on their 1099s, continued to be paid in 2015 by the City but still did not have valid TINs on their 2015 1099s. With further research we found that three of these 12 had TINs associated with individuals who lived outside of New York and do not appear to have any relationship to the Service Provider who received the payments in question, and two of the TINs belonged to individuals listed as deceased. Compensation paid by ACS and reported to the IRS for these 12 Service Providers totaled \$429,185 in 2015.

In addition to reviewing the 1099s issued by YMS with missing and invalid TINs, we also reviewed 1099s issued to Service Providers who received two 1099s with different TINs in the same year and where both of those 1099s were issued to the same or very similar addresses. In one instance we found one Service Provider who received two 1099s in 2015 for two separately licensed group family day cares operating out of the same building, one floor apart. The first 1099 had a valid TIN and reported compensation of \$76,784. However, the second 1099 reported the Social Security number of a deceased individual from Ohio and reflected that compensation of in the amount of \$107,207 had been paid. We found that most of the Service Providers who received two 1099s similarly received one 1099 with a valid TIN and a second with an invalid TIN. The lack of valid TINs resulted, at least in part, from YMS' failure to properly validate Service Provider TINs as required by the Contract.

<sup>9</sup> We conducted a search of these TINs through public record databases which came up with no valid TINs issued to the payee or anyone else. Some are facially invalid based on the numbers utilized alone, since they are inconsistent with the numbering system used by the Social Security Administration. Others utilized a valid sequence, but have not been issued yet.

In the absence of the Contract specifying a methodology to validate Service Provider TINs, YMS officials stated that they validated TINs by comparing the Service Provider data YMS receives from ACS to the IRS Form W-9's "Request for Taxpayer Identification Number and Certification" it receives from the Service Providers. Thus, YMS simply compared *self-reported* information submitted by the Service Provider to ACS to additional *self-reported* Service Provider information. This methodology does little to ensure that the TINs used by Service Providers are valid and, thus, YMS failed to meet a key contract requirement. Moreover, YMS' explanation does not explain how it could have processed payments where there were no TINs or only zeros where there should have been a TIN.

Finally, YMS did not obtain copies of Service Provider Social Security cards as required by the Contract. Although obtaining a copy of a Social Security card does not validate a TIN, it would have provided some degree of assurance of the accuracy of the information submitted by the Service Provider on the W-9 form.

**YMS Response:** "Until 2013, YMS and ACS were unaware that the TIN validation process already in place by YMS was not meeting requirements. In prior independent audits YMS was found to be compliant in validation of TINs for ACS. Thereafter, YMS met repeatedly with ACS to address the issue. However, YMS was unable to resolve the problem alone due to a lack of access to confidential government databases. Among others, YMS did not have access to an accurate TIN matching database. Only ACS (and other City agencies) has such access."

**Auditor Comment:** YMS failed to validate the TINs as it was required to do in its contract and instead claimed only that it compared two different productions of Service Provider self-reported information. Logically, such a comparison in no way could serve as a verification of the authenticity of the Service Provider TINs. Moreover, some of the TINs it purported to "verify" consisted of only zeros. On its face, zeros are not valid TINs, even if it shows up on two different vendor lists. Further, YMS continued processing 1099s that had zeroes entered where the TINs should have been even *after* it became aware that its validation process was not meeting requirements. Considering that YMS states that it did not have access to an accurate TIN matching database, obtaining copies of Service Provider Social Security cards should have been a priority. Yet this was another requirement that was not adhered to.

## YMS Failed to Implement a Debit Card System

YMS failed to implement and maintain a debit card payment system as required by the Contract. Section (I) of Article VII of the Scope of Work, Contractor's Responsibilities, signed by YMS expressly states that the

Contractor represents and warrants that such direct deposit arrangement and debit card system shall be maintained for the duration of this Agreement, or for as long as the Contractor holds or controls any funds advanced to it under this Agreement, for disbursement or potential disbursement as voucher payments plus 6 months, whichever duration is longer.

At the exit conference held on May 18, 2016, YMS officials informed us that they were instructed by ACS not to implement the debit card system. However, we were not provided with any evidence

or correspondence between YMS and ACS documenting this decision during the duration of the first contract (May 2007 through April 2013).

Article 15 of the Contract specifically states,

Changes may be to this contract only as duly authorized by the Agency Chief Contracting Officer or his or her designee. Vendors deviating from the requirements of an original purchase order or contract without a duly approved change order document, or written contract modification or amendment, do so at their own risk.

YMS did provide an email it sent to ACS inquiring about doing a debit card pilot on August 7, 2013. In response to YMS' email, ACS replied it was still exploring its options. However, at the time the email was sent there was only eight months remaining in its one-year contract. Further, these brief emails do not constitute a change order or contract modification.

In addition, it appears YMS has benefited financially from its failure to implement and maintain the debit card system because it expended nothing in development and maintenance costs but was paid a rate by the City that was supposed to have incorporated the development and maintenance costs into its administrative fees. However, we were unable to determine these costs because YMS could not provide an estimate nor did they supply any specific proposals detailing the debit card services they intended to provide. Finally, it should be noted that when we raised this issue with YMS officials during the course of the audit, their initial response was that the debit card system was not part of their contractual responsibilities. Further, ACS officials stated that New York State Office of Child and Family Services (OCFS) halted the debit card project but was unable to provide documentation to support this position.

**YMS Response:** "It is YMS' understanding that ACS worked with the New York State Office of Children and Family Services to implement debit card usage for ACS programs including the Child Care Voucher Program. Upon information and belief, ACS did not wish to implement a Debit Card system because of security risks, inadequate customer service and the inability of banks, at the time, to provide appropriate services without significant fees to providers; and that over the entire life of the contract ACS was unable to find a suitable debit card vendor.

The YMS administrative fee under the Contract was not structured in a manner to be able to carve out specific costs attributed to the implementation and maintenance of a debit card system. Specifically, YMS was paid a sum directly associated with the number of payments processed regardless of payment type under the contract: \$81,088 for up to 20,000 payments per month plus \$1.50 for remaining payments in excess of 20,000 and cost of letters. In other words, the method of payment to a Service Provider was irrelevant to ACS. If anything, the additional costs incurred by YMS to process all payments via check rather than the more efficient Debit Card system should be borne by ACS."

**Auditor Comment:** The debit card system was important enough for YMS to have to include an addendum in its bid specifically detailing its capability and the functionality of the proposed system. However, neither ACS nor YMS documented its non-implementation. This lack of documentation is inconsistent with the New York City Procurement Policy Board rules (PPB). Section 4-02 of the PPB rules, Contract Changes, requires that "All changes to existing contracts shall be approved by the ACCO and shall be reflected in a change order, which, once

authorized, shall become a part of the original contract. A copy of the change order shall be sent to the vendor within ten days after authorization of the change. Vendors who deviate from the requirements of the original contract without a duly authorized change order do so at their own risk.” Further, we were not provided with any documented evidence that YMS and ACS even discussed the debit card system for over six years since the inception of the Contract.

Regardless of whether YMS processed payment via check, direct deposit, or debit card, the costs associated with debit card distribution and initial fees were factored into its administrative fees. By not implementing the debit card system, YMS saved on those costs and earned a larger profit margin. As a result, we reiterate that ACS should seek to recoup those funds.

## **ACS Did Not Exercise Proper Oversight Over the YMS Contract**

ACS failed to ensure that YMS complied with key Contract responsibilities. Among other things, ACS did not ensure that YMS verified that the Service Providers TINs were valid or that YMS obtained copies of the Service Provider Social Security cards. Further, ACS failed to ensure that YMS installed and maintained a debit card system. However, as the City agency that entered into the Contract with YMS, it is required to make sure that its terms are followed. New York City Charter Chapter 13 § 333(a), specifically mandates that “[e]ach agency letting contracts shall monitor the performance of every contractor.” This common sense requirement helps to ensure that City funds are only expended for necessary goods and services.

According to ACS officials, YMS did not properly validate Service Provider TINs. Nonetheless, the City paid YMS to perform this service. In 2014, after the problems with incorrect TINs on YMS-issued 1099s was called to ACS’ attention, ACS undertook its own measures in an attempt to fix the problem. However, ACS also continued to pay YMS to provide this service on the City’s behalf. This meant that not only was ACS paying YMS for services that were not being provided, it was expending its own resources to provide the service for itself. Further, issuing 1099s without TINs or invalid TINs could result in fines and penalties imposed by the IRS on the City.

In addition, as discussed above, YMS did not implement a debit card system as required by the Contract. When questioned about why it did not insist on YMS’ compliance with this contract requirement, ACS officials stated there weren’t sufficient customer service components and technological enhancements to assist in detecting and deterring fraud, and as a result, OCFS halted the project. However, ACS was unable to provide documentation supporting this explanation.<sup>10</sup> The only documentation ACS provided from OCFS was a generic letter dated over two years after the Contract was signed inviting the “Local District Commissioner” to a workshop where “The focus of the group is to identify the requirements of direct deposit/debit cards initially for those parents receiving adoption subsidies before expanding the process to direct foster care and day care providers.” Moreover, assuming the direction had been given to not implement a debit card payment system, ACS did not provide any evidence that it modified the Contract to reflect this change and that it reduced the amount of payment to YMS to account for the reduced responsibilities under the Contract. As noted above, Article 15 of the Contract requires contract

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<sup>10</sup> YMS officials later provided a different explanation, stating that the debit card system was cost-prohibitive, so they did not pursue its implementation.



changes to be appropriately authorized and memorialized in a written document. No such writing was provided by YMS or ACS.

**ACS Response:** “We believe ACS has been diligent in its oversight of the YMS contract, and has in fact worked closely with the City Comptroller’s Office, the NYC Department of Finance, and YMS itself to address the issues outlined in the audit.”

“The difficulties in TIN validation stemmed from factors beyond YMS’ control—specifically that the U.S. Internal Revenue Service would not allow vendors access to confidential, comprehensive government databases like the IRS eService TIN-Matching database. In 2013, the City Comptroller Bureau of Accountancy Vendor Support division first raised the issue that there were problems with mismatched/missing TINS. The City Comptroller was made aware of this problem by the Federal Internal Revenue Service – until that time, the City Comptroller and ACS were unaware that the TIN validation process already in place was not meeting requirements.”

“Upon learning of the issue in November 2013, ACS immediately took action, working closely with the City Comptroller’s Bureau of Accountancy Vendor Support Division and YMS to address and correct the validation process. Since YMS was not permitted access to necessary IRS databases, ACS developed a corrective action plan which included the City Comptroller, the NYC Human Resources Administration and YMS. This included a plan to work with HRA and ACS to eliminate mismatched TINS at enrollment, monitor current providers throughout the year, implement IRS rules with regard to TIN matching protocol including the mailing of B notices and the upgrade of ACCIS, the City’s child care database, to implement 28 percent withholding of non-compliant providers. At the time, the City Comptroller specifically advised against the use of third party TIN-Matching services (e.g., Veritas), which was why this option was not pursued.

Since 2014, bulk TIN matching has been performed three times a year by the Comptroller on ACS’ behalf after the above referenced ACS-City Comptroller discussions of the issues. YMS provides the raw payment data to the City Comptroller’s Office Bureau of Accountancy, and results from the bulk TIN-match are sent to ACS and HRA for follow-up and correction. The separation of responsibilities ensures that YMS does not have access to ACCIS, and cannot correct TIN information in the ACCIS database; only ACS and HRA may enter ACCIS corrections or changes.”

**Auditor Comment:** The fact that ACS was not aware that there were problems with Service Provider’s TINs prior to 2013 vividly illustrates ACS’ failure to adequately monitor YMS contract performance. For almost six years, YMS relied on a flawed methodology and as a result never properly validated TINs. However, ACS fails to acknowledge that fact and instead attempts to justify YMS’ failure.<sup>11</sup> In doing so, ACS fails to acknowledge that it alone was responsible for monitoring YMS’ fulfillment of the contract terms. Because YMS was not performing its obligations under the Contract and ACS was not properly monitoring its performance, the City had to expend resources to fix these failures. Specifically, multiple City agencies, including the Law Department, the Comptroller’s Office and ACS, were required to collaborate in order to rectify the issue.

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<sup>11</sup> According to ACS’ corrective action plan, between 2011 and 2013 there were nearly 3000 incorrect TINs.

In addition, ACS attempts to absolve YMS of responsibility by contending that YMS cannot make changes to the ACCIS database. However, according to the Contract, the ACCIS database was not intended to be the main source of information for processing 1099s. YMS was required to use the information in its possession and *supplement* that with information which could be furnished by ACS to prepare the 1099s. Information in YMS' possession should have included material such as W-9 forms with TINs that were validated by YMS and Social Security cards. However, YMS never properly validated the TINs provided by the Service Providers or obtained their Social Security cards. ACS did not address why it did not require YMS to obtain copies of Service Provider Social Security cards—another oversight.

**ACS Response:** “The audit report also criticizes YMS for not implementing a debit card system for voucher child care payments. Since 2009, ACS has worked diligently with the New York State Office of Children and Family Services (OCFS) to try to implement debit card usage for various ACS programs, including the Child Care Voucher Program. ACS has not gone forward with implementing a debit card system due to significant concerns about technology security, lack of banks willing to service our providers in the community and without charge to our providers, and the inability of the State to provide necessary administrative support. ACS stands by this decision and believes it was correct to not pursue implementation of a debit card system during the contract period.”

**Auditor Comment:** ACS' response is inconsistent with information we were provided by it during the audit. During the audit, we were told by ACS that OCFS had halted the debit card system. However, now ACS states that it was its decision not to implement the system. Further, ACS states that the sum paid to YMS was not earmarked to implement a debit card system but Section (A) of Article VIII of the Scope of Work, Contract Costs, provides that,

[t]he Contractor will be paid for their services at the rates proposed on the Bid Pages. The Contractor's bid is to include all charges to ACS for the services provided under this Contract, namely all labor, profit, overhead, fringe benefits, bank fees, materials, postage, *debit card distribution and initial fees, equipment or any other costs* incurred by the Contractor for the purpose of this Agreement. [Emphasis added.]

Thus, besides requiring YMS to include all charges for the services provided under the Contract in its bid, the Contract specifically identified the costs associated with the debit card system. Given the conflicting explanations provided by both ACS and YMS regarding this issue, it is unclear exactly what happened. However, at a minimum, there was no appropriately authorized and memorialized contract changes as required.

## OTHER ISSUE

### City Funds Not Insured

ACS did not ensure the funds maintained by YMS were insured over the \$250,000 Federal Insurance Deposit Corporation (FDIC) limit. Section 10 (3) of New York State General Municipal Law requires that “[a]ll public deposits in excess of the amount insured under the provisions of the Federal Deposit Insurance Act as now or hereafter amended shall be secured.”

The funds disbursed to Service Providers are maintained by YMS in Amalgamated Bank accounts opened under YMS’ name and TIN. During FY15, the lowest average daily balance in YMS’ bank account, which occurred in June, was over \$15 million and the highest, in April, was over \$32 million. Monthly average-daily-balances are far greater than the amount insured by the FDIC. Although YMS has sole custody of the accounts, these are City funds and, as such subject to the requirements of the General Municipal Law. The funds in the YMS’ bank account are only insured up to the FDIC standard deposit insurance coverage limit of \$250,000. While Amalgamated Bank is included on the City’s designated bank list which identifies banks allowed to hold City deposits, those deposits are not collateralized.<sup>12</sup>

**ACS Response:** “As discussed with the audit team, the YMS bank account was first opened in 2007 pursuant to all NYC Department of Finance policies and State Banking Commission regulations. It was also compliant with the terms and conditions of the YMS contract. This newly identified issue was brought to the attention of ACS by the audit team. Upon registration of the new contract, ACS began working with the NYC Department of Finance and the City Comptroller, Deputy Comptroller for Accountancy to address this issue and ensure that City funds, used in processing payments to voucher child care providers by YMS, are appropriately insured; the bank account under the newest YMS contract will be appropriately collateralized to mitigate any risk.”

**Auditor Comment:** We are pleased that ACS is taking the steps necessary to ensure that these funds are properly collateralized.

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<sup>12</sup> To be included on the list, banks must pledge sufficient collateral to satisfy the requirements of Section 10 of New York State General Municipal Law.

## RECOMMENDATIONS

ACS' Contract with YMS expired on April 30, 2016. In response to an RFP, YMS was awarded a new contract effective May 1, 2016. The new contract provides a specific methodology on how YMS should validate TINs and continues to require YMS to establish a debit card system.

Based on our audit findings, we recommend that YMS should:

1. Review the 112 Service Providers cited in the report and obtain a valid TIN. If a valid TIN cannot be obtained, withhold payment in accordance with IRS regulations until one is provided;
2. Provide any and all documentation necessary to ACS so it may review the payment records associated with the 135 providers who were previously paid without valid TINs.
3. In conjunction with ACS, conduct a full review of Service Provider TINs. If valid TINs cannot be obtained, withhold payment in accordance with IRS regulations from the Service provider until one is provided;
4. Repay ACS the implementation and maintenance costs of the debit card system required under the old Contract;
5. Validate TINs in accordance with the methodology outlined in the new contract;
6. Implement the debit card system in accordance with the new contract requirement;

**Auditor Comment:** YMS did not specifically address the report's recommendations.

We recommend that ACS should:

7. Oversee YMS' review of the 112 Service Providers cited in the report who did not have valid TINs and ensure that YMS withholds payment in accordance with IRS regulations if a valid TIN cannot be obtained;

**ACS Response:** "ACS has been working aggressively to perform TIN-matching services to correct the entire ACCIS database of existing child care providers (~25,000) with erroneously mismatched TINs with the assistance of the City Comptroller, Bureau of Accountancy. In addition, new child care providers can no longer be enrolled in the voucher payment program unless they provide their TIN and the information is matched using the IRS database. This TIN-matching protocol is being followed by ACS and HRA. Per the City Comptroller's Office, Bureau of Accountancy, the IRS provides guidelines to follow in 'IRS Publication 1281 Backup Withholding' including B-notices and 28 percent back-up withholding when a provider is non-responsive. The payment agent will be withholding 28 percent when applicable under the new contract pursuant to IRS guidelines and as advised by the City Comptroller's Office, Bureau of Accountancy."

8. Review the payment records associated with the 135 providers who were previously paid without valid TINs, and determine if any payments may have been erroneously made and take appropriate action to recoup any payments that were;

**ACS Response:** "ACS will follow the TIN-matching protocol and review all child care records in ACCIS to ensure child care providers have the proper TIN. ACS will follow

the guidelines set forth by the IRS as instructed by the City Comptroller, Bureau of Accountancy for mismatched TINs as described in #7 above. Note that IRS Publication 1281 specifically instructs 28 percent withholding in response to missing or incorrect TINs after proper notification and does not address retroactive recoupment.”

**Auditor Comment:** ACS did not address this recommendation to review the payment records associated with 135 providers. Because some of these Service Providers may have intentionally submitted false TINs, this raises red flags regarding the legitimacy of other records they submit. Accordingly, ACS should reconsider its position regarding this recommendation.

9. Continue to conduct a full review of Service Provider TINs. If valid TINs cannot be obtained, ensure that YMS withholds payment in accordance with IRS regulations from the Service provider until one is provided;

**ACS Response:** “ACS will follow the TIN-matching protocol and review all child care records in ACCIS to ensure the child care providers have the proper TIN. ACS will follow the guidelines set forth by the IRS as instructed by the City Comptroller, Bureau of Accountancy for mismatched TINs as described in #7 above.”

10. Seek to recoup from YMS the implementation and maintenance costs of the debit card system;

**ACS Response:** “As discussed above and with the audit team, during the course of the prior YMS contract, ACS determined not to move forward with the implementation of a debit card system.

YMS was paid a sum directly associated with the number of payments processed **regardless of payment type** under the contract: \$81,088 for up to 20,000 payments plus \$1.50 for remaining payments in excess of 20,000 and cost of letters. This payment was not for the development of the debit card system, but was rather an administrative fee associated with payment processing. YMS is paid based upon number of transactions, not type of transaction. Given that payments were processed, via paper checks, ACS is not seeking to recoup these costs.” [Emphasis original.]

**Auditor Comment:** Regardless of whether YMS processed payment via check, direct deposit, or debit card, the costs associated with debit card distribution and initial fees were factored into its administrative fees. By not implementing the debit card system, YMS saved on those costs and earned a larger profit margin. As a result, we reiterate that ACS should seek to recoup those funds.

11. Immediately enforce and continuously monitor compliance of all terms on the new contract;

**ACS Response:** “ACS will continue to monitor and enforce compliance of all terms under the new payment agent contract. ACS will continue to act with fiscal responsibility to determine the best course of action to provide secure payments for essential child care services within the City of New York.”

12. Contact the New York City Department of Finance to determine how the City funds held by YMS can be properly insured.

**ACS Response:** “As discussed with the audit team, the YMS bank account was first opened in 2007 pursuant to all NYC Department of Finance policies and State Banking Commission regulations. It was also compliant with the terms and conditions of the YMS contract. This newly identified issue was brought to the attention of ACS by the audit team. Upon registration of the new contract, ACS began working with the NYC

Department of Finance and the City Comptroller, Deputy Comptroller for Accountancy to address this issue and ensure that City funds, used in processing payments to voucher child care providers by YMS, are appropriately insured; the bank account under the newest YMS contract will be appropriately collateralized to mitigate any risk.”

## DETAILED SCOPE AND METHODOLOGY

We conducted this performance audit in accordance with generally accepted government auditing standards except for organizational independence as disclosed in the subsequent paragraph. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives. This audit was conducted in accordance with the audit responsibilities of the City Comptroller as set forth in Chapter 5, §93 of the New York City Charter.

The scope period of this audit was Fiscal Year 2015 (July 1, 2014, to June 30, 2015).

To achieve our audit objective, we reviewed and abstracted the Contract and all the subsequent renewals, modifications, and extensions. We also reviewed prior audit reports, the ACS Childcare Programs Manual, and YMS' processing procedures. To gain an understanding of YMS' operations over the voucher payment process, we interviewed relevant YMS personnel (President, Vice President, General Manager, and Controller). To gain an understanding of ACS' oversight of the Contract, we interviewed key ACS officials (Chief Operating Officer, Executive Director of the Division of Financial Services/Payments, Director, Assistant Commissioner) and relevant officials from various department (Budget Department Division of Financial Services, Division of Financial Services/Payments, Office of Procurement, and the Banking Unit). To obtain a better understanding of the services provided by YMS' banking institution, we conducted a conference call with bank officials and reviewed documents pertaining to the opening of the bank accounts. The results were documented in memoranda and flowcharts.

To determine whether YMS is properly processing voucher payments, we judgmentally selected September 2014 and January 2015 (the two months with the largest voucher payments) to perform our testing. We requested the payment authorization files (batch files generated by ACS), the return files, and bank statements. To determine whether voucher payments were processed accurately and in accordance to the Contract, we first compared the total payments authorized by ACS for the two sampled months to total payments issued by YMS and reconciled those payments with the bank statements. We then compared the Service Providers listed on the bank's Check Listing Report to ACS' payment authorization files to determine whether YMS issued payments to the correct Service providers in accordance with ACS authorization.

To determine whether YMS was verifying the validity of Service Provider TINs, we obtained from YMS the Service providers lists for Calendar Year 2014 and 2015. To determine the completeness of the Service Provider lists, we compared all payments made to Service Providers using ACS' authorization files during FY 2015 to the Service Provider list. To test the validity of the Service provider TINs, we sorted the 2014 and 2015 Service provider lists by TIN to identify any Service Providers who did not have a TIN. In addition, we isolated those Service Providers who received multiple 1099s in the same year but had different TINs. For Service Providers who received more than one 1099 in the same year but had different TINs, we conducted public record searches to determine whether one or both of the TINs were valid. Finally, for those Service Providers we identified, we requested copies of their 1099s.

To determine whether City funds were commingled with other funds in YMS bank accounts, we reconciled YMS' bank statements with the cash advancement information provided by ACS for FY 15. We also reviewed interest generated from YMS' bank account and compared it to ACS' Schedule of Interest Earned to determine if YMS remitted all interest generated from the account

to ACS. In addition, we reviewed the return files and bank statements, which were used as a substitute for the Payment Agent's Monthly Financial Report, to determine whether they contain all the required information on the Payment Agent's Monthly Financial Report. Further, we reviewed the insurance certificate for 2015 to ensure YMS obtained the required coverage for fidelity insurance. Moreover, we compared the names of all YMS staff to the Service provider's list to determine whether any YMS staff provided childcare services. Additionally, we reviewed the number of payments issued each month during FY 15 to determine whether YMS properly charged the administration fees. Finally, we reviewed the number of YMS clerical staff working on site at ACS to determine if the number of staff provided fulfilled the Contract requirement.



YMS Management Associates, Inc.

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New York, NY 10038  
Tel: 212-374-1385 • Fax: 212-374-1067

June 22, 2016

By FED EX DELIVERY

Marjorie Landa  
Deputy Comptroller for Audit  
New York City Comptroller's Office  
1 Centre Street, Room 1100  
New York, NY 10007

Re: Response to Audit Report on the YMS Management Associates, Inc.'s Compliance with the Contract  
with the New York City Administration for Children's Services  
FP16-057A

Dear Ms. Landa:

Attached is a copy of the above-mentioned response.

If you or your staff have any questions regarding this response please contact YMS Sheila Selig, Vice  
President at 646-265-9201.

Sincerely,



Sheila Selig, Vice President

YMS Management Associates, Inc.

160 Broadway  
5th Floor, East Wing  
New York, NY 10038  
Tel: 212-374-1385 • Fax: 212-374-1067

June 22, 2016

**YMS MANAGEMENT ASSOCIATES, INC.  
RESPONSE TO FINANCIAL AUDIT OF THE  
OFFICE OF THE COMPTROLLER OF THE CITY NEW YORK**

This memorandum constitutes YMS Management Associates, Inc.'s ("YMS") response to the Office of the Comptroller of the City of New York's (the "Comptroller") request for comments to the Financial Audit (the "Audit") performed and prepared by the Comptroller of the contract between YMS and the New York City Administration for Children's Services ("ACS").

As noted in the Audit, YMS was awarded a contract by ACS to generate and disburse payments to ACS Service Providers (the "Contract"). The Audit acknowledges that YMS "generally complied with the Contract requirements, including that YMS properly processed voucher payments in accordance with ACS' instructions..." **In fact, YMS properly generated \$471 million in voucher child care payments to 23,992 child care providers (the "Service Providers") in Fiscal Year 2015. (YMS emphasis)**

Of all of the duties required of YMS over the several years in which YMS performed services for ACS, the Audit noted only two obligations that YMS allegedly failed to meet – the validation of Service Provider TINS and the implementation of a Debit Card system.<sup>1</sup> It is YMS' position that it complied with all areas of the audited Contract and that the findings in the Audit relate to technical issues with the knowledge or consent of ACS and that should in no way reflect upon YMS's abilities, integrity or satisfaction of its obligations under the Contract.

It should be noted that, upon information and belief, ACS supports the comments set forth herein.

**A. Validation of Service Provider TINS**

As provided in the Contract (and as the Comptroller may be aware), YMS's obligation was to disburse payment to Service Providers retained by ACS. YMS had no obligation to vet or verify

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<sup>1</sup> The Audit also refers to an issue regarding the collateralization/insurance of the bank account. The account was compliant with the terms and conditions of the Contract. More importantly, YMS does not believe that the requirement that City funds be properly collateralized is/was YMS's obligation. With that said, upon information and belief, ACS has undertaken to ensure that the bank account under the newest contract will be appropriately collateralized to mitigate any risk and protect New York City's interests.

the integrity, authenticity, experience – or otherwise perform a background check – of the Service Providers.

Until 2013, YMS and ACS were unaware that the TIN validation process already in place by YMS was not meeting requirements.<sup>2</sup> In prior independent audits YMS was found to be compliant in validation of TINS for ACS. Thereafter, YMS met repeatedly with ACS to address the issue. However, YMS was unable to resolve the problem alone due to a lack of access to confidential government databases. Among others, YMS did not have access to an accurate TIN matching database. Only ACS (and other City agencies) has such access.

Upon information and belief, ACS has established a corrective action plan, which is multi-pronged and involves YMS, the Comptroller, two City Agencies and multiple divisions: ACS Financial Services, ACS Early Care and Education (ECE), the Human Resources Administration (HRA) IT and the HRA job centers.

### **Debit Card System**

It is YMS' understanding that ACS worked with the New York State Office of Children and Family Services to implement debit card usage for ACS programs including the Child Care Voucher Program. Upon information and belief, ACS did not wish to implement a Debit Card system because of security risks, inadequate customer service and the inability of banks, at the time, to provide appropriate services without significant fees to providers; and that over the entire life of the contract ACS was unable to find a suitable debit card vendor.

The YMS administrative fee under the Contract was not structured in a manner to be able to carve out specific costs attributed to the implementation and maintenance of a debit card system. Specifically, YMS was paid a sum directly associated with the number of payments processed regardless of payment type under the contract: \$81,088 for up to 20,000 payments per month plus \$1.50 for remaining payments in excess of 20,000 and cost of letters. In other words, the method of payment to a Service Provider was irrelevant to ACS. If anything, the additional costs incurred by YMS to process all payments via check rather than the more efficient Debit Card system should be borne by ACS.<sup>3</sup>

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<sup>2</sup> Upon information and belief, the Comptroller advised ACS of issues concerning the TINS in 2013.

<sup>3</sup> YMS, of course, is not requesting payment for such additional costs.



June 23, 2016

Office of the Comptroller  
1 Centre Street  
New York, NY, 10007  
Attn: Marjorie Landa, Deputy Comptroller for Audit

**Gladys Carrión, Esq.**  
**Commissioner**

**150 William Street**  
**18th Floor**  
**New York, NY 10038**

**212-341-0900 tel.**  
**212-341-0916 fax.**

Dear Ms. Landa:

Thank you for the opportunity to review and comment on the Office of the Comptroller's *Audit Report on YMS Management Associates, Inc.'s Compliance With its Contract with the New York City Administration for Children's Services*. ACS has carefully considered the audit findings and recommendations; our comments on the report and responses to the individual recommendations are outlined below.

ACS has contracted with YMS since 2007. YMS is tasked with issuing payments based on invoices transmitted to them by ACS and all the associated related tasks including but not limited to working with the United Federation of Teachers (UFT) to process union dues, providing court testimony, issuing 1099s, providing customer service support, and assisting with tracking of the ACS-1 attendance submission forms. In Fiscal Year 2015, YMS properly generated \$471,778,166 in voucher child care payments from ACS to 23,992 child care providers, using ACS's specified secure file transfer protocol. In May 2016, the City Comptroller registered a new contract (for an initial term of May 2016 through April 2019) between YMS and ACS.

We appreciate that the audit team found that YMS payment processing was accurate and there were proper systems controls in place. We are aware of the concerns you have raised and have already implemented a number of key reforms, which are outlined below. However, we believe that some of the criticism is unwarranted, as we discuss below.

The audit report criticizes YMS for not validating Service Provider Tax Identification Numbers (TIN). The difficulties in TIN validation stemmed from factors beyond YMS' control—specifically that the U.S. Internal Revenue Service would not allow vendors access to confidential, comprehensive government databases like the IRS eService TIN-Matching database. In 2013, the City Comptroller Bureau of Accountancy Vendor Support division first raised the issue that there were problems with mismatched/missing TINs. The City Comptroller was made aware of this problem by the Federal Internal Revenue Service – until that time, the City Comptroller and ACS were unaware that the TIN validation process already in place was not meeting requirements. This constraint was discussed with the audit team during the audit.

Upon learning of the issue in November 2013, ACS immediately took action, working closely with the City Comptroller's Bureau of Accountancy Vendor Support Division and YMS to address and correct the validation process. Since YMS was not permitted access to necessary IRS databases, ACS developed a corrective action plan which included the City Comptroller, the NYC Human Resources Administration and YMS. This included a plan to work with HRA and ACS to eliminate mismatched TINs at enrollment, monitor current providers throughout the year, implement IRS rules with regard to TIN matching protocol including the mailing of B notices and the upgrade of

ACCIS, the City's child care database, to implement 28 percent withholding of non-compliant providers. At the time, the City Comptroller specifically advised against the use of third party TIN-Matching services (e.g., Veritas), which was why this option was not pursued.

Since 2014, bulk TIN matching has been performed three times a year by the Comptroller on ACS' behalf after the above referenced ACS-City Comptroller discussions of the issues. YMS provides the raw payment data to the City Comptroller's Office Bureau of Accountancy, and results from the bulk TIN-match are sent to ACS and HRA for follow-up and correction. The separation of responsibilities ensures that YMS does not have access to ACCIS, and cannot correct TIN information in the ACCIS database; only ACS and HRA may enter ACCIS corrections or changes.

Per their 2016 ACS contract, YMS will be performing TIN-matching services at the back-end of the payment process, immediately prior to payment issuance. While ACS and HRA will continue to validate and correct the existing ACCIS database, the TIN-matching efforts of YMS will serve as an additional measure to ensure comprehensive controls moving forward.

The audit report also criticizes YMS for not implementing a debit card system for voucher child care payments. Since 2009, ACS has worked diligently with the New York State Office of Children and Family Services (OCFS) to try to implement debit card usage for various ACS programs, including the Child Care Voucher Program. ACS has not gone forward with implementing a debit card system due to significant concerns about technology security, lack of banks willing to service our providers in the community and without charge to our providers, and the inability of the State to provide necessary administrative support. ACS stands by this decision and believes it was correct to not pursue implementation of a debit card system during the contract period. The audit cites ACS for not recouping costs associated with the development of this debit card system. The sum paid to YMS was not earmarked to implement a debit card system, but was rather an administrative fee associated with payment processing. Since payments were processed, via paper checks, ACS is not seeking to recoup these costs.

We believe ACS has been diligent in its oversight of the YMS contract, and has in fact worked closely with the City Comptroller's Office, the NYC Department of Finance, and YMS itself to address the issues outlined in the audit. We appreciate the Office of the Comptroller's insight, and will use the recommendations to further improve oversight and monitoring of our 2016 YMS contract. Our responses to the individual recommendations follow below.

The first six recommendations by the Comptroller are directed to YMS; we have addressed the final six recommendations specifically directed towards ACS.

ACS Response to Recommendations 7-12 are as follows:

**Audit Recommendation 7:** Oversee YMS' review of the 112 Service Providers cited in the report that did not have valid TINs and ensure that YMS withholds payment in accordance with IRS regulations if a valid TIN cannot be obtained.

**ACS Response to Recommendation 7:**

As described above, ACS has been working aggressively to perform TIN-matching services to correct the entire ACCIS database of existing child care providers (~25,000) with erroneously mismatched TINs with the assistance of the City Comptroller, Bureau of Accountancy. In addition, new child care providers can no longer be enrolled in the voucher payment program unless they provide their TIN and the information is matched using the IRS database. This TIN-matching protocol is being followed by ACS and HRA. Per the City Comptroller's Office, Bureau of Accountancy, the IRS provides guidelines to follow in "IRS Publication 1281 Backup Withholding" including B-notices and 28 percent back-up withholding when a provider is non-responsive. The

payment agent will be withholding 28 percent when applicable under the new contract pursuant to IRS guidelines and as advised by the City Comptroller's Office, Bureau of Accountancy.

**Audit Recommendation 8:** Review the payment records associated with the 135 providers who were previously paid without valid TINs and determine if any payments may have been erroneously made and take appropriate action to recoup any payments that were not.

**ACS Response to Recommendation 8:**

ACS will follow the TIN-matching protocol and review all child care records in ACCIS to ensure child care providers have the proper TIN. ACS will follow the guidelines set forth by the IRS as instructed by the City Comptroller, Bureau of Accountancy for mismatched TINs as described in #7 above. Note that IRS Publication 1281 specifically instructs 28 percent withholding in response to missing or incorrect TINs after proper notification and does not address retroactive recoupment.

**Audit Recommendation 9:** Continue to conduct a full review of Service provider TINs. If valid TINs cannot be obtained, withhold payment in accordance with IRS regulations from the Service Provider until one is obtained.

**ACS Response to Recommendation 9:**

ACS will follow the TIN-matching protocol and review all child care records in ACCIS to ensure the child care providers have the proper TIN. ACS will follow the guidelines set forth by the IRS as instructed by the City Comptroller, Bureau of Accountancy for mismatched TINs as described in #7 above.

**Audit Recommendation 10:** Seek to recoup from YMS the implementation and maintenance costs of the debit card system required under the old contract.

**ACS Response to Recommendation 10:**

As discussed above and with the audit team, during the course of the prior YMS contract, ACS determined not to move forward with the implementation of a debit card system.

YMS was paid a sum directly associated with the number of payments processed **regardless of payment type** under the contract: \$81,088 for up to 20,000 payments plus \$1.50 for remaining payments in excess of 20,000 and cost of letters. This payment was not for the development of the debit card system, but was rather an administrative fee associated with payment processing. YMS is paid based upon number of transactions, not type of transaction. Given that payments were processed, via paper checks, ACS is not seeking to recoup these costs.

The language of the footnote on page 10 of the audit report inaccurately suggests that YMS specified that cost was prohibitive to YMS. Instead, the cost referenced was the cost of the fees that the banks would have charged ACS child care providers for debit card use, which would have been prohibitively expensive for many of our child care providers. The current YMS contract expressly stipulates that any debit card offered to our child care providers will be fee-free. We request that the report language be corrected.

ACS has continued to explore options with the NYC Department of Finance and also a variety of banks. As directed in the 2016 contract, ACS is requesting chip and PIN technology or an equivalent that will provide security and is working with YMS to identify a bank with appropriate community presence and no fees.

**Audit Recommendation 11:** Immediately enforce and continuously monitor compliance of all terms on the new contract.

**ACS Response to Recommendation 11:**

ACS will continue to monitor and enforce compliance of all terms under the new payment agent contract. ACS will continue to act with fiscal responsibility to determine the best course of action to provide secure payments for essential child care services within the City of New York.

**Audit Recommendation 12:** Contact the New York City Department of Finance to determine how the City funds held by YMS can be properly insured.

**ACS Response to Recommendation 12:**

As discussed with the audit team, the YMS bank account was first opened in 2007 pursuant to all NYC Department of Finance policies and State Banking Commission regulations. It was also compliant with the terms and conditions of the YMS contract. This newly identified issue was brought to the attention of ACS by the audit team. Upon registration of the new contract, ACS began working with the NYC Department of Finance and the City Comptroller, Deputy Comptroller for Accountancy to address this issue and ensure that City funds, used in processing payments to voucher child care providers by YMS, are appropriately insured; the bank account under the newest YMS contract will be appropriately collateralized to mitigate any risk.

Thank you for the opportunity to comment on the draft report. We appreciate the Comptroller's support in our work for the children and families of New York City.

Sincerely,



Gladys Carrión, Esq.  
Commissioner