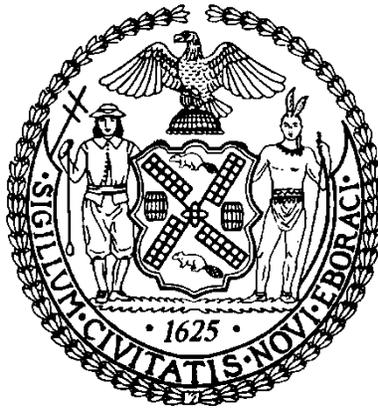


**CITY OF NEW YORK
OFFICE OF THE COMPTROLLER**

**John C. Liu
COMPTROLLER**

MANAGEMENT AUDIT

**Tina Kim
Deputy Comptroller for Audit**



**Audit Report on the Department of Education's
Planning and Allocation of Funds to
Community-Based Organizations for the
Universal Pre-Kindergarten Program**

MH11-059A

October 13, 2011



THE CITY OF NEW YORK
OFFICE OF THE COMPTROLLER
1 CENTRE STREET
NEW YORK, N.Y. 10007-2341

John C. Liu
COMPTROLLER

October 13, 2011

To the Residents of the City of New York:

My office has audited the adequacy of the Department of Education's (DOE's) efforts over the planning and allocation of funds to its DOE-contracted community-based organizations (CBOs) for the Universal Prekindergarten Program (UPK) program. UPK is a voluntary New York State-funded half-day program designed to provide comprehensive early childhood education to eligible children. We conduct these audits of City-funded programs to ensure that the programs and City agencies that oversee them properly follow regulations that govern their operations.

The audit found that DOE has not adequately planned for and distributed all the funds appropriated by the State for the pre-kindergarten program—\$29 million was unused by DOE and reverted to the State in Fiscal Year 2010. Specifically, DOE did not provide adequate evidence that it sufficiently evaluated demand for UPK services or provided additional UPK services to districts with greater demand nor did it recruit new CBOs that could potentially provide UPK services or target and enter into contracts with qualified CBOs that offer full-day wraparound services. Additionally, DOE did not provide any evidence that it conducted any trend analyses to determine which CBOs have a proven track record and have the ability to fill UPK seats.

The audit made 10 recommendations, including that DOE should: require that CBOs maintain and submit a waitlist of applicants who were turned away due to unavailability at their site; use the information compiled by the CBOs to more effectively plan and distribute UPK funds in future years; and target and enter into contracts with qualified CBOs that offer free additional full-day wraparound services to encourage more working parents to enroll their children in the UPK program.

The results of our audit have been discussed with DOE officials, and their comments have been considered in preparing this report. Their complete written response is attached to this report.

If you have any questions concerning this report, please e-mail my audit bureau at audit@comptroller.nyc.gov.

Sincerely,

A handwritten signature in dark ink, appearing to read "JCL", written over a horizontal line.

John C. Liu

Table of Contents

AUDIT REPORT IN BRIEF 1

 Audit Findings and Conclusions..... 1

 Audit Recommendations..... 2

 Agency Response..... 2

INTRODUCTION..... 4

 Background..... 4

 Objective..... 6

 Scope and Methodology Statement 6

 Discussion of Audit Results..... 6

FINDINGS AND RECOMMENDATIONS 9

 DOE Did Not Distribute or Spend All UPK Funds Appropriated by the State..... 9

 DOE’s CBO Recruitment Efforts are Inadequate..... 10

 Targeting of CBOs with Full-Day Wraparound Services..... 12

 Creation of Waitlists for Children Seeking UPK Placements 13

 Recommendations..... 13

DETAILED SCOPE AND METHODOLOGY..... 16

Appendix A Breakdown of UPK Funds Allocated, Spent, and Reverted to the State during Fiscal Years 2007-2010

Appendix B Survey Questions and Summary of Responses Received from the 40 Preschool Providers

Appendix C Survey Questions and Summary of Responses Received from the 448 UPK Service Providers

Appendix D Current Allocation Process

Appendix E Detailed Discussion of DOE Response

ADDENDUM Department of Education Response

*The City of New York
Office of the Comptroller
Management Audit*

**Audit Report on the Department of Education's
Planning and Allocation of Funds to
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Universal Pre-Kindergarten Program**

MH11-059A

AUDIT REPORT IN BRIEF

The Universal Pre-Kindergarten Program (UPK) early childhood initiative was enacted by New York State in 1997 under Chapter 436 of the New York State Legislature. In essence, the law provides funds for half-day UPK programs for children who are eligible (four years of age on or before December 31 of the year in which he or she is enrolled). In New York City, the UPK program is administered by the Department of Education's (DOE) Office of Early Childhood Education (OECE). Parents who wish to send their eligible children to a State-funded UPK program administered by DOE can apply at DOE public schools or at DOE-contracted community-based organizations (CBOs) that offer such a program. CBOs interested in providing UPK services at a particular site are required to adhere to the regulations of the UPK program as administered by the New York State Education Department (NYSED). Payments made to the contracted providers are based on the number of children registered and attending the UPK program multiplied by the cost per child.

In addition to UPK classes offered at DOE-contracted CBOs and at public schools, the Administration for Children's Services (ACS) also offers UPK programs provided through its own contracted CBOs. For Fiscal Year 2010, the State's UPK appropriation to the City totaled \$248 million, of which \$99 million was spent on DOE UPK programs by the public schools, \$65 million by DOE-contracted CBOs, and \$51 million by ACS. Additional general programmatic expenditures totaled almost \$4 million. During the same period, DOE provided approximately 18,500 children UPK services at 448 separate sites.

This audit determined the adequacy of DOE's efforts over the planning and allocation of funds to its DOE-contracted CBOs for the UPK program.

Audit Findings and Conclusions

DOE has not adequately planned for and distributed all the funds appropriated by the State for the pre-kindergarten program. As a result of DOE's inability to spend all the funds

made available to it by the State, \$29 million—which could potentially have been used to place 8,000 additional children in a UPK program—was unused by DOE and reverted to the State in Fiscal Year 2010. Furthermore, during Fiscal Years 2007 to 2010, \$133 million of the appropriate balance that was unused by DOE for the UPK program reverted to the State.

Specifically, DOE has not provided adequate evidence that it sufficiently evaluated demand for UPK services or provided additional UPK services to districts with greater demand. For example, DOE did not seek out to recruit new CBOs that might have been capable of providing UPK services, such as existing early childhood education providers registered with the Department of Health and Mental Hygiene (DOHMH). We also found that DOE did not conduct any trend analyses to determine which CBOs have a proven track record and have the ability to fill UPK seats.

Audit Recommendations

We make 10 recommendations, including that DOE:

- Implement its pipeline strategy for the coming school years by developing a recruitment process to solicit additional independent contractors interested in participating in the State-funded UPK program and utilizing DOHMH's online listing of licensed preschool providers.
- Require that CBOs maintain and submit a waitlist of applicants who were turned away due to unavailability at their site in order to more effectively plan and distribute UPK funds in future years.
- Continue to lobby the State to allow use of UPK funds for full-day UPK programs.

Agency Response

In their response, DOE officials generally agreed with nine recommendations and only disagreed with the recommendation that DOE collect waitlists maintained by the CBOs. However, officials strongly disagreed with the audit's methodology and the findings upon which the audit's recommendations are based. Additionally, DOE submitted its response under protest, citing as its reasons perceived flaws and material omissions in the report as well as our office's refusal to grant them an extension to respond to this report. After carefully reviewing DOE's arguments and protest, we found them to be without merit.

Throughout its response, DOE contends that the evidence presented in the audit in support of the audit's findings is insufficient. It is noteworthy that the agency curiously provides very little evidence of its own in opposition. The lack of sufficient substantive evidence has been an issue throughout the course of the audit and has continued through DOE's official response to our report. Despite repeated requests for supporting evidence during the audit, DOE failed to present sufficient substantiation of its existing strategic plans and its efforts to prevent almost \$30 million from reverting to the State in Fiscal Year 2010. Whether DOE's failure to provide us with evidence of its efforts was simply the result of a lack of systematic planning or

was to prevent us from effectively evaluating its efforts, we cannot say. Regardless of DOE's reasons or intentions, we provided its officials with repeated opportunities to present evidence to corroborate their assertions, including during and after the exit conference for this audit, yet little was provided. Instead, a clearly defensive DOE resorts to attacks on the audit and auditors. Had DOE provided substantive evidence to support its claims, one could infer that the basis of its contentions had some merit. In the absence of such evidence, however, DOE's attacks on the audit appear to be an unconvincing attempt to divert attention away from the deficiencies identified in this audit.

A detailed discussion of the DOE response is included as an appendix (Appendix E) to this report, and the full text of the DOE response follows the appendix as an addendum.

INTRODUCTION

Background

DOE provides primary and secondary education to approximately one million children from pre-kindergarten to grade 12 in 32 school districts. DOE prepares students to meet grade level standards in reading, writing, and math. These goals are achieved through a number of DOE-based programs, including the UPK program, intended to improve learning in pre-kindergarten children. The UPK program was designed to provide comprehensive early childhood education to children and prepare them for future academic success.

The UPK early childhood initiative was enacted by New York State in 1997 under Chapter 436 of the New York State Legislature. In essence, the law provides funds for half-day UPK programs (two and one half hours per day, morning or afternoon sessions, five days per week for a minimum of 180 instructional days per school year) for children who are eligible (four years of age on or before December 31 of the year in which he or she is enrolled). Because UPK programs can be half-day or full-day, additional funding must come from other sources if full-day services are provided.¹

UPK is a voluntary program for eligible children and is offered at no charge to parents who choose to enroll their children. The UPK program operates in all five boroughs in public² and non-public school settings—operated by CBOs—and can take the form of a stand-alone program or be part of other Early Childhood Education programs, such as childcare.

In New York City, the DOE UPK program is administered by DOE's Office of Early Childhood Education (OECE). Three Field Offices oversee the UPK programs in non-public school settings for the 32 school districts in the City and report directly to the OECE. Each Field Office is responsible for monitoring and assessing the UPK programs provided by the CBOs within its geographic boundaries.

Parents of preschool children have a number of options available to them that may meet their family's early childhood education needs. These options may include services provided by friends or family members or early childhood education services offered at private facilities free of charge through subsidized payments or for a fee (income-based). Parents with UPK-eligible children also have the option of placing their children in State-funded UPK programs or at tuition-based private facilities that offer pre-kindergarten classes.

Parents who wish to send their eligible children to a State-funded UPK program can apply at DOE public schools or at DOE-contracted CBOs that offer such a program. Public schools direct parents to CBO-based UPK programs if their school does not offer UPK programs

¹ The City Council and the Department of Education have provided additional funding for a limited number of seats for eligible children to attend full-day UPK programs.

² DOE's ability to increase UPK funding at public schools is limited by a school's capacity or ability to provide UPK classes. Because the UPK program is voluntary and most schools are required to provide other courses which are mandatory as part of their curriculum, some schools are unable to provide or expand UPK classes when space is limited.

or if all available seats are filled. CBO-based UPK programs manage their own application process. Parents must visit each particular CBO site they're interested in placing their child and complete an enrollment package. The public schools, on the other hand, have a centralized pre-kindergarten application process, allowing parents to apply online or to submit a paper application.

CBOs interested in providing UPK services at a particular site must respond to DOE's Request for Proposal (RFP). Prior to becoming eligible UPK program participants, CBO providers are required to adhere to the regulations of the UPK program as administered by the New York State Education Department (NYSED). Minimum qualifications that a CBO must meet include but are not limited to:

- One year experience in Early Childhood Education;
- A current and valid license, letter, and/or permit issued by either the New York City Department of Mental Health & Mental Hygiene (DOHMH) or the NYS Office of Children and Family Services;
- Current and valid insurance and workers compensation certificates indicating the policy/certificate number, start dates, and expiration dates; and
- A vendor facility that is located within the geographic boundaries of the community school districts.

Proposed classes must have at least one certified teacher and two paraprofessionals—such as teacher's assistants or teacher's aides—for a maximum of 20 children. Classes with 18 or fewer children must have at least one certified teacher and one paraprofessional.

DOE and each CBO enter into a three-year UPK contract with the option to extend, at the discretion of DOE, for an additional two years. Payments made to the providers are based on the number of children registered and attending the UPK program multiplied by the cost per child. The cost per child varies from CBO to CBO and is based on the capacity and proposed budget information presented in the RFPs and on the operating needs of the CBO to run the UPK program.

In addition to UPK classes offered at DOE-contracted CBOs, UPK classes are also offered in public schools as well as through the Administration for Children's Services (ACS). ACS-based UPK programs are provided through its own contracted CBOs to all UPK-eligible children served in ACS-funded Child Care and Head Start programs. Based on a 2007 Memorandum of Understanding (MOU) funding agreement between DOE and ACS, a portion of the same State funds funneled through DOE are used to reimburse ACS for its half-day UPK program. According to DOE, for Fiscal Year 2010, UPK services were provided to approximately 15,500 students at 444 ACS CBO sites through the MOU agreement, while an additional 22,700 students received UPK services at 549 public schools.

For Fiscal Year 2010, the State's UPK appropriation to the City totaled \$248 million, of which \$99 million was spent on DOE UPK programs by the public schools, \$65 million by DOE-contracted CBOs, and \$51 million by ACS. Additional general programmatic expenditures totaled almost \$4 million. During the same period, according to OECE, DOE had 398 contracts

with 368 CBOs providing approximately 18,500 children UPK services at 448 separate sites.³ (These are in addition to the students referenced above.)

Objective

To determine the adequacy of DOE's efforts over the planning and allocation of funds to its DOE-contracted CBOs for the UPK program.

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 objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective. 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 primary scope of this audit was Fiscal Year 2010. 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 DOE officials during and at the conclusion of this audit. A preliminary draft report was sent to DOE officials and discussed at an exit conference held on August 24, 2011. On September 7, 2011, a draft report was submitted to DOE officials with a request for comments. A written response was received from DOE officials on September 21, 2011. DOE submitted its response under protest, stating as its reason perceived flaws and material omissions in the report as well as our office's refusal to grant them an extension to respond to this report so that follow-up work on the CBO surveys we conducted could be performed.

As detailed later in its response, DOE's protest is primarily based on the premise that the aforementioned surveys comprise the chief evidence supporting our finding that DOE's efforts to recruit new CBOs are inadequate. That is incorrect, however; the primary evidence is DOE's failure—despite being given numerous and ample opportunities—to provide substantiation that it made sufficient efforts to recruit additional CBOs beyond the ones it already contracts with. In any event, we fail to see how the absence of additional information related to the surveys prevented DOE from crafting a response to this report. Rather, DOE's request for an extension appears to be an attempt to obtain additional time in part because another engagement was given priority over this audit. In its request for an extension, one of the reasons cited by DOE was the need to address a *preliminary* draft report it received from the United States Department of Education one week after receiving our draft report. It is important to note that we delayed the

³ A UPK contract can incorporate one site or multiple sites. Additionally, some providers can have multiple contracts with DOE depending on the multi-year cycle of their RFP submission and contracts.

issuance of our draft report by one week to allow DOE an opportunity to provide substantiating evidence that officials claimed they possessed but had failed to present to us at the exit conference as requested. (As discussed in more detail below, the substantiating evidence was never provided.) Accordingly, DOE was given an appropriate amount of time to respond to the report and its protest has no merit.

In its response, DOE generally agreed with nine recommendations and only disagreed with the recommendation that DOE collect waitlists maintained by the CBOs. However, DOE strongly challenged the audit's methodology and the findings upon which the audit's recommendations are based. Unfortunately, the arguments used by DOE in its attempt to contest the audit's findings are not accompanied with credible evidence to support its claims.

DOE argues at length that the audit's methodology was lacking because it did not include detailed research and contact with other agencies involved in the UPK program. However, the objective of this audit was not to assess the efforts of all related agencies in administering the UPK program overall, but rather to assess the efforts of DOE specifically regarding its own contracted CBOs. In conducting our audit, we met with DOE officials and provided them with opportunities to present any evidence they believed to be relevant to our objective. To the extent that DOE provided information regarding the role that other stakeholders played in DOE's planning and allocation of funds, we considered it in the conduct of this audit.

Throughout its response, DOE contends that the evidence presented in the audit in support of the audit's findings is insufficient. It is noteworthy that the agency curiously provides very little evidence of its own in opposition. The lack of sufficient substantive evidence has been an issue throughout the course of the audit and has continued through DOE's official response to our report. Despite repeated requests for supporting evidence during the audit, DOE failed to present sufficient substantiation of its existing strategic plans and its efforts to prevent almost \$30 million from reverting to the State in Fiscal Year 2010. Whether DOE's failure to provide us with evidence of its efforts was simply the result of a lack of systematic planning or was to prevent us from effectively evaluating its efforts, we cannot say. Regardless of DOE's reasons or intentions, we provided its officials with repeated opportunities to present evidence to corroborate their assertions, including during and after the exit conference for this audit, yet little was provided.

For example, in response to the finding that its outreach efforts to new CBOs are inadequate, DOE lists a number of efforts it undertakes but generally provides no evidence (e.g., analysis of how it used census data regarding four-year-olds and/or kindergarten enrollment trends, and evidence of its dissemination of enrollment opportunity information) to substantiate its claims. Instead, a clearly defensive DOE resorts to attacks on the audit and auditors. Had DOE provided substantive evidence to support its claims, one could infer that the basis of its contentions had some merit. In the absence of such evidence, however, DOE's attacks on the audit appear to be an unconvincing attempt to divert attention away from the deficiencies identified in this audit.

After carefully reviewing DOE's arguments, we found them to be without merit. A detailed discussion of the DOE response is included as an appendix (Appendix E) to this report, and the full text of the DOE response follows the appendix as an addendum.

FINDINGS AND RECOMMENDATIONS

DOE has not adequately planned for and distributed all the funds appropriated by the State for the pre-kindergarten program. As a result of DOE's inability to spend all the funds made available to it by the State, in Fiscal Year 2010 alone, \$29 million—which could potentially have been used to place over 8,000 additional children⁴ in a UPK program—was unused by DOE and reverted to the State. For the four-year period covering Fiscal Years 2007 through 2010, \$133 million of the appropriated balance that was unused by DOE for the UPK program reverted to the State.

Specifically, DOE has not provided evidence that it adequately evaluated demand for UPK services or provided additional UPK services to districts with greater demand. For example, we found that DOE did not seek to recruit new CBOs that might have been capable of providing UPK services, such as existing early childhood education providers registered with the Department of Health and Mental Hygiene (DOHMH). We also found that DOE did not conduct any trend analyses to determine which CBOs have a proven track record and have the ability to fill UPK seats.

DOE officials have stated that they are in the process of developing a new system to identify additional CBOs that can become UPK providers and to encourage them to submit RFPs. They also stated that they are trying to develop better tracking strategies to evaluate districts where demand for UPK services is greater. DOE said it will also enhance its efforts to recruit more CBOs and funnel more funds towards those areas.

The following sections of this report discuss our findings in more detail.

DOE Did Not Distribute or Spend All UPK Funds Appropriated by the State

A review of DOE's efforts to allocate UPK funds revealed that DOE needs to be more effective at allocating and spending all the funds appropriated to it by the State for the UPK program. In Fiscal Year 2010, DOE did not allocate \$31 million of the \$248 million that was appropriated to it by the State. After actual expenditures of \$219 million incurred under the UPK program and submitted to the State, \$29 million of the unused funds remained with the State (see Appendix A).

As Appendix A illustrates, from Fiscal Years 2007 through 2010, of the \$955.2 million the State appropriated to DOE for the UPK program, DOE allocated \$811.4 million to provide UPK classes to eligible children and \$822.1 million was actually used. The amount that is allocated for the ACS-contracted CBOs for the UPK program is determined by the agreed-upon terms in the MOU arrangement between DOE and ACS, and the amount allocated to the public schools is restricted due to the limited capacity of public schools to offer UPK classes. As a result, the amount remaining is available to be allocated by DOE to CBOs. However, of the \$248 million appropriated by the State in Fiscal Year 2010, \$29 million was unused and reverted to the State. In fact, for Fiscal Years 2007 to 2009, DOE did not use over \$104 million—or an

⁴ This is based on an average cost of \$3,393 per child for providing half-day UPK services during Fiscal Year 2010.

average of \$34.8 million per year—all of which reverted to the State. Had DOE’s efforts been more effective, it is possible that some, if not all, of this money would have been used and would not have reverted to the State.

Although actual expenditures for Fiscal Year 2011 were not available as of the preparation of this report, DOE reported that of the \$248 million that was made available to it, \$19.2 million remained unallocated. DOE’s failure to fully allocate all UPK funds means that children who could have received pre-kindergarten classes are not being served.

When DOE officials were asked to explain the reason why millions of dollars go unused, they stated that because DOE has the ability only to award half-day UPK programs due to the funding restrictions imposed by the State, many working parents were discouraged from placing their children in the program because they preferred a full-day program. Full-day programs, they posited, would allow working parents to leave their children in a facility for the full day while they are at work. Half-day programs, on the other hand, are very restrictive because working parents would need to find someone to care for their children if they are unable to do so themselves for the balance of time not covered by the UPK class. As evidence of their efforts to lobby the State to change the status quo, DOE provided us with position statements issued in March 2010 by DOE officials expressing their support for legislation granting localities the ability to decide how UPK funds are spent.

However, DOE officials have not collected the necessary data to support their position—such data may potentially aid them in their efforts to change the status quo. For example, DOE does not track the reasons why parents choose a particular UPK site to place their children or even the number of children who were not accepted by a program because of lack of available seats. They, therefore, lack necessary data to buttress their position and cannot quantify the extent of the problem or identify areas of the City that are most negatively affected. Additionally, DOE does not target the unused State funds to those CBOs which can potentially provide additional full-day wraparound services that parents prefer (discussed further below).

During and subsequent to the exit conference, DOE officials argued that the NYSED’s certification of DOE’s UPK program as fully implemented rebuts our argument that DOE’s efforts to allocate UPK funds were inadequate. As evidence, DOE officials provided us with the “2009-2010 Notice of Fully Implemented UPK Program” form along with the “Notice of Fully Implemented UPK Program” certification. These documents, they posited, is evidence of DOE’s successes at UPK planning and fund distribution efforts. However, these are self-certified forms completed and submitted by DOE officials. (The NYSED does not verify the accuracy of the information reported by DOE in these documents.) DOE provided minimal evidence of the outreach and recruiting efforts it identifies in the above-mentioned documents.

DOE’s CBO Recruitment Efforts are Inadequate

DOE relies heavily on the RFP process to select qualifying CBOs for UPK services. DOE’s current outreach process focuses on a limited pool of CBOs. The selection pool is mostly limited to the number of CBOs that currently hold a contract with DOE and those vendors who reach out to DOE and express an interest in the UPK program.

Upon award of a UPK contract, each vendor is required to maintain an accessible email account, which must be provided to the local OECE Field Office. DOE uses the emails to maintain contact with the programs and to send notifications to those CBOs whose contracts are about to expire. Once an RFP becomes available, the CBO is encouraged to reapply by submitting a new RFP. CBOs that are without a UPK contract or those unaware that contracts for State-funded UPK programs exist are largely left out of the recruitment process. According to OECE, DOE had 398 contracts at 448 DOE CBO sites during Fiscal Year 2010. We found, however, that 1,752 preschool daycare providers were registered with DOHMH, some of which may already be providing UPK services through DOE or ACS contracts or may not be eligible to provide UPK services under DOE's minimum requirements. Although not all of these providers may be capable of or interested in providing UPK services⁵, this pool of providers can be used by DOE to recruit vendors that might be interested in offering those services, encourage them to submit RFPs, and assist them with the process.

A survey we conducted of 40 preschools registered with DOHMH revealed that the 32 (100 percent) that responded were aware that DOE provides funding for UPK services (see Appendix B). However, some of the responders seemed to be mistaken about the minimum requirements about attempting to obtain a UPK contract. For example, one responder was under the impression that she needed two years of childcare experience before she could apply. (The minimum requirement is one year.) Although there is information available online through DOE's website about the UPK program for vendors already in a contract with DOE, none of this information addresses the specific needs or questions that possible new vendors may need answered. Specifically, the expectations listed are general, and there is no detailed information on DOE's website listing the minimum qualifications, such as having a license from DOHMH. When asked if their organization ever provided UPK services, 23 said they had not, yet 18 (60 percent) of 30 who responded to this question said that their organization would be interested in providing said services if qualified. When asked if DOE has ever approached them to make them aware that it provides funding for UPK, 15 (52 percent) of 29 that responded stated that DOE had approached them while 14 (48 percent) said it had not. A further analysis of the 23 respondents that stated they had never provided UPK services revealed that seven (35 percent) of 20 indicated that DOE had approached them. The remaining 13 (65 percent) said it had not. (Three did not respond to the question.)

A second survey that we conducted of the 448 DOE CBOs facilities where UPK services were offered during Fiscal Year 2010 revealed that 69 (61 percent) of the 113 vendors that responded said no when asked whether their CBO was initially solicited by DOE to offer UPK services. Instead, 85 (76 percent) of 112 that responded said that they initiated contact (see Appendix C). (However, there were 16 vendors that responded yes to both having been initially solicited by DOE and initiating contact with DOE, which is an apparent contradiction.)

Other than oral testimony received during interviews conducted with DOE officials, to date DOE has yet to provide tangible evidence to show the yearly planning that ensues prior to

⁵ Some reasons why vendors may not be interested in participating in the UPK program may include the prohibition of religious worship or the display of religious icons, or the requirement that vendors open their books for review by DOE officials.

DOE CBOs being contracted for UPK services in any given district. DOE officials have also not provided us with evidence to show their efforts to recruit CBOs other than those currently on their mailing list or those that inquire about the program. Nevertheless, they've stated that because providers interested in offering UPK services can access all the information they require on DOE's website, any CBO that is eligible can submit an RFP. However, the RFP is not available on DOE's website. The interested vendor would need to contact DOE directly in order to get on its email list to get an RFP. Without taking a more active role to recruit additional providers, DOE will be hindered in ensuring that all UPK funds are allocated.

Towards the end of our field work, DOE officials stated they are in the process of creating a new system to identify additional CBOs that can become UPK providers. In addition, they stated that they would canvass neighborhoods with an inadequate supply of CBOs and identify facilities for existing high-quality providers to open new programs. Additionally, they intend to obtain a list of citywide-licensed providers from DOHMH and distribute RFP information to them.

Targeting of CBOs with Full-Day Wraparound Services

Based on the results of the second survey that we conducted of the 448 DOE CBOs, 92 (79 percent) out of 117 CBOs that responded stated that they offered additional services—such as Head Start or daycare services—programs that would wrap around the two and one-half hour UPK classes, creating a full-day itinerary for children. We also found that 25 (25 percent out of the 102 that responded to that particular question) stated that they provided additional services that were *free* to children and their parents at their facilities.⁶

DOE officials explained that from a working parent's perspective, two and one-half hours per day program is more of an inconvenience because parents are unable to pick up their children once the session ends. Working parents prefer full-day programs or will choose to leave their children with family members who can care for them during working hours. The accessibility of additional free wraparound services that would cover a full working day would be more appealing to working parents and create greater demand.

OECE and Field Office officials were asked if preferences were given to CBOs providing additional services at their site prior to deciding to enter a contract with them. They asserted that a preference is not given and that they are guided by the philosophy that every CBO should be given an equal opportunity in obtaining a contract. However, OECE officials acknowledged that there was nothing that prohibits DOE from targeting those CBOs. In fact, DOE's Fiscal Year 2012 plans are to implement a pipeline strategy for the coming years to identify existing early childhood providers, including those that offer Head Start, childcare, etc.; canvass neighborhoods with inadequate supply of early childhood programs; and conduct needs assessments to determine which high-needs neighborhoods do not have an adequate supply of UPK programs. In addition, they stated that, among other initiatives, they would create a development model that outlines best practices/strategies for identifying and supporting prospective providers, facilities, and talent.

⁶ Eligibility for free services may be limited by a family's income.

They also stated that they would conduct informational interviews with OECE staff, staff of other DOE departments, other City agencies, and OECE stakeholders—such as existing providers, advocates, parents/families, and educators—to assess barriers to entry into UPK programs.

Creation of Waitlists for Children Seeking UPK Placements

We found that DOE does not track the number of children turned away by CBOs providing UPK services due to lack of seats and thus awaiting placement. CBOs are encouraged to make every effort to fill all seats they were contracted for and to replace students who enrolled in their program but failed to attend classes. Neither the CBOs nor DOE keep track of or know the number of children who were not accepted by nearby UPK facilities (within or outside a CBO's district) and are waiting placement. Eligible children may be awaiting placement at one facility whose parents never apply for placement at other facilities because they are unaware of other facilities that did not meet their enrollment capacity and have available seating.

Throughout the school year, DOE lumps together any money not used by CBOs because of under-enrollment⁷ and reallocates those funds to CBOs that exceeded their contractual enrollment target. DOE officials stated that they try to provide additional funding to CBOs that need to expand their available seats to accommodate the increased demand for their UPK classes. However, DOE could assist CBOs that have the capacity to enroll more children by creating a waitlist of children not accepted at other CBOs due to lack of available seats. A waitlist would provide DOE the ability to refer parents to those CBOs able to enroll more children or assist CBOs in recruiting students who never applied to their program. This information could also be used by DOE to plan and conduct trend analysis to determine where more UPK seats may be needed in future years and help DOE better allocate UPK funds. DOE could also use this information to determine if a child seeking enrollment was eventually enrolled at another UPK site, thus ensuring that all eligible children seeking UPK services are indeed being served. Ultimately, this could help DOE place additional children in the UPK program and further reduce the amount of UPK funds that go unused and revert to the State.

Recommendations

DOE should implement its pipeline strategy for the coming school years, which includes:

1. Developing a recruitment process to solicit additional independent contractors interested in participating in the State-funded UPK program.
2. Utilizing DOHMH's online listing of licensed preschool providers so as to distribute RFPs and informational packages regarding UPK contracts with DOE.
3. Developing data collection strategies to better assess where demand for UPK services is greatest and least served.

⁷ CBOs receive payments based on the number of UPK seats they fill.

4. Canvassing neighborhoods with an inadequate supply of UPK programs to identify existing high-quality providers and encourage them to submit RFPs or encourage them to expand their UPK enrollment capacity.
5. Collecting data on whether sites offer wraparound services and the total number of children served.
6. Engaging in fact-finding strategies to identify areas of improvement and negate participation barriers from both the supply (potential CBOs willing to participate) and demand (children eligible to enroll) side of the UPK program.

DOE Response: DOE agreed with recommendations 1–6. DOE states: “We not only agree with the recommendations, but state for the record that the recommendations, which are referred to as pipeline strategy in the Report, were already part of the Department’s existing strategic plan. In fact, the information that is the basis of the recommendations was shared with the auditors during the course of the audit.”

Auditor Comment: The only documentation DOE provided of a strategic plan was an undated two-page Word document (see Appendix D) we received via email on June 19, 2011, following a meeting we had with DOE officials on May 23, 2011, at which time we were told that DOE is developing a system to identify new CBOs to provide UPK services. In the document, DOE summarized its “Current Allocation Process” in a three-sentence paragraph as evidence of its existing planning and allocation efforts. Although the document describes the agency’s Fiscal Year 2012 plans and its “Pipeline” and “Recruitment” strategies, it does not provide any precise information as to what the specific implementation dates are or how and by whom those implementation steps will be achieved.

In addition, DOE should:

7. Require that CBOs maintain and submit a waitlist of applicants who were turned away due to unavailability at their site.

DOE Response: DOE disagreed with our recommendation, stating: “It is our position that the Department [DOE] will continue to encourage CBOs to redirect families to the multiple resources that already exist to inform them of where vacancies exist, but that it would be less helpful to families for the waitlist information to be collected centrally.”

Auditor Comment: The data contained in the waitlists can be used by DOE to conduct year-to-year trend analyses to identify geographic areas of the City that are underserved and target additional resources to them. For those areas where it is determined that demand for UPK services exceed current capacity, DOE can either expand UPK services at the existing facilities so that they can provide additional seats or recruit additional CBOs that might have the capability to provide and offer services in those areas.

Additionally, by collecting the waitlists from the CBOs, DOE can not only determine those CBOs with excess demand for their UPK programs, but also follow up with CBOs to determine whether the children on the waitlist were eventually placed in their program, and if not, to follow up with the parents to proactively assist them in finding alternative locations where seats are still available. DOE could also use this information to determine if a child seeking enrollment was eventually enrolled at another UPK site, thus ensuring that all eligible children seeking UPK services are indeed being served. Ultimately, this could help DOE evaluate the effectiveness of its planning and allocation efforts, thus enabling it to modify or enhance its future UPK strategy to help it place additional children in the program and further reduce the amount of UPK funds that go unused and revert to the State.

8. Use the information compiled by the CBOs to more effectively plan and distribute UPK funds in future years.
9. Based on the data DOE collects, it should target and enter into contracts with qualified CBOs that offer free additional full-day wraparound services to encourage more working parents to enroll their children in the UPK program.
10. Continue to lobby the State to allow use of UPK funds for full-day UPK programs.

DOE Response: DOE agreed with recommendations 8–10. In its response, DOE states, “The Department will continue its current practices in the areas of using data from CBOs as one of many factors to determine funding planning and allocation, using data to target providers of wraparound services and lobbying the legislature for full day programming.”

Auditor Comment: DOE should not only continue its current practices, it should also expand its efforts as stipulated in the recommendations and as described in greater detail in the findings section of this report.

DETAILED SCOPE AND METHODOLOGY

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 objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective. 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 was Fiscal Year 2010; however, we expanded the period to Fiscal Years 2007 to 2011 to include a review of DOE's allocation of UPK funds provided by the State. To achieve our audit objective, we performed a number of tests.

To obtain an understanding of the objectives, responsibilities, and laws governing the UPK program, we reviewed:

- Section 3602-e of the New York State Education Law of 1997;
- 8 NYCRR §151-1.1 (Universal Prekindergarten Subpart of the New York State Education Department Regulations);
- Standard contract between DOE and CBO;
- Request for Proposal for Universal Prekindergarten Programs for 2010-2013;
- 2009-10 Universal Prekindergarten Qualification Tool;
- Citywide Prekindergarten Recruitment and Enrollment Procedures;
- *NYC Universal Pre-Kindergarten Frequently Asked Questions*;
- *New York State Education Department Universal Pre-Kindergarten Questions and Answers*;
- 2007 MOU funding agreement between DOE, ACS, the Mayor's Office of Operations, and the Office of Management and Budget; and
- 2009-2010 *Notice of Fully Implemented UPK Program*.

In order to evaluate DOE's efforts to plan and distribute the funds provided to it for the UPK program by the State, we met with and interviewed DOE officials, including the Executive Director and Director of Operations of the Office of Early Childhood Education (OECE), the Operation Managers of the three OECE Field Offices; the Program Administrator for the Queens Field Office; the Director of Operations of the Division of Portfolio Planning; the Executive Director of the Division of Contracts and Purchasing; and the Data Manager for OECE. We also requested documentary evidence to support their planning efforts. The meetings with the operation managers of the three OECE Field Offices included walk-throughs of OECE Field Offices' RFP evaluation and CBO selection processes.

DOE provided us with an Excel spreadsheet containing data pertaining to the 448 CBO sites that provided UPK services during Fiscal Year 2010. To ascertain whether the CBOs on the list actually provided UPK services, a sample of 30 judgmentally selected UPK sites was used. We verified that the contracts for these 30 sites were registered with the Comptroller's Office.

We received from DOE a breakdown of the UPK funds provided by the State for Fiscal Years 2005 through 2011 to determine DOE's fund distribution and utilization efforts. Since a MOU funding agreement was signed in 2007, we limited our review of UPK funding distributions beginning with Fiscal Year 2007. Those funds were classified by amounts budgeted to (at the start of the Fiscal Year) and amounts actually expensed at the end of each Fiscal Year by the DOE CBOs, the ACS CBOs, and the public schools, respectively. Beginning in Fiscal Year 2010, funds used by DOE for programmatic expenses were also reported. We determined the difference between the State funds appropriated for the UPK programs and the sum of the funds budgeted to ACS, the public schools, and the DOE CBOs to be the amount that remained available for the UPK program which DOE did not allocate. The funds DOE reverted to the State are the differences between the amounts appropriated by the State less the sum of the funds DOE and ACS actually spent on the UPK program, including the programmatic expenses.

We conducted a survey of the 448 sites that offered UPK services in order to gain a general understanding of DOE's recruitment efforts and whether it targets CBOs that provide additional services, and its levels of assistance to the CBOs. The survey questionnaire was emailed to the CBO administrators' email addresses on file for the 448 sites provided to us by DOE. Appendix C lists the survey questions that we asked of the administrators of the 448 UPK sites and the answers that we received.

We also conducted a survey of 40 preschools throughout the city to evaluate DOE efforts to recruit additional eligible providers that may potentially offer UPK services. We obtained a list of licensed preschools from DOHMH's website and sorted the listing according to boroughs and zip codes. We compared the DOHMH listing of preschools to the listing of CBO vendors previously provided by DOE, and then removed all preschools programs whose information also appeared on DOE's CBO vendor list in order to select only those preschools that were not contracted by DOE to provide UPK services. We then selected the 40 preschools with the largest maximum enrollment capacity in each zip code and mailed a survey questionnaire to them, asking them about their knowledge of the UPK program. The 40 preschools that we selected were located in the same geographical areas as the above-mentioned sample of 30 judgmentally selected UPK sites. Appendix B lists the survey questions that we sent to the licensed preschools and the answers that we received.

Breakdown of UPK Funds Allocated (*in thousands*), Spent, and Reverted to the State During Fiscal Years 2007-2010

NEW YORK STATE UPK APPROPRIATION	Fiscal Year										Fiscal Year 2007-2010 Total	
	2011*		2010**		2009***		2008****		2007****		Budgeted	Spent
	Budgeted	Spent	Budgeted	Spent	Budgeted	Spent	Budgeted	Spent	Budgeted	Spent		
	<i>In thousands (000)</i>											
	\$248,149		\$248,149		\$248,149		\$249,078		\$209,869		\$955,245	
DOE CBO	\$71,952	TBD	\$71,063	\$65,322	\$110,475	\$97,502	\$131,881	\$100,948	\$116,116	\$91,680		
ACS CBO	\$61,419	TBD	\$42,416	\$51,064		\$13,658						
PUBLIC SCHOOL PROGRAMMATIC EXPENSES	\$92,237	TBD	\$101,127	\$98,979	\$102,550	\$105,416	\$79,978	\$115,911	\$53,162	\$77,604		
	\$3,298	TBD	\$2,604	\$3,992	n/a	n/a	n/a	n/a	n/a	n/a		
NYCDOE UPK TOTAL	\$228,906	TBD	\$217,210	\$219,357	\$213,025	\$216,576	\$211,859	\$216,859	\$169,278	\$169,284	\$811,372	\$822,076
Difference-- Fiscal Years 2007-2010 Funds Not Allocated / Unspent UPK Funds Reverted to the State	\$19,243	TBD	\$30,939	\$28,792	\$35,124	\$31,573	\$37,219	\$32,219	\$40,591	\$40,585	\$143,873	\$133,169
Four-Year Average Fiscal Years 2007-2010											\$35,968	\$33,292
Difference-- Fiscal Years 2007-2009 Funds Not Allocated / Unspent UPK Funds Reverted to the State					\$35,124	\$31,573	\$37,219	\$32,219	\$40,591	\$40,585	\$112,934	\$104,377
Three-Year Average Fiscal Years 2007-2009											\$37,645	\$34,792

Highlighted amounts represent the portion of the State-appropriated UPK funds that reverted to the State because they were not used by DOE.

* For Fiscal Year 2011, actual expenditures for the UPK program and funds that reverted to the State were still to be determined (TBD) as of the writing of this report.

** For Fiscal Year 2010, the initial allocation of UPK funds and actual expenditures pertaining to DOE and ACS CBOs were segregated.

*** For Fiscal Year 2009, the initial allocation of UPK funds to DOE and ACS CBOs were not segregated while actual expenditures were.

****Prior to Fiscal Year 2009, initial allocation of UPK funds to DOE and ACS CBOs and actual expenditures were not segregated.

n/a For Fiscal Years 2007-2009, Programmatic Expenses were not available (n/a).

Survey Questions and Summary of Responses Received from the 40 Preschool Providers

Item	Questions	Yes	No	N/A	Total Responses
1.	Are you aware that the Department of Education (DOE) provides funding to independent contractors so that they can provide UPK Program services?	32	0	0	32
2.	Do you recall ever being contacted or approached by DOE, whether through emails, direct mailings, flyers, etc., to make you aware that it provides funding for UPK programs?	15	14	0	29
3.	Has your organization ever been contacted by DOE to submit a Request-for-Proposal (RFP) application for funding to see if your organization may qualify for funding for UPK services?	12	14	0	26
4.	If you meet the qualifying criteria, would your organization be interested in providing UPK services at your center?	18	12	0	30
5.	Has your organization ever provided UPK services at your current or other location(s)?	9	23	0	32
5a.	If yes to question #5, when?				Multiple Dates Received
5b.	If no to question #5, has your organization ever applied to DOE for a UPK contract?	3	16	0	19

Survey Questions and Summary of Responses Received
From the 448 UPK Service Providers

Item	All Questions Applicable for School Years 2009-10 to 2010-11	Yes	No	N/A	Total Responses
1.	Was your CBO initially solicited by DOE to offer UPK services in your district?	36	69	8	113
2.	Did your CBO initiate the initial contact with DOE to provide UPK services in your district?	85	21	6	112
3.	Were you able to fill all the seats for the number of kids contracted for during schools years 2009-2010 & 2010-2011?	81	35	0	116
4a.	Does your CBO offer UPK services at more than one location?	28	89	0	117
4b.	Is the location in the same community district?	46	11	47	104
5.	Does your CBO advertise the UPK program within your community?	107	10	0	117
6a.	Other than the UPK program, do you offer additional services at your site? Such as, Head Start, Daycare etc.	92	24	1	117
6b.	If the answer to question 6a above is yes, are those services offered free to the parents of the kids in your program?	25	66	11	102
7a.	Was your CBO ever denied a UPK contract to provide services at your current or other location(s)?	16	99	2	117
7b.	If yes to question #7a above, was the reason(s) for the denial provided?	6	1	61	68
7c.	Did DOE offer any assistance on how to reapply in order to qualify for the following year?	39	13	44	96
8.	Are periodic visits made by DOE personnel to review your program's operation?	115	1	0	116
9.	Is DOE generally responsive to your questions during the RFP process or problems that arise during the operation of the UPK program?	105	6	2	113

Current Allocation Process

Bottom Up Allocation:

As part of the RFP process, vendors propose the number of UPK seats they can effectively serve. OECE staff review the proposals (which include budgets and organizational capacity) and visit the sites to verify that vendors are in fact able to accommodate the proposed number of students. The Operations Managers negotiate with the vendors to determine the final cost per child, and final awards are based on the cost per child multiplied by the total number of students.

Historically, NYC's UPK allocation has exceeded the number of students we've had the capacity to serve, and therefore, we've been able to accommodate most seat requests.

FY12 Plans

Data Collection Strategy:

- Collect data on whether sites offer wraparound services, total number of children served (in addition to UPK children), etc through CBO survey.
- Increase operational efficiency and data accuracy through Pre-K Integrated Data System (PreKIDS) modules for enrollment, attendance, budgeting, invoice, mid- and end-of-year expenditure reports.

Pipeline Strategy:

- Map existing early childhood providers (UPK, Head Start, Child Care, private, etc), and conduct needs assessment to determine which neighborhoods of high needs districts do not have an adequate supply of early childhood education programs.
- Canvass neighborhoods with an inadequate supply of early childhood programs to find potential providers (i.e. community-based organizations and facilities), and identify facilities for existing high-quality providers to open new programs in the neighborhood.
- Conduct informational interviews with OECE staff, staff of other DOE departments, other city agencies and OECE stakeholders (existing providers, advocates, parents/families, educators) to assess barriers to entry into UPK service provision.
- Create pipeline development model that outlines best practices/strategies for identifying and supporting prospective providers, facilities and talent.
- Obtain list of citywide licensed providers from DOHMH to distribute RFP information to

Recruitment Strategy:

- Document which CBOs are in close proximity to public schools and send lists to public schools to direct parents to private options.

- Create flyers to distribute in supermarkets, clinics and other facilities that parents and families frequent.
- Conduct parent focus groups to determine what families' needs are and how to best communicate with them; findings will inform our recruitment strategy
- Contact Office of Public Affairs for list of publications/contacts to distribute UPK information to

DETAILED DISCUSSION OF DOE RESPONSE

In its response, DOE strongly objected to our methodology and the factual accuracy of this report. We have added an Appendix to address the main issues raised in DOE's response and our comments to those that were erroneous and of great concern. (For the full text of DOE's response, see the Addendum to this report.)

Audit in Brief and Introduction

DOE Response

. . . [T]here remained a lack of clarity within the audit team around how the UPK program functioned in its most basic sense. Further, the audit scope failed to include half of the CBO UPK programs in New York City and the auditors neglected to interview or conduct research on key stakeholders in the UPK program planning and allocation process, thereby depriving the public of an accurate and thorough Report.

. . . Perhaps the Report's most glaring shortcoming is the omission of thorough background research and contact with key UPK/Early Childhood stakeholders. More specifically, those stakeholders are the New York State Education Department ('NYSED'); . . . the Department of Health and Mental Hygiene ('DOHMH'); . . . and, the Administration for Children's Services ('ACS'). . .

The audit was shaped with a limited focus only on UPK CBO providers that contract directly with the Department. The Report is misleading . . . when, in fact, half of these providers are excluded from the scope of the audit.

Auditor Comment

Our objective was very specific and focused on DOE-contracted CBOs for the UPK program. Notwithstanding the percentage of UPK sites provided via the three types of providers, the fact remains that a significant portion of UPK funds remain unspent and revert to the State year after year. DOE has limited ability to increase the number of seats available in ACS and public school settings. Accordingly, our audit focused on that segment where DOE's efforts regarding the allocation of funds can have the greatest impact—specifically, UPK services provided by DOE's own contracted CBOs.

DOE Response

Significantly, the auditors have opted not to include that the Department has consistently allocated more UPK seats than the providers enroll, a strong indication that there is a sufficient number of UPK providers to meet existing enrollment demand citywide. In other words, the Department is consistently able to provide a UPK seat for any student that applies as provider participation and student enrollment numbers increase.

Auditor Comment

The fact that DOE allocates more seats than are filled does not necessarily indicate that citywide demand is being met. Rather, unfilled UPK seats could be an indication that DOE has not been effective in its planning to ensure that UPK seats are allocated to areas where actual demand for UPK services is greatest. Further, the fact UPK seats consistently go unfilled could be an indication that DOE has not been effective at ensuring that the CBOs fill all the seats which, based upon DOE's apparently unsuccessful planning, it believed the CBOs would be able to fill.

Spending and Allocating UPK Funds*DOE Response*

In January 2011, the New York State Senate sent Senate Bill 1580 to the Education Committee seeking an amendment of NYS Education Law section 3602-e, and citing as its justification: 'Approximately 220 schools districts in the state have yet to implement UPK due primarily to restrictions in how the funding is used. Information reported to the State Education Department has indicated that uncertainty about funding; insufficient per-pupil allocations; parental desire for full-day programs; and the lack of transportation for pre-k program are all barriers to full enrollment. The City of New York was unable to use over \$25 million in UPK funding in the 2008-2009 school year, *due to these restrictions* [emphasis added]. This legislation would allow school districts to more fully utilize their UPK grant and remove disincentives for districts to serve additional students when economically possible.' (<http://m.nysenate.gov/legislation/bill/S1580-2011>). Yet, despite the recognized restrictions, New York City's UPK program was awarded Fully Implemented Status by NYSED - no small achievement given the obstacles outlined in the proposed legislation."

Auditor Comment

DOE has provided no evidence of its analysis of these factors—specifically, the degree to which these factors have inhibited its ability to implement UPK as well as the strategies developed by DOE to address them. Additionally, DOE may be overstating the impact of some of these restrictions as they relate to the ability of New York City to implement UPK. For example, lack of transportation is cited in the bill as one of the major issues for school districts in New York State. Understandably, there may be numerous school districts in the State that are rural or suburban. However, New York City—with the transportation system that's available to residents—does not face the same challenges. Additionally, many districts in the State face other burdens that the City does not, including the burden of limited resources and finding a sufficient number of qualified CBOs to provide UPK services to a target population of eligible children that are greatly dispersed through a larger geographic area. Regarding DOE's "Fully Implemented Status," the report already points out that these are self-certified forms completed and submitted by DOE officials and that the NYSED does not verify the accuracy of the information reported by DOE in these documents.

DOE Response

The Report fails to credit the Department's efforts to recruit students for its UPK program during the audit period - efforts that have contributed to the NYSED's designation of Fully Implemented Status. [Examples of] These efforts include, but are not limited to [excerpts included]:

- Use of census data regarding four-year-olds and/or kindergarten enrollment trends; . . .
- Use of the City's 311 and Department's enrollment hotlines to provide information on available seats; . . .
- Hanging posters and making multi-lingual flyers available in places frequented by parents of young children; . . .
- Emailing parents on UPK mailing list;
- Specific outreach to speakers of languages other than English . . . [etc.]

Auditor Comment

In its response, DOE lists a number of examples as to its efforts to recruit students. DOE, in fact, may have employed all the methodologies mentioned in its response to recruit students. However, DOE has provided us with insufficient evidence to substantiate those efforts so we are unable to determine the extent to which they have been implemented, if at all. For example, DOE provided us with copies of flyers asserting they are used to show CBOs in an area with available seating. However, we were not given a summary of CBOs that received these flyers or what follow-up was done to ensure that the flyers were distributed to interested parties. DOE also provided us with a database of CBOs used by the 311 systems and DOE's own hotline; however, DOE did not provide us with any evidence showing the number of calls received or a summary of the referrals made to the parents who inquired about the program. An analysis of this data would have provided DOE with valuable information about the effectiveness of its referral system and its dissemination of information. With respect to its assertion that it sends out emails to parents on its mailing list, DOE did not provide us with the number of parents it reached out to or provide us with information as to when the mailings were sent. All in all, other than assertions made by DOE, we were given little to no information that would have allowed us to authenticate its efforts or the effectiveness of those efforts.

DOE Response

The Report claims that the Department does not have sufficient data to understand why parents chose a particular UPK site. However, the Department has already begun collecting the data. In SY 2010-11, the Department conducted a targeted survey to gather information about families' early childcare and education choices.

Auditor Comment

DOE first told us of this targeted survey in September 2010. Unfortunately, as has been DOE's custom during the course of this audit, substantiating evidence of its efforts—in this case, the results of the survey—was not provided to us. We were not provided a list of the survey

questions, the number of responses given, and the results of the survey. Therefore, we have no evidence that a survey was in fact conducted.

DOE Response

A recent report from Chicago on the subject pointed to transportation and scheduling (half day vs. full day) issues as major obstacles for parents enrolling their children in preschool (<http://www.cofionline.org/files/earlylearningreport.pdf>).

Auditor Comment

The Chicago report cited by DOE is a well-written report that clearly defines the steps the report's authors took to complete its study. It identifies its findings and makes recommendations to address the problems that were cited. DOE, however, has provided no evidence—for example, its own study or analysis—to indicate that the challenges faced by Chicago are echoed in New York City. By referencing a UPK study performed by another City, DOE unintentionally highlights its own deficiency in failing to take a similarly proactive approach in analyzing the challenges it faces in providing UPK services in New York City. DOE asserts in its response that it also completed a survey, but once again it has not provided us with any evidence to show what it did or what the results of the survey were.

CBO Recruitment Efforts

DOE Response

The auditors report that 100 percent of survey respondents were aware that the Department provides funding for UPK. Sixty percent of those responding to this question said they would be interested in providing UPK services if qualified. . . . The auditors are remiss in including . . . whether those that reported interest in becoming UPK [providers] would have met the program criteria. . . .

The auditors claim that ‘some of the responders seemed to be mistaken about the minimum requirements [for UPK]’ even though questions about minimum requirements and qualifications are not included in the survey and the source of this information is not identified.

Auditor Comment

The main purpose of the survey was to supplement our findings and determine whether DOE reached out to preschool providers other than those that were already UPK providers and/or on DOE's mailing list. It was not to prequalify CBOs that showed an interest in providing UPK services. Ultimately, that responsibility falls to DOE. Additionally, while 100 percent of the responders stated that they are aware that DOE provides funds to independent contractors for the UPK program, it should not conclude that its efforts are a success. A CBO's awareness of a program does not mean that it is aware that DOE is actively recruiting additional CBOs.

The statement that some responders seem to be mistaken about the minimum UPK requirements is based on comments made by respondents during our follow-up calls to those who had not returned their responses in a timely manner.

DOE Response

. . . [the auditors] would have discovered that 188 of the [1,752 DOHMH-licensed preschool daycare] . . . providers were first licensed in 2009, 2010 or 2011, making them ineligible to provide UPK in the audit year inasmuch as providers must have at least 12 months experience before they may submit a proposal to provide UPK. They would have discovered, further, that more than half (892) of the remaining 1,564 licensed sites already provided UPK services through ACS and Department contracts in the audit year.

Auditor Comment

At no point in the report did we state that every preschool listed on DOHMH's website would be qualified to provide UPK services. In fact, the report clearly states that "some of the 1,752 preschools may already be providing UPK services through DOE and ACS contracts and may not be eligible to provide UPK services under DOE's minimum requirements." The detailed scope and methodology section of the report further states that the DOHMH list of preschools was also matched against the list of CBO vendors provided to us by DOE. Those preschools that appeared on both lists were removed to prevent auditors from sending a survey to those CBOs that already have a UPK contract with DOE.

DOE Response

The Report falls short in its investigation and discussion of the aspects of the UPK program. . . . A thorough exposition, based on research, . . . could have yielded a far more thorough Report including, but not limited to: . . .

- UPK is not daycare. UPK is an educational program
- Class size cannot exceed 20. For any class that has 19 or 20 students the CBO must provide additional support staff. . . .
- Many early childhood programs are offered in affiliation with religious organizations. Religious iconography and religious instruction are not permitted in UPK classrooms during UPK hours.
- The CBOs' UPK budgets must be approved by the Department of Education.
- CBOs are required to disclose expenditures twice a year, permit on-site monitoring, and open their financial books and records for audits.

Auditor Comment

Although some of the requirements and qualifications for becoming a UPK service provider are noted in this report, it was not our intent to present an all-inclusive list. It is DOE's responsibility to ensure that this information is readily available to those interested in becoming UPK providers.

DOE Response

The Department disseminates availability of the UPK RFP to the Early Childhood Steering Committee, which is facilitated by the Mayor's Office and includes representatives from [the] Department, ACS, DOHMH, and the Department of Youth and Community Development ('DYCD'), as well as to the Department's UPK bidder's list of 638 providers, many of which have multiple sites. . . . [T]his past year the 638 agencies on the Department's UPK bidders list received notice of the Request for Proposal for UPK. Of that number only 178 submitted proposals. And, of the 422 half-day contracted CBOs that were solicited for full day services once City Council funds became available, only 124 proposed. One could conclude from such a relatively small response that our outreach is beyond the market that is interested and/or qualified. Recognizing that this might be the case, we explicitly target districts with demonstrated need in our RFP process.

Auditor Comment

DOE gives the impression as though the steering committee meetings facilitated by the Mayor's Office is convened primarily to discuss issues or concerns regarding DOE's UPK program only. However, based on the only agenda of a Steering Committee meeting provided to us, which was held on July 21, 2011, there is no specific indication that DOE's UPK program was even one of the topics of discussion. For the Steering Committee meetings scheduled between April 28 through December 22, 2011, DOE did not provide evidence that the UPK program was or will be a topic of discussion at any of these meetings.

Furthermore, DOE maintains that 638 agencies on its bidders list received an RFP for UPK of which only 178 submitted proposals. To date, we have yet to receive the actual documentation (e.g., a copy of the notice sent, list of agencies contacted) to substantiate this claim. Accordingly, we are unable to review the notices sent to evaluate their effectiveness or verify that the list of 638 agencies did not include CBOs that were already in contract with DOE and would, therefore, have no need to reapply. Again, other than assertions made by DOE, we were given little to no information that would have allowed us to authenticate its efforts, evaluate the effectiveness of those efforts, or offer recommendations to improve its CBO outreach efforts.

Targeting CBOs with Full-Day Wraparound Services***DOE Response***

Because all ACS providers serving four year olds already provide UPK, the District cannot, as the auditors suggest, target additional providers that have Head Start and Child Care services; because such providers are already included in NYC's UPK providers (although they were excluded from the scope of the audit).

Auditor Comment

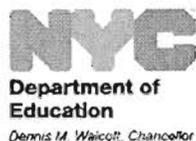
DOE is being disingenuous in its response. The report does not suggest that DOE target providers that have Head Start and Child Care services. In fact, the excerpt being referred to involves a discussion of DOE's own strategic plan. As stated on page 12 of this report, "DOE's Fiscal Year 2012 plans are to implement a pipeline strategy for the coming years to *identify* existing early childhood providers, including those that offer Head Start, childcare" as part of its efforts to determine which high-needs neighborhoods do not have an adequate supply of UPK programs.

DOE Response

The only other avenue available for providing full day programs is through city tax levy funds since the NYSED restricts the use of UPK funds to half-day programming. As budget considerations have allowed, the City Council and Department have allocated supplemental tax levy funds for CBO and public school full day programming, thus enabling the majority of students in public school UPK programs to receive full day services, a point also omitted from the Report.

Auditor Comment

DOE ignores the fact that there may be CBOs which provide full-day programs for a fee. For these programs, the ability to provide UPK services funded by the State may be attractive in that it could allow them to lower the fee paid by parents.



September 21, 2011

H. Tina Kim
Deputy Comptroller for Audit
City of New York
Office of the Comptroller
1 Center Street
New York, NY 10007-2341

Re: Audit Report on the Department of Education's
Planning and Allocation of Funds to
Community-Based Organizations for the
Universal Pre-Kindergarten Program
MH11-059A

Dear Ms. Kim:

This letter, along with the enclosed Response to Findings and Recommendations, is the official response of the New York City Department of Education ("DOE") to the above-captioned Draft Audit Report ("Report") received from The Office of The New York City Comptroller ("Comptroller"), dated September 7, 2011.

This response is submitted under protest. As for the reasons, we cite that in addition to having turned out a report replete with substantive flaws and material omissions, the Comptroller refused to comply with a reasonable request that the auditors either conduct follow up on information gleaned from surveys or allow the Department to do so, and further refused our request to extend the time to respond to the draft report by a mere three business days.

In the boilerplate "scope and methodology statement," the Comptroller asserts:

"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 objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective."

The only way in which the Comptroller can possibly defend that statement is to focus on "our audit objective." Apparently, it was not his objective to provide the public with a thorough and valuable analysis and assessment of the Department's planning and allocation of funds for the Universal Prekindergarten Program ("UPK"). Nor, apparently, was it to identify and document any specific shortfall in the Department's extensive efforts, in collaboration with the Mayor's Office, the New York City Administration for Children's Services ("ACS"), the New York City Department of Health and Mental Hygiene ("DOHMH"), and the New York City Division of Youth and Community Development ("DYCD"), to enhance and coordinate the UPK program with other funded early childhood education programs to maximize enrollment and services to families – efforts that have increased by more than 20 percent the total citywide UPK enrollment from approximately 47,800 four year olds in School Year 2006-07 to approximately 58,000 four-year-olds in School Year 2010-11. And, it clearly was not to elucidate for the public the predominant

obstacles, codified in New York State's UPK legislation and regulations, to parent and vendor participation in the UPK program. The audit's focus is deliberately and stubbornly myopic, thereby rendering it of little, if any, worth.

Even if one accepts the legitimacy of such a narrow audit objective, the insubstantial "evidence" upon which the Report relies does not in any respect provide a reasonable basis for the facile findings and conclusions. It is difficult to accept the legitimacy of findings that, after a year's worth of auditing, rest primarily on two flawed surveys that were distributed by the auditors with no prior notice to Department officials. The shame of it is that had the Department's input been sought initially, the final product might have yielded a product of some value.

Although we had made the auditors aware of the strict minimum requirements for vendors wishing to participate in the UPK program, the Comptroller judgmentally selected 40 preschool providers not on the Department's vendor list, presumably "to evaluate DOE efforts to recruit additional eligible providers." However, there was no effort made, either in the selection of vendors to survey or through the questions posed in the survey itself, to ascertain whether the surveyed vendors could possibly meet the UPK requirements. Nor, in fact, was there an effort to determine whether any of those 40 vendors might, in fact, already have contracts through ACS to provide UPK services. Even with those glaring weaknesses, 100 percent of the survey responders indicated that they were aware that the Department provides funding to contractors under the UPK program. Because the survey lacked appropriate follow-up questions and the auditors apparently did not consider post-survey follow-up essential, there is no answer to the obvious question, to wit, why, if the respondents knew about UPK, they had not sought (or were not awarded) a UPK contract with the Department or with ACS. We are left to ask, albeit rhetorically, whether it is possible that the Comptroller is actually proffering this survey of 40 out of 1,752 DOHMH-licensed preschool providers in New York City, only 32 of which responded, as sufficient, appropriate evidence to support a finding that "the DOE's CBO recruitment efforts are inadequate."

A second survey of 448 community-based organizations ("CBO") currently providing UPK services under contract with the Department is the basis of the Report's proposition that the Department is not doing enough to target UPK allocations to CBOs that were offering the kind of full-day, no-cost or low-cost wraparound services highly demanded by parents in addition to the two and one-half hour UPK program. However, the survey question that supposedly supports this conclusion says nothing about "full-day" or "wraparound" or even "extended day." In drafting and drawing conclusions from their survey, the audit team was either unaware or chose to ignore that an intra-city agreement between the Department and ACS requires all early childhood education providers that provide full-day wraparound services through ACS-administered federal Head Start or Child Care funding to enter into UPK contracts directly with ACS, rather than with the Department. It is lamentable and disturbing that the auditors produced a report of the Department's efforts to expend UPK funds that is completely devoid of analysis of the UPK programs contracted through ACS. Again, we ask whether this survey of 448 existing UPK vendors holding contracts with the Department, only 117 of which responded, is sufficient, appropriate evidence to support the notion that the Department is not adequately targeting UPK funds to CBOs offering free wraparound services.

After a summary of the survey questions and results was finally shared with the Department as an attachment to the preliminary draft report, the Department made multiple requests that the Comptroller either conduct additional research to obtain information necessary to support the conclusions drawn from its surveys or, in the alternative, provide the Department with the names of the vendors surveyed to facilitate an assessment (i) whether any of the 40 non-contracted vendors surveyed - or even just the 18 of them that responded they would be interested in providing UPK services "[i]f [they] met the qualifying criteria" - would in fact have met the qualifications to provide UPK services; and, (ii) whether any of the contracted vendors who responded that they provided "additional services," in

some cases “free to the parents of the kids in [their] program,” were in fact already providing full-day wraparound services through ACS-administered Head Start and Child Care. Notwithstanding the legitimacy of the request, the Comptroller declined to do additional work and refused to provide the Department with sufficient information to perform its own analysis.

Particularly galling, given the meager evidence offered in support of the broad assertions of inadequate planning by the Department, is the Comptroller’s implicit slander of the Department’s formal, certified “*Notice of Fully Implemented UPK Program*” application and the State Education Department’s (SED) award of “fully implemented status” to the Department based on that agency’s review and acceptance of the certification. The Comptroller apparently has no problem asking the public to rely on unattributed responses to ambiguously-worded survey questions by un-researched vendors while rejecting as lacking in credibility a detailed and certified Department submission that was reviewed and accepted by SED officials. That is just cause for our outrage.

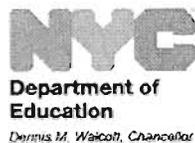
Inasmuch as the Department operates with city, state and federal funding, it is frequently subject to audits. Historically, we have been accepting of audit findings that are free of bias and rest on an understanding of the subject matter and sound audit methodology. We have welcomed constructive recommendations that flow from those findings. Regrettably, in the instant matter, the Comptroller has produced a report that reflects an audit that is myopic in scope, poorly-planned and poorly-executed. Whatever the Comptroller’s view of the Department, which he has shamelessly and publicly announced to be his “No. 1 target,” the public deserves far better from its Comptroller than is reflected in this Report.

Sincerely,



Marc Sternberg
Deputy Chancellor, Division of Portfolio Planning, New York City Department of Education

CC: Brian Fleischer
Marlene Malamy
Andrea Breland-Turner
Samilda Perez-Villanueva
Sophia Pappas
Dominique West
Jocelyn Alter



New York City Department of Education Response to the City of New York Office of the Comptroller's Draft Audit Report on the Department of Education's Planning and Allocation of Funds to Community-Based Organizations for the Universal Pre-Kindergarten Program (MH11-059A)

This response, with the attached cover letter, addresses the findings and recommendations of the City of New York Office of the Comptroller, (Comptroller) draft audit report (Report) titled "Audit Report on Job Order Contracting by the Department of Education."

Audit in Brief and Introduction

The Office of the Comptroller's Draft Audit Report on the Department of Education's Planning and Allocation of Funds to Community-Based Organizations ["CBOs"] for the Universal Pre-Kindergarten ["UPK"] Program (MH11-059) ("Report") presents misleading information and unsupported conclusions largely as a result of seriously flawed methodology, inadequate research and insufficient data.

Audit leadership changed throughout the course of the audit which started in August 2010. Based on high level Department managers' exchanges with the auditors, it appeared that as late as June 2011, there remained a lack of clarity within the audit team around how the UPK program functioned in its most basic sense. Further, the audit scope failed to include half of the CBO UPK programs in New York City and the auditors neglected to interview or conduct research on key stakeholders in the UPK program planning and allocation process, thereby depriving the public of an accurate and thorough Report.

In addition to these shortcomings, the Report contains multiple factual errors. Although the auditors did not share or discuss their findings at a preliminary findings conference, details of the Report's omissions and errors were provided to the auditors in writing following an extensive exit conference. The auditors neglected to revise the majority of the Report and their findings, despite the evidence of the methodological and factual faults. In short, the Report fails to provide the public with meaningful and accurate information on planning and allocation of UPK funds for CBOs in New York City.

Perhaps the Report's most glaring shortcoming is the omission of thorough background research and contact with key UPK/Early Childhood stakeholders. More specifically, those stakeholders are the New York State Education Department ("NYSED"), which is responsible for the allocation and monitoring of UPK funds/programs; the Department of Health and Mental Hygiene ("DOHMH"), which would have been the resource for information about the nature of the licensure of the survey respondents, and whether the 1,752¹ preschool daycare providers identified in the Report were actually eligible to provide UPK; and, the Administration for Children's Services ("ACS"), which administers half of CBO UPK providers in New York City, all of which provide free or low-cost wraparound services. Additionally, although the auditors had one general meeting with the Department's Division of Contracts and Purchasing, the auditors failed to obtain a sufficient understanding of the UPK procurement efforts and history. The auditors failed to contact these key stakeholders even after their omission was raised as a major weakness of the audit at the exit conference and contact information for key stakeholders was provided.²

¹ Referenced on page 8 of Report

² Page 5, scope and methodology

The audit was shaped with a limited focus only on UPK CBO providers that contract directly with the Department. The Report is misleadingly titled "Department of Education's Planning and Allocation of Funds to Community-Based Organizations for the Universal Pre-Kindergarten" when, in fact, half of these providers are excluded from the scope of the audit. By limiting the scope, the Report inappropriately places emphasis on the erroneous conclusion that the Department failed to make sufficient efforts to increase access to and target CBOs with free wraparound services. A more comprehensive audit scope would have served the public by raising awareness of the range of UPK offerings that are available to them, particularly with regard to those programs that provide free or low-cost UPK with wraparound services to low-income working families through ACS. Furthermore, because ACS providers cover the only major funding streams to provide wraparound services (Head Start and Child Care federal grants), there is little to no chance of identifying and targeting providers outside of ACS that provide *free* wraparound services.³

A fair Report - one designed to provide the public with a complete picture of UPK services - would have underscored that UPK CBO providers contracted through ACS made up 50 percent of the CBO UPK sites and served 45 percent of UPK students in CBO settings in New York City in the audit year. Further, it would have put the entire program into appropriate perspective by recognizing that in SY 2009-10, Department-contracted CBO providers served roughly 30 percent of the enrolled UPK students citywide, that another third of the students were enrolled in CBOs that provided UPK in an ACS setting, and that the remaining 40 percent of four year olds attended UPK programs in Department public schools.⁴

Significantly, the auditors have opted not to include that the Department has consistently allocated more UPK seats than the providers enroll, a strong indication that there is a sufficient number of UPK providers to meet existing enrollment demand citywide. In other words, the Department is consistently able to provide a UPK seat for any student that applies as provider participation and student enrollment numbers increase. Indeed, the Report should have stated outright that the Department's efforts to recruit providers and students have resulted in steady year-to-year increases in enrollment. In the audited school year, the Department served a total of 34,000 children - 18,500 at 448 sites through Department-direct contracts with CBOs and an additional 15,500 children at 444 sites through ACS UPK contracts. If the auditors had added in the students served in public school UPK programs, we would show an increase in enrollment over a five year period as follows: 47,800 in SY 2006-07; 53,400 in SY 2007-08; 54,300 in SY 2008/2009; and 57,300 in the audited school year 2009-10. Just this past school year, 58,000 four year olds were served in UPK programs - an increase in annual enrollment of roughly 10,200 children after just five years.

Spending and Allocating UPK Funds

In January 2011, the New York State Senate sent Senate Bill 1580 to the Education Committee seeking an amendment of NYS Education Law section 3602-e,⁵ and citing as its justification: "Approximately 220 school districts in the state have yet to implement UPK due primarily to restrictions in how the funding is used. Information reported to the State Education Department has indicated that uncertainty about funding; insufficient per-pupil allocations; parental desire for full-day programs; and the lack of transportation for pre-k program are all barriers to full enrollment. The City of New York was unable to use over \$25 million in UPK funding in the 2008-2009 school year, *due to these restrictions* [emphasis added]. This legislation would allow school districts to more fully utilize their UPK grant and remove disincentives for districts to serve additional students when economically possible." (<http://m.nysenate.gov/legislation/bill/S1580-2011>). Yet, despite the recognized restrictions, New York City's UPK program was awarded Fully Implemented Status by NYSED - no small achievement given the obstacles outlined in the proposed legislation.

³ Excluding the 30 Direct Federal Head Start grantees in NYC, 12 of which already contract with the Department directly

⁴ Page 1, paragraph 3; page 5, objective.

⁵ The bill did not clear the Education Committee.

The Report fails to credit the Department's efforts to recruit students for its UPK program during the audit period - efforts that have contributed to the NYSED's designation of Fully Implemented Status. These efforts include, but are not limited to:

- Use of census data regarding four-year-olds and/or kindergarten enrollment trends;
- Advertising on television and radio and in local newspapers;
- Use of enrollment information sessions for parents;
- Use of the City's 311 and Department's enrollment hotlines to provide information on available seats;
- Disseminating enrollment opportunity information to ECE Steering Committee;
- Hanging posters and making multi-lingual flyers available in places frequented by parents of young children;
- Working with community based organizations and social support networks;
- Advertising on the district website;
- Emailing parents on UPK mailing list;
- Specific outreach to speakers of languages other than English;
- Sharing UPK eligibility information with the Committee on Preschool Special Education; and
- Other publications, websites and events: Fight Crime, Parent to Parent of NYS, NY Metro, Parents Magazine, Parent News, Parent, Parents Connect, NYC Parents in Action, Ultimate Block Party, City Map.
- Additionally, the Department is expanding UPK enrollment and recruitment efforts in the 2011-12 SY:
 - 150,000 flyers about UPK enrollment were sent to 187 summer meal programs, 207 libraries and distributed at OECE field offices, community fairs, health clinics, temporary housing shelters, etc throughout NYC.
 - Lists of surrounding CBO UPK programs were sent to every public school with UPK programs to share with families that did not receive a seat in the school's UPK classes.

The auditors insinuate that the Department does not have sufficient evidence of the above efforts, claiming that the Fully Implemented designation is "self-certified" and unverified by NYSED.⁶ However, the Department provided evidence of the strategies outlined in the Fully Implemented Status application to the auditors *without a formal request from the auditors*. That we met the standards for full implementation is evidenced by the fact that the Department's allocation of seats exceeds the number of students who actually enroll; a strong indication that there is a sufficient number of seats to meet existing citywide enrollment demand. Fully Implemented Status is determined at the district level and the District must apply each year through NYSED, which has the authority to approve or deny these applications. The District has received approval for Fully Implemented Status in each year that it has applied.

The Report claims that the Department does not have sufficient data to understand why parents chose a particular UPK site.⁷ However, the Department has already begun collecting the data. In SY 2010-11, the Department conducted a targeted survey to gather information about families' early childcare and education choices. In SY 2011-12, the Department plans to collect population level data from entering Kindergarten families regarding their choices.

Lastly, the Report cites that most UPK programs are only one-half day (as opposed to full-day) as the reason parents do not enroll in a CBO that contracts directly with the Department. We recognize that this is a particularly burdensome restriction for families that do not meet the low income qualifications for the wraparound services that are offered without cost through UPK programs at ACS sites (through Head Start and Child Care funding). However, this restriction is not the sole reason parents may opt not to enroll their children in a UPK program. For instance, transportation is not included within the UPK funding structure. A recent report from Chicago on the subject pointed to transportation and scheduling (half day vs. full day) issues as major obstacles for parents enrolling their children in preschool (<http://www.cofionline.org/files/earlylearningreport.pdf>). Additionally, parents may consider a public

⁶ Page 7, paragraph 5

⁷ Page 7, paragraph 4

school UPK program a more attractive option than a CBO program in that it may give the child an opportunity to adjust to the environment in which (s)he may attend kindergarten in the following school year. Public schools may also be a better choice for parents whose older children attend school in the same building.

CBO Recruitment Efforts

The Report claims that “DOE’s CBO Recruitment Efforts are Inadequate.”⁸ The Report lacks evidence to support this claim and furthermore, responses to the audit survey directly contradict it. The auditors report that 100 percent of survey respondents were aware that the Department provides funding for UPK. Sixty percent of those responding to this question said they would be interested in providing UPK services if qualified. The Report includes this 60 percent response rate as evidence of the Department’s inadequate recruitment efforts. The auditors are remiss in including the survey response as evidence without any critical investigation as to why the providers who self-reported that they knew about the availability of UPK funds did not propose and whether those that reported interest in becoming UPK programs would have met the program criteria. Nor, in fact, was there an effort to determine whether any of those 40 vendors might, in fact, already have contracts through ACS to provide UPK services.⁹ At the exit conference, the Department urged the auditors to review the results of both surveys, conduct follow-up and address the obvious gaps. The Report, however, demonstrates that no further effort was made to make sense of the responses.

The auditors claim that “some of the responders seemed to be mistaken about the minimum requirements [for UPK]” even though questions about minimum requirements and qualifications are not included in the survey and the source of this information is not identified.¹⁰ Furthermore, this is presented as evidence of the Department’s inadequate recruitment efforts, without further exploration or consideration why providers are unclear on the requirements - an additional example of the auditors’ inadequate methodology.

Although the auditors suggest that the Department should target providers on DOHMH’s list of licensed preschool providers, the Report omits that the 1,752 DOHMH-licensed preschool daycare providers identified in the Report¹¹ are sites that serve some combination of students ages 2-6, and may not serve four-year-olds at all, thereby making them ineligible to serve UPK. Had the auditors explored further, they would have discovered that 188 of the licensed providers were first licensed in 2009, 2010 or 2011, making them ineligible to provide UPK in the audit year inasmuch as providers must have at least 12 months experience before they may submit a proposal to provide UPK. They would have discovered, further, that more than half (892) of the remaining 1,564 licensed sites already provided UPK services through ACS and Department contracts in the audit year.¹² Finally, the Department has emailed all preschool providers on DOHMH’s list to notify them how to register for the Department’s UPK bidder’s list.¹³

The Report falls short in its investigation and discussion of the aspects of the UPK program that may pose a barrier to or discourage providers from signing on – which include the very conditions that had been noted by the NYS legislators as impediments to program implementation. A thorough exposition, based on research, the Department’s RFP and contract analysis, pertinent feedback from surveyed CBOs, and discussions with the funding source and other early childhood program stakeholders, could have yielded a far more thorough Report including, but not limited to:

- UPK is not daycare. UPK is an educational program that is intended to provide curriculum and activities appropriate to eligible four-year-olds that promote cognitive, linguistic, physical, cultural, emotional and

⁸ Page 7 subheading

⁹ Page 8, paragraph 2

¹⁰ Page 8, paragraph 2

¹¹ Page 8, paragraph 1

¹² Page 6, paragraph 2; Page 8, paragraph 1

¹³ Page 9, paragraph 2

social development. To achieve these important objectives, the Department has developed appropriately rigorous programmatic criteria that not all CBOs can meet. (See <http://schools.nyc.gov/NR/rdonlyres/F21E224B-0A28-4136-B7AD-DD0CDDF89614/12489/UPKProgramExpectations3.pdf>).

- UPK program teachers are required to be certified in Early Childhood Education (B-2 or N-6), or Bilingual Early Childhood Education (B-2 or N-6), or Special Education Early Childhood (B-2) *or* to be on a study plan to obtain this certification by January 2013.
- Class size cannot exceed 20. For any class that has 19 or 20 students the CBO must provide additional support staff.
- CBOs are required to have sufficient space to conform to the prescribed square footage of classroom space/child and to provide adequate playground space. UPK funding does not allow for capital expenditures that might assist CBOs in meeting the space requirements.
- As long as there is capacity, the CBO must accept any child who is UPK-eligible by age and residency for 2^{1/2} hours at no cost notwithstanding that the CBO's early childhood program may be longer than 2^{1/2} hours and that the extra time normally would come at a cost to parents. That is the law. Understandably, this condition contributes to private early childhood program providers' reluctance to enter into a UPK relationship with the Department, particularly in neighborhoods where the cost of the providers' program does not discourage parents and all available seats can be filled by families who are willing to pay privately.¹⁴
- Many early childhood programs are offered in affiliation with religious organizations. Religious iconography and religious instruction are not permitted in UPK classrooms during UPK hours.
- The CBOs' UPK budgets must be approved by the Department of Education.
- CBOs are required to disclose expenditures twice a year, permit on-site monitoring, and open their financial books and records for audits.

The Report also excludes some of the Department's primary CBO recruitment strategies that were shared with the auditors. The Department disseminates availability of the UPK RFP to the Early Childhood Steering Committee, which is facilitated by the Mayor's Office and includes representatives from Department, ACS, DOHMH, and the Department of Youth and Community Development ("DYCD"), as well as to the Department's UPK bidder's list of 638 providers, many of which have multiple sites. The Department also began targeting outreach to all providers in the city who are accredited by the National Association for the Education of Young Children (NAEYC) but not currently providing UPK, including email outreach and a special information session for these providers in SY 2010-11. It is significant in any analysis of the Department's efforts to attract providers that this past year the 638 agencies on the Department's UPK bidders list received notice of the Request for Proposal for UPK. Of that number only 178 submitted proposals. And, of the 422 half-day contracted CBOs that were solicited for full day services once City Council funds became available, only 124 proposed. One could conclude from such a relatively small response that our outreach is beyond the market that is interested and/or qualified. Recognizing that this might be the case, we explicitly target districts with demonstrated need in our RFP process.

Targeting CBOs with Full Day Wraparound Services

Throughout the period of the audit, the NYC Office of the Mayor facilitated the Early Childhood Steering Committee to increase inter-agency collaboration and efficiency and includes representatives from DOE, ACS, DOHMH, and DYCD. Through inter-agency collaboration in SY 2007-2008, the Department and ACS created a Memorandum of Understanding ("MOU") to leverage provision of full day service through ACS. Through the MOU, ACS has been able to provide UPK services to all four-year-olds receiving Child Care and Head Start services at ACS sites, resulting in a full day educational experience for these children.

¹⁴ The state funds UPK only for a ½ day program and sets the ceiling on the per child tuition allocation.

Through the MOU, all ACS UPK sites offer wraparound services through federally funded Head Start and/or Child Care programs - the only major funding streams that provide wraparound services.¹⁵ In SY 2009-10, at least 50 percent of UPK sites were providing full day services at little or no cost to parents through ACS, thereby leveraging multiple funding sources to provide a full day of educational services. Because all ACS providers serving four year olds already provide UPK, the District cannot, as the auditors suggest, target additional providers that have Head Start and Child Care services; because such providers are already included in NYC's UPK providers (although they were excluded from the scope of the audit).¹⁶

The only other avenue available for providing full day programs is through city tax levy funds since the NYSED restricts the use of UPK funds to half-day programming. As budget considerations have allowed, the City Council and Department have allocated supplemental tax levy funds for CBO and public school full day programming, thus enabling the majority of students in public school UPK programs to receive full day services, a point also omitted from the Report.¹⁷

Lastly, the auditors' question of whether a provider has additional services could have been interpreted broadly and does not necessarily indicate that a provider has full day services. The 25 percent of respondents to the survey who stated they provide additional services free of charge may not have been clear on what kind of services to which the auditors referred.¹⁸

Creation of Waitlists

The Report omits that CBOs and public schools with waitlists are currently encouraged to redirect families to Department staff or the enrollment hotline for information on available UPK seats. As the CBO UPK enrollment process is managed at the site-level, developing a central tracking process is likely to yield obsolete data and would be useless to parents and families. The Department will continue to recommend that providers redirect waitlisted families to 311, the Department's enrollment hotline, and the Department's OECE Field Offices to find alternative UPK vacancies as is currently in practice.¹⁹

Recommendations

Response to Recommendations 1 – 6: We not only agree with the recommendations, but state for the record that the recommendations, which are referred to as pipeline strategy in the Report, were already part of the Department's existing strategic plan. In fact, the information that is the basis of the recommendations was shared with the auditors during the course of the audit.

Response to Recommendation 7: The Comptroller recommends that the Department require that CBOs maintain and submit waitlists. It is our position that the Department will continue to encourage CBOs to redirect families to the multiple resources that already exist to inform them of where vacancies exist, but that it would be less helpful to families for the waitlist information to be collected centrally.

¹⁵ We are excluding the 30 Direct Federal Head Start grantees in NYC, 12 of which already contract with the Department directly.

¹⁶ Page 9, paragraph 5

¹⁷ Page 3, footnote 1 and footnote 2

¹⁸ Page 9, paragraph 3

¹⁹ Page 2, recommendations; page 10, paragraphs 2 and 3; page 11, recommendations

Response to Recommendations 8 – 10: The Department will continue its current practices in the areas of using data from CBOs as one of many factors to determine funding planning and allocation, using data to target providers of wraparound services and lobbying the legislature for full day programming.

Errors in the Audit Report

As a final matter, we are raising concerns with various statements in the Report for the Comptroller's consideration in drafting the final report.

- Eligibility for UPK is dependent on both date of birth and residency in New York City, not age alone.²⁰
- The Report leads with a total of \$133 million that reverted to the state “during Fiscal Years 2007 to 2010.”²¹ We question the motivation of aggregating numbers that accrued over the four year period from FY 2006-07 to 2009-10 when only FY 2009-10 was the focus of the audit.
- The conclusion that the Department's return of funds to the state means that children who could have received prekindergarten services is unsupported.²² A CBO, for instance, may have capacity to serve more four-year olds than the actual number of four-year-olds in its community. Furthermore, Fully Implemented Status granted by NYSED and the fact that the Department has consistently allocated more UPK seats than the providers can fill, support that there are in fact enough UPK providers to meet the existing enrollment demand citywide.
- The Report states that “DOE does not conduct any trend analyses to determine which CBOs have a proven track record and have the ability to fill UPK seats.”²³ This statement is false. In fact, OECE Operations Managers use enrollment history as one of many factors to determine a site's capacity numbers for the school year.
- The auditors claim that the Department “has not...adequately evaluated demand for UPK services or provided additional UPK services to districts with greater demand.”²⁴ This statement is false. Each year, the Department uses utilization rates (which measures enrollment versus capacity) and designates high-needs districts to target its efforts. Enrollment rates as an indicator of demand is one of many factors that inform decisions.

²⁰ Page 1, paragraph 1; page 3, paragraph 2

²¹ Page 2, paragraph 1

²² Page 2, paragraph 1

²³ Page 2, paragraph 2

²⁴ Page 6, paragraph 2