ABC NUTRITION PROGRAM, INC.

Investigative Report
March 18, 2015

Justin P. Wilson, Comptroller

STATE OF TENNESSEE
COMPTROLLER OF THE TREASURY
FINANCIAL AND COMPLIANCE INVESTIGATIONS

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March 18, 2015

Commissioner Raquel Hatter, MSW, Ed.D.
Department of Human Services
400 Deaderick Street, 15th Floor
Nashville, TN 37243-1403

Dear Dr. Hatter,

We performed an investigation of selected records of ABC Nutrition Program, Inc. (ABC) for the period October 1, 2008, through September 30, 2014. ABC is a non-profit organization located in Camden, Tennessee. ABC's offices are located in the basement of the Chief Executive Officer's (CEO) home. As of September 30, 2014, ABC administered federal grant funds received from the Tennessee Department of Human Services (DHS) for the Child and Adult Care Food Program on behalf of 216 daycare homes and 120 daycare centers in Tennessee. ABC had approximately ten full-time employees during the period we examined. Monthly claims for reimbursement for eligible expenses are filed by ABC with DHS on behalf of these daycares. ABC receives a percentage of these grant funds for administering the program. These administrative funds are ABC's sole source of revenue. ABC had unauthorized administrative disbursements of $732,702.91 for the period we examined. Our investigation revealed the following deficiencies:

- Employees of ABC received unauthorized pay totaling $605,978.69. Management, consisting of a mother and her two daughters, received $419,269.29 of this amount as bonuses, and $170,776.18 through their regular salaries. The remaining $15,933.22 was paid as bonuses to other ABC employees.

- The CEO had unauthorized construction and improvement disbursements on her home totaling $27,185.56.

- ABC management made additional unauthorized administrative disbursements totaling $99,538.66.

- ABC had questionable disbursements and purchasing deficiencies.

- ABC program monitors were contracted by ABC instead of being hired as ABC employees.

The findings, recommendations, and management responses are presented in this report. Also, these findings and recommendations have been reviewed with the district attorney general for the Twenty-fourth Judicial District. On February 19, 2015, the Benton County grand jury indicted Vivian Parker, Chief Executive Officer; Lisa Carter, Director of Daycare Centers; and Tracy Coady, Director of Daycare Homes, on two counts of felony theft. Each was charged with one count of theft of property over $250,000, and one count of theft of property over $60,000.

BACKGROUND

The Child and Adult Care Food Program (CACFP) is a federally-funded program that provides payments for eligible meals served to participants who meet age and income requirements. Meals served by participating institutions and facilities must meet minimum guidelines set by the U.S. Department of Agriculture (USDA). The CACFP helps institutions and facilities serve well-balanced, nutritious meals to the participants in their care. Institutions earn federal reimbursement for meals served to eligible children, and eligible adults in an adult daycare center. In addition, institutions which are sponsoring organizations of daycare homes or centers are provided federal funds to accomplish administrative activities in support of the facilities which provide meals to children.

DHS is responsible for providing the structure and oversight of ABC's operation and use of and accountability for federal funds. ABC's management plans and budgets are tools used by DHS to manage the financial systems of the CACFP. These management plans and budgets should meet minimum guidelines set by the USDA's *Guidance for Management Plans and Budgets, A Child and Adult Care Food Program Handbook*. In addition, Title 7 *Code of Federal Regulations* (CFR) Part 226 Section 6(f)(1)(iv), requires ABC to submit an administrative budget with sufficiently detailed information concerning CACFP administrative earnings and expenses, as well as other non-program funds. DHS is required to use these budgets to determine the allowability, necessity, and reasonableness of all budgeted disbursements to determine ABC's ability to manage CACFP funds. At September 30, 2014, ABC administered the CACFP for 216 daycare homes and 120 daycare centers in Tennessee. ABC is considered a sponsoring organization because it is only responsible for administering CACFP funds on behalf of daycares. Monthly claims for reimbursement for eligible expenses are filed by ABC with DHS on behalf of the daycares. In Tennessee, all CACFP funds pass-through DHS. ABC receives funds for administrative expenses based on a set rate of total claims reimbursed. There are different administrative rates for daycare homes and daycare centers. Two separate budgets for administrative revenues and expenses are prepared annually for both daycare homes and daycare centers. These budgets are prepared on the federal fiscal year, October 1st through September 30th, as required by the USDA. ABC is audited yearly by an independent Certified Public Accounting firm as required by federal single audit requirements.

INVESTIGATIVE FINDINGS AND RECOMMENDATIONS

FINDING 1 **UNAUTHORIZED ADMINISTRATIVE DISBURSEMENTS TOTALED $732,702.91**

We noted the following unauthorized administrative disbursements in sections A though D as follows:

A. ABC MANAGEMENT PAID THEMSELVES AND THEIR EMPLOYEES UNAUTHORIZED BONUSES TOTALING $435,202.51

Management and employees at ABC received unauthorized bonuses in the amount of $435,202.51. Of these bonuses, $419,269.29 was paid to management employees consisting of Vivian Parker, Chief Executive Officer (CEO); Lisa Carter, Director of Daycare Centers; and Tracy Coady, Director of Daycare Homes. The CEO is the mother of both directors.

Following is a summary of bonus payments by federal fiscal year:

Bonuses by Federal Fiscal Year (Gross)*

Employee	2009	2010	2011	2012	2013	2014	Totals
Vivian Parker	$ 24,905.27	$ 42,427.87	$ 34,911.36	$ 28,334.00	$ 7,153.11	$ 4,517.16	$ 142,248.77
Lisa Carter	16,242.55	32,485.12	32,476.89	28,334.00	24,454.54	4,517.16	138,510.26
Tracy Coady	16,242.55	32,485.12	32,476.89	28,334.00	24,454.54	4,517.16	138,510.26
Other Employees	1,624.26	2,707.08	2,382.23	3,179.65	3,603.61	2,436.39	15,933.22
Total Gross	$ 59,014.63	$ 110,105.19	$ 102,247.37	$ 88,181.65	$ 59,665.80	$ 15,987.87	$ 435,202.51

* Source - ABC Nutrition Program, Inc. payroll and bank records

Following is a summary of total compensation, including bonuses, by federal fiscal year:

Total Compensation, Including Bonuses (Gross)*

Employee	2009	2010	2011	2012	2013	2014	Totals
Vivian Parker	$ 127,345.27	$ 151,027.87	$ 143,631.36	$ 138,574.00	$ 119,473.11	$ 100,037.16	$ 780,088.77
Lisa Carter	71,963.73	100,613.49	103,509.58	98,301.29	95,004.09	83,935.38	553,327.56
Tracy Coady	66,979.23	86,475.69	91,372.31	88,807.99	87,093.88	72,339.04	493,068.14
Other Employees	69,742.57	103,675.31	109,662.60	128,637.95	148,884.94	112,354.28	672,957.65
Total Gross	$ 336,030.80	$ 441,792.36	$ 448,175.85	$ 454,321.23	$ 450,456.02	$ 368,665.86	$ 2,499,442.12

* Source - ABC Nutrition Program, Inc. payroll and bank records

Following is a summary of bonuses as a percentage of total compensation by federal fiscal year:

Bonuses as a Percentage of Total Compensation (Gross)*

Employee	2009	2010	2011	2012	2013	2014	Average Totals
Vivian Parker	20%	28%	24%	20%	6%	5%	17%
Lisa Carter	23%	32%	31%	29%	26%	5%	24%
Tracy Coady	24%	38%	36%	32%	28%	6%	27%
Other Employees	2%	3%	2%	2%	2%	2%	2%

* Investigator calculated

We noted the following deficiencies related to bonuses at ABC. These deficiencies resulted from a lack of DHS oversight; no independent, operational board of directors; inadequate segregation of duties; and ABC management's decision to disburse funds without DHS approval.

1. Bonus payments were not authorized by DHS. According to both the USDA's *Guidance for Management Plans and Budgets, A Child and Adult Care Food Program Handbook*, Part 2(A)(5) and Title 7 *Code of Federal Regulations* (CFR) Part 226 Section 6(f)(1)(iv), disbursements are unallowable if they are not approved in the CACFP budget or a budget amendment by DHS. Bonus amounts were not approved in administrative budgets, and there is no documentation to support DHS approval of bonus payments.

2. ABC did not have an independent board of directors that met routinely and exercised adequate oversight of the program. The most recent ABC board of director's meeting was held September 14, 2009. At that time, the board of directors was made up entirely of ABC management and employees. Bonuses were approved during this meeting; however, approved bonus amounts were not documented in the minutes. A conflict of interest may have resulted due to board members voting on their own compensation. An independent board of directors was established in 2011 at the direction of DHS; however, no documentation was found to support this independent board ever had an official meeting. According to ABC's management, this independent board served October 1, 2011, through September 30, 2014. We interviewed certain independent board members. We were advised by these board members that they couldn't remember meeting as a board, or didn't meet regularly. No other board minutes, board approval of bonuses, or any other board documentation was found for the period after September 14, 2009. According to the USDA's *Guidance for Management Plans and Budgets, A Child and Adult Care Food Program Handbook*, Part 1(B), boards must: consist of a majority of members whose livelihood is independent from and who hold no fiscal interest in the institution's activities; consist of members who are not related to each other or its personnel; recuse themselves from votes on decisions relating to their own compensation and that of immediate family members and financially related parties. *Code of Federal Regulations*, Title 7, Part 226.2, requires boards meet regularly and have the authority to hire and fire the institution's Executive Director.

3. Duties were not segregated adequately among management and employees. The CEO is the mother of both directors. These members of management were

responsible for maintaining accounting records, preparing budgets, and involved in receipting, depositing, and/or disbursing funds. This family dynamic contributed to the management decisions and unauthorized disbursements made by ABC. Sound business practices and accounting standards provide internal controls be designed to provide reasonable assurance of the reliability of financial reporting and of the effectiveness and efficiency of operations.

4. The payment of bonuses to management was not in compliance with Section 501(c)(3) of the *Internal Revenue Code (IRC)*. ABC is a non-profit, tax-exempt organization governed by Section 501(c)(3) of the *IRC*. As a section 501(c)(3) organization, ABC must not be organized or operated for the benefit of private interests, such as the creator or the creator's family, shareholders of the organization, other designated individuals, or persons controlled directly or indirectly by such private interests. No part of the net earnings of a section 501(c)(3) organization may inure to the benefit of any private shareholder or individual. Management employees stated bonuses were paid with excess administrative funds; therefore, net earnings inured to the benefit of private interests.

B. ABC MANAGEMENT PAID THEMSELVES UNAUTHORIZED COMPENSATION TOTALING $170,776.18

ABC's management improperly compensated themselves $170,776.18. This compensation, less bonuses, exceeded amounts DHS approved in ABC's budgets. There were no budget revisions approved by DHS for compensation increases. Therefore, compensation to management greater than amounts approved in budgets was unauthorized. Both the USDA's *Guidance for Management Plans and Budgets, A Child and Adult Care Food Program Handbook*, Part 2(F) and Title 7 *Code of Federal Regulations* (CFR) Part 226 Section 6(f)(1)(iv), requires DHS approve budget revisions for any changes to salaries and/or benefits from the authorized Child and Adult Care Food Program (CACFP) budget. These unauthorized disbursements resulted from a lack of DHS oversight; no independent, operational board of directors; inadequate segregation of duties; and ABC management's decision to disburse funds without DHS approval. Following is a table summarizing the unauthorized compensation:

Management Gross Compensation (Less Bonuses) Budget Comparison
October 1, 2008, through September 30, 2014*

Employee		Totals
Vivian Parker		
Gross Pay, Less Bonuses	$	542,320.00
Total Budgeted		(516,646.00)
Over(Under) Budget	$	25,674.00
Lisa Carter		
Gross Pay, Less Bonuses	$	414,817.30
Total Budgeted		(313,170.00)
Over(Under) Budget	$	101,647.30
Tracy Coady		
Gross Pay, Less Bonuses	$	354,557.88
Total Budgeted		(311,103.00)
Over(Under) Budget	$	43,454.88
Total Unauthorized Pay	$	170,776.18

* Source - ABC Nutrition Program, Inc. payroll and bank records

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C. ABC'S CEO HAD UNAUTHORIZED CONSTRUCTION AND IMPROVEMENT DISBURSEMENTS ON HER HOME TOTALING $27,185.56

The offices for ABC are located in the basement of the CEO's home. The CEO claimed $27,185.56 on construction and improvements to her home, without DHS authorization. Management stated these disbursements were for the CEO's office addition, remodeling of ABC's offices, a new deck attaching the home to outside storage, and driveway expansion for employee parking. Although these disbursements benefited ABC's operations, the CEO benefited from the increased home value created by the disbursements. According to both the USDA's *Guidance for Management Plans and Budgets, A Child and Adult Care Food Program Handbook*, Part 2(A)(5) and Title 7 *Code of Federal Regulations* (CFR) Part 226 Section 6(f)(1)(iv), disbursements are unallowable if they are not approved by DHS in the CACFP budget or a budget amendment. We found no documentation from DHS to support these disbursements. These unauthorized disbursements resulted from a lack of DHS oversight; no independent, operational board of directors; inadequate segregation of duties; and ABC management's decision to disburse funds without DHS approval.

D. ABC'S MANAGEMENT PAID ADDITIONAL UNAUTHORIZED ADMINISTRATIVE DISBURSEMENTS TOTALING $99,538.66

Additional unauthorized disbursements totaling $99,538.66 were noted for federal fiscal year 2014. These disbursements consisted of utility payments, equipment rental, technology services and equipment, administrative benefits, staff training, insurance, contracted monitoring, and other miscellaneous disbursements that exceeded budgeted line-items approved by DHS. Both the USDA's *Guidance for*

Management Plans and Budgets, A Child and Adult Care Food Program Handbook, Part 2(F) and Title 7 *Code of Federal Regulations* (CFR) Part 226 Section 6(f)(1)(iv), requires budget revisions be approved by DHS for any budget line-item increases in dollar amount. No budget revisions were approved by DHS; therefore, line-item disbursements greater than amounts approved by DHS were unauthorized. These unauthorized disbursements resulted from a lack of oversight by DHS; no independent, operational board of directors; and ABC management's decision to disburse funds without DHS approval.

RECOMMENDATION

ABC administrative budgets should have sufficient supporting documentation for all budget items submitted. This supporting documentation should be requested and reviewed by DHS before budgets are approved to ensure only allowable costs are approved. ABC should not make any administrative disbursements other than amounts approved by DHS in budgets or budget amendments, as required by both the USDA's *Guidance for Management Plans and Budgets, A Child and Adult Care Food Program Handbook* and Title 7 *Code of Federal Regulations* (CFR) Part 226 Section 6(f)(1)(iv). DHS and ABC management should compare year-to-date disbursements to approved budgets to find unauthorized disbursements. ABC should be operated by an independent board of directors that meets regularly, approves budgets and policies, reviews operations and management decisions, and has the authority to hire and fire the CEO. Administrative duties should be segregated with employees not related to management. ABC should determine if unauthorized bonus payments from excess administrative funds affect their non-profit status. DHS should seek reimbursement from ABC of unauthorized disbursements totaling $732,702.91.

FINDING 2 **ABC HAD QUESTIONABLE DISBURSEMENTS AND DEFICIENCIES IN PURCHASING PROCEDURES**

ABC had questionable disbursements and deficiencies in purchasing procedures. For federal fiscal year 2014, we selected a sample of 253 disbursements totaling $131,400.53. Our examination revealed the following deficiencies, which are the result of inadequate segregation of duties; a lack of purchasing and travel policies; and a lack of ABC management oversight.

A. ABC paid $3,030.36 for waste removal services and $1,902.38 for cable and internet services; however, the CEO also used these services for personal use at her home. The ABC office is located in the basement of the CEO's home; therefore, the CEO should have determined which of these amounts were for her personal use versus ABC's business use, and divided the costs accordingly.

B. There was insufficient supporting documentation for 11 meals purchased on credit cards totaling $961.53.

C. Numerous fees for late charges and credit card penalties were paid totaling $338.76.

D. Questionable purchases for coffee, tea, and hotel movies totaled $69.42.

E. There were no written purchasing or travel policies, as required by Section 5 of the Tennessee Comptroller of the Treasury's manual for *Accounting and Financial Reporting for Not-For-Profit Recipients of Grant Funds in Tennessee*.

RECOMMENDATION

Payments for services shared by ABC and the CEO should be split accordingly. Detailed receipts should be maintained for all meal purchases. Bills should be paid on time and credit card penalties avoided to prevent unnecessary fees that waste tax payer funds. Purchasing and travel policies should be approved by an independent board of directors. ABC's management should review policies and Child and Adult Care Program requirements to be able to detect unallowable disbursements before payments are made.

FINDING 3 ABC PROGRAM MONITORS WERE CONTRACTED INSTEAD OF BEING ABC EMPLOYEES

ABC Program Monitors were contracted workers instead of ABC management hiring them as ABC employees. DHS allowed ABC to contract out program monitoring. As referenced in DHS' *CACFP Policies and Procedures Manual*, a sponsoring organization (ABC) cannot contract out program monitoring. ABC did not employ full-time staff to conduct monitoring duties, as required by DHS and federal regulations. ABC did not pay employer payroll taxes for the contracted program monitors. These savings contributed to ABC's excess administrative funds, which were used for unauthorized compensation, bonuses, and other disbursements. This deficiency was the result of DHS' lack of program oversight, and ABC management's failure to follow established federal and state guidelines.

RECOMMENDATION

ABC should ensure all program monitors are employees of the organization, per DHS and federal guidelines. DHS should ensure all program monitors are employees of organizations administering CACFP funds.

RESPONSE OF STATE OF TENNESSEE, DEPARTMENT OF HUMAN SERVICES (DHS) – COMMISSIONER RAQUEL HATTER, MSW, Ed.D

State audit notified DHS of the finding near the end of their investigation of this entity. The point of notification was after state audit turned the confidential report over to the district attorney. This did not allow DHS sufficient time to review the issue and develop a more detailed response. Additionally, state audit notified DHS that the investigation was preceding through the legal process and further communication with the entity should be

halted regarding the reviewed time period. DHS will follow up with the entity as appropriate at the conclusion of the legal proceedings. DHS stands ready to assist the district attorney and state audit as necessary throughout the process.

If you have any questions concerning the above, please contact this office.

Sincerely,

Justin P. Wilson
Comptroller of the Treasury

JPW/kbh