



CHERRY TREE FOOD PROGRAM, INC.

Investigative Report
March 23, 2016

Justin P. Wilson, Comptroller





STATE OF TENNESSEE

Justin P. Wilson

COMPTROLLER OF THE TREASURY

Comptroller

STATE CAPITOL

NASHVILLE, TENNESSEE 37243-0260

PHONE (615) 741-2501

March 23, 2016

Anita Harper
Cherry Tree Food Program, Inc.
808A Kraft Street
Clarksville, Tennessee 37040

Ms. Harper:

We performed an investigation of selected records of Cherry Tree Food Program, Inc. (Cherry Tree) for the period October 1, 2012, through June 30, 2015; however, we expanded the scope when necessary. Cherry Tree is a nonprofit organization located in Clarksville, Tennessee, and its offices are located in the home of the executive director. As of June 30, 2015, Cherry Tree administered federal grant funds received from the Tennessee Department of Human Services (DHS) for the Child and Adult Care Food Program on behalf of 267 daycare homes and 23 daycare centers in Tennessee. Our investigation revealed the following deficiencies:

- Cherry Tree had questionable disbursements totaling \$181,135.59.
- The former board president had a conflict of interest.
- Cherry Tree program monitors were contracted workers instead of employees.

The findings and recommendations, as a result of our investigation, are presented in this report. These findings and recommendations have been reviewed with the district attorney general for the Nineteenth Judicial District.

BACKGROUND

The Child and Adult Care Food Program (CACFP) is federally funded by the U.S. Department of Agriculture (USDA) and provides payments to participating institutions and facilities for eligible meals served to participants who meet age and income requirements. To receive reimbursements for administrative costs and for meals served, the participating institutions and facilities must meet minimum guidelines set forth by the USDA. The CACFP is designed to assist institutions and facilities in serving well-balanced nutritious meals to the participants in their care. Institutions providing the meals earn federal reimbursement for meals served to eligible children and eligible adults in adult

daycare centers. In addition, institutions that are sponsoring organizations of daycare homes or centers are responsible for oversight and administration of the daycare homes and centers and earn federal funds for their administrative activities in support of the these facilities.

DHS, as the pass-through entity of the CACFP, is responsible for providing the training to Cherry Tree staff and oversight of Cherry Tree's operations by ensuring Cherry Tree complies with state and federal requirements in administration of the program. Cherry Tree is required to develop and submit management plans and budgets, which are tools used by DHS to monitor and 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 7(g), requires Cherry Tree to submit an administrative budget with sufficiently detailed information concerning CACFP administrative earnings and expenses as well as other nonprogram funds. DHS is required to use these budgets to determine the allowability, necessity, and reasonableness of all budgeted expenditures to determine Cherry Tree's ability to manage CACFP funds.

Cherry Tree's primary source of revenue is CACFP funds. At July 1, 2015, Cherry Tree administered the CACFP for 267 daycare homes and 23 daycare centers in Tennessee. Cherry Tree had nine full-time employees during the period we examined. As a sponsoring organization, Cherry Tree does not provide meals; instead, it assists the daycare centers and homes by preparing and submitting monthly claims for reimbursement for eligible expenses to DHS on behalf of the facilities.

Cherry Tree receives its reimbursement funds for administrative expenses based on a set rate of total meal claims which are reimbursed to the daycare centers and homes. The USDA has established that a sponsoring organization, such as Cherry Tree, can receive different administrative rates depending on classification of the facility as daycare homes or as daycare centers. As a result, the USDA requires DHS to obtain two separate budgets for administrative revenues and expenses annually for both daycare homes and daycare centers. These budgets are prepared on the federal fiscal year, October 1 through September 30, as required by the USDA.

Cherry Tree is audited annually by an independent certified public accounting firm as provided by federal single audit requirements on a fiscal year from July 1 through June 30. For fiscal years ended June 30, 2013, and June 30, 2014, single audit reports contained qualified opinions due to: 1) Cherry Tree's management submitting invoices to DHS based on estimated meal claims rather than actual monthly meal costs, which resulted in Cherry Tree receiving excess administrative cost reimbursements and excess meal reimbursements; 2) Cherry Tree's ability to charge inappropriate amounts to the federal award; and 3) Cherry Tree billing DHS for administrative costs in excess of 15 percent administrative rate allowed by federal regulations. On June 30, 2014, Cherry Tree refunded DHS a total of \$349,531.23 for estimated claims received greater than actual reimbursable expenditures. On December 9, 2014, DHS approved a plan for Cherry Tree to make monthly payments of \$3,500 to refund an additional \$281,034.08 of estimated claims that

Cherry Tree should not have received. We were not able to determine the amount of these reimbursements that may relate to the questionable disbursements noted in our report.

According to Cherry Tree's bylaws, "the business and affairs of the corporation shall be managed by its Board of Directors, and the Board of Directors (board) will consist of at least three members."

On July 1, 2015, Cherry Tree's Board of Directors placed the executive director on administrative leave pending an internal investigation. On August 27, 2015, the board terminated the employment of the executive director.

INVESTIGATIVE FINDINGS AND RECOMMENDATIONS

FINDING 1 CHERRY TREE HAD QUESTIONABLE DISBURSEMENTS TOTALING \$181,135.59

We reviewed accounting records, bank statements, supporting documentation for disbursements, and approved program budgets for the period October 1, 2012, through June 30, 2015; however, we expanded the scope when necessary. 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 7(g)*, disbursements are unallowable if they are not approved by DHS in the annual CACFP budget or by a subsequent budget amendment. We noted questionable disbursements totaling \$181,135.59 that were not authorized by DHS in annual budgets. We found no evidence that disbursements are compared with administrative budgets by DHS or the Cherry Tree board and management. In addition, the accounting records maintained by Cherry Tree did not allow us to compare disbursements with DHS approved budgets as required by federal guidelines. These questionable disbursements are discussed below in sections A. through D. and resulted from a lack of DHS oversight, a lack of oversight by Cherry Tree's board, insufficient Cherry Tree policies and procedures, and Cherry Tree's decision to disburse funds without DHS approval:

- A. Cherry Tree paid \$56,692.31 for renovations and maintenance to the executive director's personal residence in addition to lease payments to the executive director and her family. The offices for Cherry Tree were located in a portion of the executive director's personal residence. Cherry Tree paid \$38,792.31 for a gazebo, a new water heater, the manufacture and installation of wrought iron handrails, the repair and replacement of windows and vinyl siding, the installation of tile floors, the installation of kitchen and bathroom sinks, ceiling fans, electrical work, and various other maintenance and repairs to the home. Although these disbursements may have benefited Cherry Tree's operations, the disbursements were not authorized by DHS, and the executive director personally benefited from the renovations and maintenance to her personal residence since it increased the value of the home. In addition, Cherry Tree made lease payments totaling \$17,900 to the executive director or her family to rent a portion of the home for office space. Upon the executive director spouse's death, rent for the same space was paid to a trust benefitting the executive director and her family.



Exhibit – Gazebo and wrought iron railing

The USDA’s *Guidance for Management Plans and Budgets, A Child and Adult Care Food Program Handbook*, Part 2(A)(4), requires specific prior written approval for “less-than-arms-length” transactions such as the lease between Cherry Tree and the executive director’s family. We found no disclosure of this relationship to DHS or any specific prior written approval.

Questionable Disbursements	Amount
Unauthorized renovations/maintenance	\$ 38,792.31
Unauthorized lease payments	17,900.00
Total	<u>\$ 56,692.31</u>

- B. During the period under examination, Cherry Tree disbursed \$47,426.70 directly to the executive director. Included in these disbursements was \$30,360 for the repayment of a loan for Cherry Tree from the executive director’s spouse. According to the executive director, these funds were loaned by her spouse to finance normal operations of Cherry Tree. We found no documentation to support this loan. We noted additional disbursements to the executive director totaling \$12,203.62, which included additional salary, fuel, more home upgrades, curtains, decorations, tires, miscellaneous items, and food and beverages from stores and restaurants; however, we could not determine the business use by Cherry Tree for these disbursements. Also, we noted \$4,863.08 disbursed to the executive director without any supporting documentation.

Questionable Disbursements	Amount
Unauthorized loan payments	\$ 30,360.00
Questionable reimbursements	12,203.62
Undocumented disbursements	<u>4,863.08</u>
Total	<u>\$ 47,426.70</u>

C. Cherry Tree made another \$67,116.58 in disbursements we considered unauthorized or questionable as follows:

1. Cherry Tree disbursed \$25,282.25 without any supporting documentation or any detailed documentation. Included in these disbursements, a total of \$17,909.99 was charged to credit cards, whose statements reflected purchases for hotel rooms, air travel, rental cars, furniture, and electronics.
2. During the period examined, Cherry Tree made disbursements totaling \$20,631.52 that should have been divided between Cherry Tree for business use and the executive director for personal use. These disbursements included \$736.75 for waste removal services, \$2,259 for cleaning services, \$6,771.25 for ground maintenance and lawn care, \$600 for pest control, \$4,668.90 for the installation and maintenance of a security system, \$2,588 for furniture, \$529.99 for a vacuum, \$495 for memberships at a discount retailer, \$390.74 for home decorations, \$388.93 for a tablet computer and case, \$116.21 for a GPS system, and \$1,086.75 for other miscellaneous items. Since Cherry Tree's offices are located in the executive director's home, the executive director should have segregated these amounts between personal use and business purposes.
3. Cherry Tree made fuel purchases totaling \$11,159.21. We could not determine if the fuel was used for business purposes or personal use. We noted certain employees were reimbursed for business travel at the approved state travel rate, which covers both fuel and personal vehicle use. However, we could not determine if these same employees were reimbursed again for fuel purchases noted above.
4. Cherry Tree made questionable food and beverage purchases totaling \$10,043.60 at both stores and restaurants. According to the executive director, these purchases were used for training classes taught by Cherry Tree staff and for business related travel; however, we could not determine if the purchases were for business purposes or personal use.

Part	Questionable Disbursements	Amount
1.	Undocumented disbursements	\$ 25,282.25
2.	Waste removal services	\$ 736.75
2.	Cleaning services	2,259.00
2.	Ground maintenance/lawn care	6,771.25
2.	Pest control	600.00
2.	Security system	4,668.90
2.	Furniture	2,588.00
2.	Vacuum	529.99
2.	Retail membership	495.00
2.	Home decorations	390.74
2.	Computer	388.93
2.	GPS system	116.21
2.	Miscellaneous	1,086.75
2.	Subtotal	\$ 20,631.52
3.	Fuel purchases	\$ 11,159.21
4.	Food and beverage purchases	10,043.60
	Total	\$ 67,116.58

D. Cherry Tree paid its employees \$9,300 in Christmas bonuses and \$3,200 in personal loans during the period of our examination; however, these payments were not approved by DHS. Bonuses and personal loans were not approved in the administrative budgets, and there is no documentation to support DHS approval of these payments. Two employees did not pay back the balance of the personal loans, resulting in an outstanding loan balance of \$600 (\$3,200 less \$2,600) at June 30, 2015.

The table below summarizes the above-noted questionable disbursements for the period under examination:

Part	Questionable Disbursements
A.	\$ 56,692.31
B.	47,426.70
C.	67,116.58
D.	9,300.00
D.	3,200.00
D.	<u>(2,600.00)</u>
Total	\$ <u>181,135.59</u>

RECOMMENDATION

Cherry Tree administrative budgets should have sufficient supporting documentation for all budget items. This supporting documentation should be requested and reviewed by DHS before budgets are approved to ensure only allowable costs are budgeted. Cherry Tree should not make any administrative disbursements other than those approved by DHS in the original budgets or through 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 7(g). DHS and Cherry Tree management should compare year-to-date disbursements with approved budgets to determine any unauthorized disbursements. Cherry Tree should approve travel, credit card, and purchasing policies that provide sufficient internal controls to detect unauthorized and unallowable disbursements. DHS should determine whether it should seek reimbursement from Cherry Tree for any of the questionable disbursements noted in this report. Cherry Tree should not make personal loans to its employees and should collect the remaining \$600 owed by two employees as noted in Part D. above.

FINDING 2 THE FORMER CHERRY TREE BOARD PRESIDENT HAD A CONFLICT OF INTEREST

A former Cherry Tree board member worked as a sales representative for a vendor that entered into lease agreements with Cherry Tree. The board member served for the period February 19, 2013, through June 29, 2015, as president and vice-president at varying times. During the board member's term, Cherry Tree paid the board member's employer \$19,315.53. According to the board member, he received a small commission for his business with Cherry Tree; however, he did not realize his employment relationship was a conflict of interest until August 2014. At that time, he disclosed the conflict of interest to DHS. According to the USDA's *Guidance for Management Plans and Budgets, A Child and Adult Care Food Program Handbook*, Part 1(B),

“An acceptable Board consists of a majority of the members whose livelihood is independent from and who holds no personal fiscal interest in the institution's activities and who are not related to each other or to its personnel. State agencies must determine if any member of the Board of Directors has fiscal ties to the sponsoring organization or the sponsoring organization's staff. Those members may not have acceptable detachment to make decisions for the CACFP institution based on solely what is best for the institution, whether or not the decision affects the Board member's fiscal position.”

RECOMMENDATION

Cherry Tree should ensure its board members do not have a conflict of interest.

FINDING 3

CHERRY TREE PROGRAM MONITORS WERE CONTRACTED WORKERS INSTEAD OF BEING EMPLOYEES

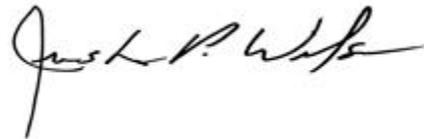
Certain Cherry Tree program monitors were contracted workers instead of being employees. DHS allowed Cherry Tree to contract out program monitoring until June 1, 2014. As referenced in the DHS *CACFP Policies and Procedures Manual*, a sponsoring organization (Cherry Tree) cannot contract out the program monitoring. Therefore, Cherry Tree did not employ full-time staff to conduct all monitoring duties as required by DHS and federal regulations. This deficiency was the result of a lack of program oversight by DHS, and Cherry Tree management's failure to follow established federal and state guidelines.

RECOMMENDATION

Cherry Tree should ensure all program monitors are employees of the organization as required by DHS and federal guidelines. DHS should ensure all program monitors are employees of organizations administering CACFP funds.

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

Sincerely,



Justin P. Wilson
Comptroller of the Treasury

JPW/kbh