

Department of Health and Human Services

**OFFICE OF
INSPECTOR GENERAL**

**SHARON BAPTIST HEAD START
CLAIMED UNALLOWABLE RENT AND
FAILED TO RETURN
EMBEZZLED FUNDS**

*Inquiries about this report may be addressed to the Office of Public Affairs at
Public.Affairs@oig.hhs.gov.*



**Amy J. Frontz
Deputy Inspector General
for Audit Services**

**July 2020
A-02-17-02003**

Office of Inspector General

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OFFICE OF AUDIT SERVICES FINDINGS AND OPINIONS

The designation of financial or management practices as questionable, a recommendation for the disallowance of costs incurred or claimed, and any other conclusions and recommendations in this report represent the findings and opinions of OAS. Authorized officials of the HHS operating divisions will make final determination on these matters.

Report in Brief

Date: July 2020

Report No. A-02-17-02003

U.S. DEPARTMENT OF HEALTH & HUMAN SERVICES
OFFICE OF INSPECTOR GENERAL



Why OIG Did This Audit

The Administration for Children and Families (ACF), within HHS, requested that we audit Sharon Baptist Head Start (Sharon Baptist) after ACF identified instances of noncompliance with Federal requirements in a January 2014 monitoring review.

Our objective was to determine whether Sharon Baptist complied with Federal requirements applicable to related-party rent and related-party receivable transactions.

How OIG Did This Audit

We obtained and reviewed relevant documentation supporting related-party leases and a related-party receivable (a court-ordered judgment for restitution against a former Sharon Baptist board chairperson who pleaded guilty to embezzling funds). For the related-party leases, we evaluated the less-than-arm's-length relationship and determined the amount of allowable rent expense. For the related-party receivable, we reviewed the activity and collection efforts.

Sharon Baptist Head Start Claimed Unallowable Rent and Failed To Return Embezzled Funds

What OIG Found

Sharon Baptist did not comply with Federal requirements applicable to related-party rent and related-party receivable transactions. Specifically, Sharon Baptist claimed rent expense to which it was not entitled under Federal regulations on one of its properties, totaling \$36,264 during our audit period, as well as an additional \$489,564 during the period February 1, 2003, through January 31, 2012. Additionally, Sharon Baptist has not returned to the Federal Government \$171,000 in embezzled funds.

What OIG Recommends and Sharon Baptist Comments

We recommend that Sharon Baptist (1) refund to the Federal Government the \$36,264 in unallowable rent expense charged to its direct Head Start grant during our audit period, (2) work with ACF to determine the portion of the \$489,564 in rent expense from prior periods that should be refunded and refund the appropriate amount, and (3) refund to the Federal Government the \$171,000 in embezzled funds.

In written comments on our draft report, Sharon Baptist concurred with our findings; however, it did not indicate concurrence or nonconcurrence with our recommendations. Sharon Baptist stated that it never attempted to conceal its relationship with related parties and believed that funds it received were unrestricted and could be used to supplement program operations.

After reviewing Sharon Baptist's comments, we revised our report to clarify Sharon Baptist's position on its attempts to recover embezzled funds. We maintain that our findings and recommendations, as revised, are valid.

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INTRODUCTION

WHY WE DID THIS AUDIT

Sharon Baptist Head Start (Sharon Baptist), a community-based not-for-profit organization, was awarded a Head Start grant to provide early child care, social services, education, health, nutrition, and related services to children and their families at three centers in The Bronx, New York. Because the Administration for Children and Families (ACF) identified instances of noncompliance with Federal requirements in a January 2014 monitoring review of Sharon Baptist, ACF requested that the Office of Inspector General conduct an audit of this grantee. Our audit focused on two specific areas: related-party transactions and restitution of embezzled funds.

OBJECTIVE

Our objective was to determine whether Sharon Baptist complied with Federal requirements applicable to related-party rent and related-party receivable transactions.

BACKGROUND

Head Start Program

Title VI of the Omnibus Budget Reconciliation Act of 1981, as amended, established Head Start as a Federal discretionary grant program. In 1994, the Head Start program was expanded to establish Early Head Start. Head Start and Early Head Start programs (hereafter collectively referred to as “Head Start” unless otherwise noted) support the comprehensive development of children from birth to age 5 to promote school readiness by enhancing children’s cognitive, physical, behavioral, and social-emotional development through the provision of educational, health, nutritional, social, and other services to enrolled children and families. Within the Department of Health and Human Services, ACF’s Office of Head Start (OHS) administers the Head Start program.

Sharon Baptist Head Start

Sharon Baptist is a community-based nonprofit organization that provides early child care, education, health, nutrition, social services, and other services throughout The Bronx, New York.¹ The organization received Head Start grant funds as both a direct grantee and as a subgrantee through the New York City Administration for Children’s Services (ACS).² Sharon Baptist operates its Head Start program at the following locations:

¹ Sharon Baptist is incorporated as a nonprofit organization under the name Sharon Baptist Board of Directors, Inc., and operates under the name Sharon Baptist Head Start.

² Specifically, Sharon Baptist directly received funds from OHS (direct grant award) and ACS, which subawarded Head Start funds to Sharon Baptist.

- Bathgate Avenue—Funded as both a direct grantee and subgrantee.
- East 165th Street—Funded as a subgrantee.
- East Burnside Avenue—Funded as a subgrantee.

For the two fiscal-year periods 2013 through 2014, Sharon Baptist received more than \$6 million in grant funding each year, including Federal Head Start grant funds.^{3, 4}

Administration for Children and Families Monitoring Review

In January 2014, an ACF monitoring review determined that Sharon Baptist was not in compliance with several Head Start program requirements. Among its findings, ACF determined that Sharon Baptist did not ensure that it claimed rental expenses specific to its Bathgate Avenue lease agreements in accordance with Federal requirements for less-than-arm's-length leases.

Sharon Baptist's Bathgate Avenue Lease Agreements

Beginning in 1997, Sharon Baptist entered into a 25-year lease agreement with a nonprofit organization known as S.B. Kids, Corp., for its Bathgate Avenue location. The annual rent was \$54,396, payable in monthly installments of \$4,533. Sharon Baptist allocated this space, and charged this rent, to its direct Head Start grant.⁵

In 1999, Sharon Baptist entered into a long-term lease agreement with S.B. Kids, Corp., to rent additional space at its Bathgate Avenue location.⁶ The annual rent was \$106,316, payable in monthly installments of \$8,602. Sharon Baptist allocated this space, and charged this rent, to its Head Start subgrant from ACS.⁷

Although the lease agreements specify S.B. Kids, Corp., as the owner of the Bathgate Avenue property, Sharon Baptist's financial records indicate that it made rent checks payable to "S.B. Kids, Inc."

³ Sharon Baptist's fiscal year runs from July 1 through June 30 of each year.

⁴ Sharon Baptist also operates programs funded under the U.S. Department of Agriculture and various State and city sources.

⁵ A termination clause in the lease stipulates that Sharon Baptist's obligation to pay rent is contingent upon continued ACF funding of its Head Start program.

⁶ The initial lease term was 10 years. According to the lease, S.B. Kids, Corp., has the option to negotiate the annual rent after 5 years.

⁷ A termination clause in the lease stipulates that Sharon Baptist's obligation to pay rent is contingent upon continued Head Start funding from ACS.

Judgment Against Former Sharon Baptist Board Chairperson

In July 2014, a New York State judge ordered a former Sharon Baptist board chairperson to pay restitution totaling \$171,000 to Sharon Baptist in relation to funds embezzled from the organization.⁸ A Federal judge determined that the embezzled funds were Federal Head Start funds. Sharon Baptist's insurer paid \$89,000 to Sharon Baptist in April 2014 for an insurance claim filed regarding this matter. As of February 2020, the remaining \$82,000 had not been recovered from the former board chairperson.

Applicable Federal Requirements

Federal regulations (45 CFR § 1301.10(a)) state that not-for-profit Head Start grantees are subject to the applicable uniform grant administrative requirements under 45 CFR part 74.⁹ The allowability of costs is to be determined in accordance with the Federal cost principles applicable to the entity incurring the costs (45 CFR § 74.27(a)). For not-for-profit organizations, the provisions of 2 CFR part 230, *Cost Principles for Non-Profit Organizations* (Office of Management and Budget Circular A-122), are applicable. These cost principles specify the criteria that costs must meet to be allowable.

A less-than-arm's-length lease is one under which one party to the lease agreement is able to control or substantially influence the actions of the other. Such leases include, but are not limited to, those between not-for-profit organizations that are under common control through common officers, directors, or members or a similar arrangement. Rental costs under less-than-arm's-length leases are allowable only up to the amount that would be allowed had title to the property been vested with the grantee. This amount would include expenses such as depreciation or use allowance, maintenance, taxes, and insurance (2 CFR pt. 230, Appendix B, §§ 43(b) and (c)).

Compensation for the use of buildings may be made through a use allowance or depreciation. However, a combination of the two methods may not be used in connection with a single class of fixed assets (e.g., buildings, office equipment, computer equipment, etc.). The computation of use allowances or depreciation is based on the acquisition cost of the assets involved excluding, among other things, any portion of the cost of buildings and equipment paid by or donated by the Federal Government irrespective of where title was originally vested or where it presently resides (2 CFR pt. 230, Appendix B, §§ 11(b) and (c)).

⁸ The former board chairperson pleaded guilty to petit larceny.

⁹ Head Start grants awarded before December 26, 2014, are governed by the Uniform Grant Administrative requirements codified at 45 CFR part 74. Those issued on or after that date are governed by the Uniform Administrative Requirements codified at 45 CFR part 75. Because our audit reviewed grants awarded before December 26, 2014, we used the requirements from part 74.

A grantee's financial management systems must provide effective control over and accountability for all funds, property, and other assets. Recipients shall adequately safeguard all such assets and assure they are used solely for authorized purposes (45 CFR § 74.21(b)(3)).

HOW WE CONDUCTED THIS AUDIT

Our audit covered Sharon Baptist's administration of Head Start funds allocated to its Bathgate Avenue location for two direct grant funding periods covering the period February 1, 2012, through January 31, 2014 (audit period).¹⁰ Specifically, we focused on Sharon Baptist's compliance with Federal requirements related to its related-party leases and a related-party receivable (judgment against a former board chairperson). We obtained and reviewed relevant documentation supporting these transactions. For the related-party leases, we evaluated the less-than-arm's-length relationship and determined the amount of allowable rent expense. For the related-party receivable, we reviewed the activity and collection efforts.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Appendix A contains the details of our audit scope and methodology.

FINDINGS

Sharon Baptist did not comply with Federal requirements applicable to related-party rent and related-party receivables. Specifically, Sharon Baptist claimed rent expense for its Bathgate Avenue location that was not allowable under Federal regulations, totaling \$36,264 during our audit period,¹¹ as well as an additional \$489,564 during the period February 1, 2003, through January 31, 2012.^{12, 13} Additionally, Sharon Baptist has not returned to the Federal Government the \$171,000 in embezzled funds.

¹⁰ Sharon Baptist's fiscal year runs from July 1 through June 30 of each year, while its Head Start budget period runs from February 1 through January 31 of each year. We chose our audit period to coincide with the Head Start budget period that encompassed ACF's monitoring review and the fiscal year in which Sharon Baptist recorded a related-party receivable from its former board chairperson related to the judgment.

¹¹ Sharon Baptist ceased making rent payment under the leases for the Bathgate Avenue location in October 2012.

¹² To be conservative, we used 2003 when calculating the unallowable rent because this was the earliest date for which we had accurate financial information.

¹³ Prior-period rent amounts were provided by OHS. We did not assess the reliability of these figures.

UNALLOWABLE RENT EXPENSE

Less-Than-Arm's-Length Related-Party Lease

Sharon Baptist signed leases to rent the Bathgate Avenue location from a nonprofit organization identified as S.B. Kids, Corp. Sharon Baptist officials identified to both ACF officials and us that S.B. Kids, Corp., was a related party but were unable to provide any documentation to substantiate that relationship. We determined that S.B. Kids, Corp., has not been registered with the New York State Department of State, which maintains information on corporate entities in New York. However, we determined that an entity named S.B. Kids, Inc., twice filed in New York as a domestic business corporation¹⁴ since 2000 and was twice dissolved by the Department of State.¹⁵ In both cases, S.B. Kids, Inc., listed Sharon Baptist officials, including Sharon Baptist's former board chairperson,¹⁶ as officers and the Bathgate Avenue location in its filings with New York State. Although Sharon Baptist made rent checks payable to S.B. Kids, Inc., the checks were deposited into a bank account identified by Sharon Baptist officials as "the S.B. Kids account." However, the name on the bank account was "Sharon Baptist Board of Directors, Inc.," Sharon Baptist's corporate name (see footnote 1).

Bathgate Avenue Property Ownership

Grantees are generally entitled to claim expenses such as depreciation or use allowance, maintenance, taxes, and insurance¹⁷ under a less-than-arm's-length lease.¹⁸ We determined that Sharon Baptist owned the Bathgate Avenue location¹⁹ for which it claimed rent expense. As property owner, Sharon Baptist was entitled to claim Bathgate Avenue property costs to the extent of depreciation or use allowance charges, excluding any costs paid with Federal funds, but was not entitled to claim rent expense.

¹⁴ New York business corporations must pay franchise and other taxes.

¹⁵ If a New York corporation does not file franchise tax returns or pay franchise taxes for two or more years, the New York Secretary of State may dissolve the corporation by proclamation. With dissolution by proclamation, the legal entity of the corporation ceases to exist.

¹⁶ Sharon Baptist's former board chairperson was listed as S.B. Kids, Inc.'s, chief executive officer in S.B. Kids, Inc.'s, 2000 filing with New York State and as registered agent in its 2006 filing.

¹⁷ Sharon Baptist claimed maintenance and insurance costs separately from rent costs. We did not audit these costs. As a nonprofit organization, Sharon Baptist is exempt from taxes.

¹⁸ According to Federal requirements, rental costs under less-than-arm's-length leases are allowable only up to the amount that would be allowed if title to the property vested with the grantee, as computed by depreciation or a use allowance.

¹⁹ We obtained a copy of the deed to the Bathgate Avenue location that indicated that Sharon Baptist purchased the property at public auction from the City of New York in 1995 for \$179,000. A 2017 property assessment from the City of New York indicated that Sharon Baptist still owned the property.

However, we determined that Sharon Baptist was not entitled to any depreciation or use allowance because the only identified acquisition costs of the property were construction costs previously paid by the Federal Government. Specifically, we identified for the Bathgate Avenue property \$2,335,181 in construction costs that were charged to Federal awards and previously reported in Sharon Baptist's financial statements. Accordingly, the cost basis for the computation of the depreciation or use allowance on the property would be zero. Therefore, we determined that Sharon Baptist claimed unallowable rent expense on its Bathgate Avenue location through less-than-arm's-length lease agreements totaling \$36,264 during our audit period, as well as an additional \$489,564 during the period February 1, 2003, through January 31, 2012.

Sharon Baptist officials stated that they strongly believed that there was nothing wrong with executing lease agreements with S.B. Kids, Corp., when Sharon Baptist was the actual owner of the Bathgate Avenue property. The officials denied any wrongdoing.

UNRECOVERED EMBEZZLED FUNDS

A grantee's financial management systems must provide effective control over and accountability for all funds, property, and other assets. Recipients shall adequately safeguard all such assets and assure they are used solely for authorized purposes (45 CFR § 74.21(b)(3)).

A New York State judge ordered a former Sharon Baptist board chairperson to pay restitution totaling \$171,000 to Sharon Baptist in relation to funds embezzled from the organization. A Federal judge later determined the \$171,000 judgment to be Federal Head Start funds. Of this amount, Sharon Baptist's insurer paid \$89,000 to Sharon Baptist, which deposited the funds into its "S.B. Kids" bank account. Although Sharon Baptist informed ACF of this payment, it has not returned the funds to the Federal Government. Sharon Baptist officials stated that they used the funds to cover operating expenses. Further, Sharon Baptist has made some effort but has not recovered and refunded the remaining \$82,000, which officials stated they knew had to be returned to the Federal Government. Sharon Baptist officials stated that they have contacted New York City marshals and a private attorney to assist in the recovery of the funds.

RECOMMENDATIONS

We recommend that Sharon Baptist Head Start:

- refund to the Federal Government the \$36,264 in unallowable rent expense charged to its direct Head Start grant during our audit period,
- work with ACF to determine the portion of the \$489,564 in rent expense from prior periods that should be refunded and refund the appropriate amount, and
- refund to the Federal Government the \$171,000 in embezzled funds.

OTHER MATTERS

In addition to the findings identified in our report, Sharon Baptist claimed rent expense on the Bathgate Avenue location under its subgrant awarded from ACS, totaling \$1,025,657. Specifically, Sharon Baptist claimed rent expense under this subgrant totaling \$68,813 during our audit period²⁰ and \$956,844 during the period February 1, 2003, through January 31, 2012.^{21, 22}

We did not determine whether the rent expense amounts charged to ACS were then charged to the Federal Government by ACS under its own Head Start grant. ACF could work with ACS to determine whether any of these rent expense amounts were charged to the Federal Government and pursue recovery of any such amounts.

SHARON BAPTIST HEAD START COMMENTS AND OFFICE OF INSPECTOR GENERAL RESPONSE

In written comments on our draft report, Sharon Baptist concurred with our findings; however, it did not indicate concurrence or nonconcurrence with our recommendations.

Sharon Baptist stated that it never attempted to conceal the relationship between Sharon Baptist Board of Directors, Inc., and S.B. Kids. Over time, according to Sharon Baptist, a less-than-arms-length situation was unwittingly created and, had Sharon Baptist been cognizant or informed of an irregularity or potential abuse of a regulation, it would have implemented immediate corrective action. Sharon Baptist further stated it believed funds received by S. B. Kids, Inc., were unrestricted and that it used these funds to supplement program operations.

Regarding our finding related to unrecovered embezzled funds, Sharon Baptist stated that it did not know that the insurance reimbursement had to be returned to the Federal Government and provided additional documentation to indicate that it notified ACF of the insurance payment and that it has contacted prosecutors and private attorneys to seek recovery of the remaining \$82,000 judgment against its former board chairperson.

After reviewing Sharon Baptist's comments and the additional documentation provided, we revised our report to clarify Sharon Baptist's position on the unrecovered embezzled funds and insurance reimbursement. We maintain that our findings and recommendations, as revised, are valid. Sharon Baptist's comments are included as Appendix B. We excluded attachments to the comments because they contained personally identifiable information.

²⁰ Sharon Baptist ceased making rent payment under the leases for the Bathgate Avenue location in October 2012.

²¹ To be conservative, we used 2003 when calculating the unallowable rent because this was the earliest date for which we had accurate financial information.

²² Prior period rent amounts were provided by OHS. We did not assess the reliability of these figures.

APPENDIX A: AUDIT SCOPE AND METHODOLOGY

SCOPE

Our audit covered Sharon Baptist's administration of Head Start funds allocated to its Bathgate Avenue location for two direct grant funding periods covering the period February 1, 2012, through January 31, 2014 (audit period).²³ Specifically, we focused on Sharon Baptist's compliance with Federal requirements related to its related-party leases and a related-party receivable (judgment against a former board chairperson).

We did not review the overall internal control structure of Sharon Baptist. Rather, we limited our review of internal controls to those applicable to our objective.

We performed fieldwork at Sharon Baptist's Bathgate Avenue property in The Bronx, New York.

METHODOLOGY

To accomplish our objective, we:

- reviewed applicable Federal laws, regulations and guidance;
- interviewed officials from ACF to obtain an understanding of the Federal requirements related to Sharon Baptist's Head Start grant and issues identified in ACF's monitoring review of Sharon Baptist;
- interviewed Sharon Baptist officials to gain an understanding of Sharon Baptist's policies and procedures for operating its Head Start program and, specifically, its related-party lease and related-party receivable transactions;
- reviewed Sharon Baptist's financial statements and its A-133 audit reports;²⁴
- obtained and reviewed the related-party leases and documentation;

²³ Sharon Baptist's fiscal year runs from July 1 through June 30 of each year, while its Head Start budget period runs from February 1 through January 31 of each year. We chose our audit period to coincide with the Head Start budget period that encompassed ACF's monitoring review and the fiscal year in which Sharon Baptist recorded a related-party receivable from its former board chairperson related to the judgment.

²⁴ An A-133 audit is an organization-wide financial statement and Federal awards' audit of a non-Federal entity that expends \$750,000 or more in federal funds in one year. It is intended to provide assurance to the Federal Government that a non-Federal entity has adequate internal controls in place and is generally in compliance with program requirements. Non-Federal entities typically include States, local governments, Indian Tribes, universities, and nonprofit organizations.

- obtained Sharon Baptist's general ledger and trial balance for its direct Head Start grant and performed data reliability testing, including (1) reconciling the general ledger trial balance to Sharon Baptist's final Federal Financial Report (Form SF-425) for the period February 1, 2012, to January 31, 2013, to determine whether the general ledger transactions were claimed for reimbursement under Sharon Baptist's direct Head Start grant and (2) determining the amount of rent that it charged to its Head Start grant and the party to which it paid rent;
- obtained and reviewed the deed and property tax assessment for Sharon Baptist's Bathgate Avenue property;
- interviewed the independent auditor who prepared Sharon Baptist's A-133 audit reports and reviewed supporting workpapers to gain an understanding of the related-party transactions and to determine the cost basis of the Bathgate Avenue property;
- interviewed officials from ACS to assist in determining the cost basis of the Bathgate Avenue property paid for with Federal funds;
- traced checks made payable to S.B. Kids for rent charges to deposits in the bank account identified by Sharon Baptist officials as the "S.B. Kids" account;
- calculated the amount of unallowable rent charged during the audit period and for prior periods;
- determined the status of the embezzled funds and the amount due from the former board chairperson; and
- discussed the results of our review with Sharon Baptist officials.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

APPENDIX B: SHARON BAPTIST HEAD START COMMENTS

SHARON BAPTIST BOARD OF DIRECTORS, INC. RESPONSE TO DRAFT OIG REPORT #A-02-17-02003

Sharon Baptist concurs with the Office of Inspector General (OIG) report #A-02-17-02003 related to the claiming of unpaid rent.

July 1, 1969, Sharon Baptist became a sub-recipient program of New York City. In November 1997, the agency was awarded a direct Head Start grant from the Administration for Children. At the time of the federal monitoring review in March 2013, the funded enrollments were 384 and 72.

At the time of the review, the monitor noted it was in his scope of work to collect information and pass it onto the Office of Head Start (OHS). It was not in his capacity to decide, but a less-than-arms-length may exist. OHS would have to make that call. Sharon Baptist received OHS' monitoring report in January 2014.

On the advice of New York City Administration For Children Services (NYC ACS) facilities department SB Kids, Inc. was formed and a space-cost agreement was developed and given to us. Sharon Baptist's explanation is at the formulation SB Kids, Inc.; its membership was separate from Sharon Baptist Board of Directors, Inc. At any point during the early years of its inception, there were no more than two volunteers who simultaneously served on both boards. However, as members left SB Kids, Inc. for whatever reasons, they were not replaced. Unwittingly, a less-than-arms-length situation was created.

Over the years, Sharon Baptist never attempted to conceal the information. Years of A-133 audit reports filed with our funding sources and submitted to the Clearinghouse each year fully disclosed notes indicating the presence of "Related Parties" and continue to do so.

Had Sharon Baptist been cognizant or informed of an irregularity or potential abuse of a regulation immediate corrective action would have implemented as we did during the March 2013 federal review.

The grantee, NYC ACS provided Sharon Baptist with "space-cost" agreements.

The funds received by SB Kids, Inc. was used to supplement program operations. This was the policy of Sharon Baptist Inc.

It was the agency's perception and annually documented in our A-133 audit reports that SB Kids, Inc. funds were "unrestricted." The funds were used to support operations that directly benefitted the program and its mission. (including mortgage payments.) The funds enhance programming. SB Kids, Inc. paid for property management, insurance costs, taxes. Other expenses included activities and dues associated with the Head Start New York State and Region II Associations, training for the Board and staff, paying for meeting costs, supporting parent activities, repair the sidewalks outside the buildings, and general maintenance.

Upon hearing the monitor's opinion, Sharon Baptist acted immediately.

ACTION TAKEN:

- We notified our grantee of the situation and awaited direction regarding the space cost agreement and payments made to SB Kids, Inc. with their funds.
- We halted the payment of funds to SB Kids, Inc. from the direct grantee account, Bathgate Avenue, 2nd floor.

SHARON BAPTIST BOARD OF DIRECTORS, INC. RESPONSE TO DRAFT
OIG REPORT #A-02-17-02003

To date, we have not received any direction from our grantee, NYC ACS concerning the matter. The grantee issued a written agreement, dated February 1, 2013, to continue honoring the 165th Street space cost agreement. ATTACHMENT A Absent a response Sharon Baptist also halted payments to SB Kids, Inc. for space at Bathgate Avenue, 1st floor.

A follow-up review conducted by the Regional Office confirmed as of August 11, 2014, the date of the report that the less-than-arms-length determination was corrected.

Sharon Baptist concurs with the Office of Inspector General (OIG) report #A-02-17-02003 related to embezzled funds. Specifically, our financial management systems at the time of the federal review did not provide sufficient control over what the agency believed funds belonging solely to the Board. The internal controls applied to the program's financial operations were not applied to the Board's account. However, we are making the following points regarding the comments rendered in this report.

In the report statement concerning "Uncovered Embezzled Funds" are several inaccurate statements.

"Sharon Baptist did not inform ACF of this receipt of the \$89,000.00 insurance payment and has not returned the funds to the Federal Government."

RESPONSE: Sharon Baptist did inform ACF in a letter to Clint McGrane, Grants Manager, ACF Region II HS dated May 15, 2014, ATTACHMENT 2, Sharon Baptist laid out the steps taken to address the former Board member's improprieties and to safeguard against any reoccurrences. Sharon Baptist:

- Reviewed and amended the agency's internal controls, Sharon Baptist Board of Directors, Inc. (SBBD), as they relate to the Head Start and childcare operations and SB Kids, Inc., in case it was to remain an entity.
- Specific language in SB Kids, Inc. bylaws was added to clarify that membership on the Board as with SBBD's Board is voluntary, and there is no paid compensation associated with the membership. Board members will be allowed to receive reimbursement for instances where they have paid for program-related costs and travel.

Additionally, the insurance payment was reflected in the A133 audit report of the year it was received, and every year since.

Update – SB Kids, Inc. has not been reinstated. There are no plans to do so at this time.

"The officials stated that although they knew the recovered restitution had to be returned to the Federal Government, they used the funds to cover operating expenses."

RESPONSE: Sharon Baptist officials categorically deny making this statement. Sharon Baptist did not know the insurance reimbursement had to be returned to the Federal Government. First, Sharon Baptist never received instruction to do so. Secondly, Sharon Baptist has always operated as the money under SB Kids, Inc.' oversight was separate and apart from Sharon Baptist

SHARON BAPTIST BOARD OF DIRECTORS, INC. RESPONSE TO DRAFT
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program money. Hence, when the insurance payment was received, it was deposited in the SB Kids, Inc., as a replacement of the funds illegally taken from that account not the Sharon Baptist program bank account. Our years of A133 audits support this belief.

Based on the fact that this practice of separate accounting for Sharon Baptist Head Start and SB Kids, Inc. was always fully disclosed in accounting system, we had no reason to think otherwise.

The relationship between the former Board member, Sharon Baptist Board of Directors, Inc. and SB Kids, Inc. was severed, and there has been no contact since the discovery and his dismissal from the Board. We became aware of a judge's ruling that the misappropriated funds were federal funds on a conference call to discuss the draft report on February 26, 2020. However, we know nothing of what evidence was submitted to the court to arrive at this conclusion. There has been no contact and no request for any documentation from this agency.

Yes, the official did say some of the funds were used to supplement operating costs because that was the practice disclosed in A 133 audit reports. SB Kids, Inc. paid for program costs when the Head Start program was low on funding. They also paid for emergency repairs to ensure the health and safety of the children and others, to fund special programs such as the children's rooftop garden, and our fatherhood programs. SB Kids, Inc. paid for training opportunities for staff and board members, and board activities. To our knowledge, these were unrestricted funds that were mainly applied to programming.

"Sharon Baptist has made little effort" to recover and refund the remaining \$82,000.00.

RESPONSE: Sharon Baptist retained an attorney's service upon receipt of the judgment against the former Board member. In the attached emails from 2014 and 2015, we show the difficulty the attorney encountered in obtaining information from the District Attorney's Office. It shows our intent from the start, to move for the recovery of funds. ATTACHMENT 3

Sharon Baptist has followed up on every lead we received in the last five years in our attempt to recover the remaining \$82,000.00, and we continue to do so. A133 audit reports continue to document the debt. To say Sharon Baptist has made "little effort" to recover the funds is subjective. Sharon Baptist has had little success in recovering the funds, but it is by no means a result of a lack of effort.

Since receiving the judgment, Sharon Baptist has acted and continues to do so. The agency has:

- Hired an attorney to assist with the recovery in 2014 and worked with her through 2016.
- With the judgment in hand, Sharon Baptist officials visited three marshals' offices. Not one took our case. One asked if we had a "money judgment." We motioned to give it to her. Without looking at the document she dismissed it, you have to have a money judgment, she said.
- In 2018, Sharon Baptist was advised the judgment was a "money judgment." Our officials returned to the District Attorney's Office for guidance and clarification. We were advised to go to Criminal Court at 161st Street, where we paid a fee for an attorney

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referral. The attorney's office asked the amount of the judgment and then said it was not enough money.

- May 2020, Sharon Baptist emailed a third attorney. His response was, "I am unable to help you with your judgment." ATTACHMENT 4

We believe the judgment is recoverable for ten years. Therefore, until July 2024 or the funds are recovered, whichever is first, Sharon Baptist will continue to seek justice by having the funds returned to the program.

Sincerely,
Julius P. Bennett