

September 2022

**Audit of Buffalo Homecare Inc.
Erie County Contract # 21-693-HE
August 25, 2021 through February 7, 2022**



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**KEVIN R. HARDWICK
ERIE COUNTY COMPTROLLER**

**HON. KEVIN R. HARDWICK
ERIE COUNTY COMPTROLLER'S OFFICE
DIVISION OF AUDIT & CONTROL
95 FRANKLIN STREET
BUFFALO, NEW YORK 14202**



September 12, 2022

Erie County Legislature
92 Franklin Street, 4th Floor
Buffalo, New York 14202

Dear Honorable Members:

The Erie County Comptroller's Office has completed an audit of Buffalo Homecare Inc. ("BHC") Erie County Contract # 21-693-HE for the period of August 25, 2021 through February 7, 2022.

Our objectives were to test the invoices for compliance with the major terms of Erie County Contract # 21-693-HE and evaluate all invoices submitted by BHC to the Erie County Department of Health ("DOH") for payment, under the terms of Erie County Contract #21-693-HE. In addition, we evaluated the internal controls over payroll, billing, and accounting procedures.

The scope of our audit included testing of invoices submitted to the DOH for Erie County Contract # 21-693-HE and the related supporting documentation. Billings for "Background & Drug Testing" were excluded. Additional details concerning the methodology employed in this audit are discussed in Appendix A.

Management of BHC is responsible for establishing and maintaining a system of Internal controls. The objectives of such a system are to provide management with reasonable, but not absolute, assurance that transactions are executed in accordance with management's authorization and are recorded properly. Due to inherent limitations in the system of internal controls, errors or irregularities may nevertheless occur and not be detected.

Our responsibility is to express an opinion based on our audit. We conducted our 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. Because of the matter described in the Basis for Disclaimer of Opinion paragraph, however, we were not able to obtain sufficient appropriate audit evidence to provide a basis for an audit opinion.

Opinion

Internal Controls:

In our opinion, the internal controls over payroll, billing, and accounting procedures are not adequately designed and not operating effectively.

Contract Compliance and Invoice Evaluation:

Basis for Disclaimer of Opinion

BHC submitted invoices to the DOH for personal service hours and mileage for Erie County Contract # 21-693-HE ("Contract"). BHC failed to maintain adequate Contract-specific records identifying dates of service, hours of service, and mileage for each employee. As a result, we were unable to determine the validity of the dollar-value of invoices for personal services and mileage billed to the County.

Disclaimer of Opinion

Because of the significance of the matter described in the Basis for Disclaimer of Opinion paragraph, we have not been able to obtain sufficient appropriate audit evidence to provide a basis for an audit opinion. Accordingly, we do not express an opinion on the dollar-value of the invoices prepared and submitted to the DOH or on compliance with the terms of the Contract.

Our audit was conducted for the purpose previously discussed, and would not necessarily disclose all instances of noncompliance with respect to areas of operations not audited.

REPORTING REQUIREMENTS

A draft copy of this report was provided to Buffalo Homecare Inc. for their review. Their comments were considered in the preparation of this report. A copy of their response to this report is included in Appendix B.

BACKGROUND

BHC entered into Erie County Contract # 21-693-HE ("Contract") with the DOH on August 25, 2021. The Contract was created to establish a COVID-19 screening testing program to support and maintain in-person learning for the 2021 - 2022 academic school year for Kindergarten through grade 12 schools in Erie County, New York. BHC employs personal care aides, licensed practical nurses, and registered nurses who provide various health related services. For this program, BHC employees were to supervise the swabbing of students and staff at participating schools for surveillance testing and where there was a confirmed positive case of COVID-19, enter data, and label, package, and deliver the specimens to a lab.

The Contract was created during a State of Emergency, which was declared by the Erie County Executive ("County Executive") on March 15, 2020 and extended on August 7, 2021, in response to the global COVID-19 pandemic. The declaration directed all departments and agencies in Erie County, New York, to take whatever steps necessary to protect life, property, public infrastructure, and provide such emergency assistance deemed necessary. A State of Emergency allows the County Executive to suspend any local laws, ordinances or regulations. On June 10, 2021, resolution 110 (Intro. 12-3) was passed by the Erie County Legislature ("Legislature"), which resumed the standard process that any financial action over \$10,000 requires approval from the Legislature.

At the Legislature session on July 8, 2021 (COMM. 14E-8), the Legislature authorized the DOH to enter into contract with BHC. The DOH had chosen BHC as the contractor for the Contract due

to their previous COVID-19 vaccination contract with the DOH, their experience in COVID-19 test specimen collection, and BHC had the means to setup this program quickly. BHC did not have to submit a request for proposal ("RFP") to obtain this contract because at the Legislature session on July 8, 2021 the Legislature waived the procedures of Section 26.08 of the Erie County Administrative Code, which requires potential contractors to submit a response to an RFP for a professional, technical or other consultant service contract that has a value of \$10,000 or more. A response to an RFP contains information regarding a potential contractor's qualifications, expertise, experience, past experience with Erie County, and the total estimated cost or rate for providing the special service or skill required.

AUDIT RESULTS AND RECOMMENDATIONS

Significant deficiencies and questioned costs:

1. Employee Hours and Mileage Invoice Testing:

14 of 14 invoices, submitted by BHC for this contract, that included employee hours and mileage were tested and recalculated. The total amount invoiced for all 14 invoices was \$1,949,435, but we calculated total disallowances of \$578,821. The recalculated total dollar amount of all 14 invoices was found to be \$1,370,614. There were no original internal documents from BHC to validate that the hours and mileage listed on invoice detail and Paychex Payroll Journals, (which were used to recalculate the invoices) were spent on the contract. We noted the following reasons for the disallowances:

- a. Incorrect billing – Service hours listed on the invoice detail did not match the information in the corresponding Paychex Payroll Journals. The difference of the hours were disallowed.
 - i. Nine (9) of the 14 invoices tested had employees listed on the invoice detail that were not found in the corresponding Paychex Payroll Journals; their hours were disallowed in total.
 - ii. Two (2) of the 14 invoices had the same number of hours for the same employees during the same billing period on separate invoices.

We recommend that BHC and the DOH should work together to come to an equitable dollar-value for each invoice. We also recommend that the Erie County Comptroller's Office ("Comptroller") needs to consider the possible recovery of dollars after BHC and the DOH come to an equitable agreement on the dollar-value of the invoices. We also recommend that for future contracts, potential contractors must demonstrate the ability to maintain suitable records prior to being awarded a contract.

We noted the following during the testing:

- a. No contract amendment – Three (3) of the 14 invoices tested and recalculated were for Buffalo Public Schools. The total amount invoiced was \$134,823, however we calculated total disallowances of \$57,359. The recalculated total dollar amount of these three (3) invoices was found to be \$77,464. These invoices included additional employees which exceeded the approved number of employees in the Contract. No evidence was found that there was a contract amendment for additional employees. BHC received a request from the DOH to provide additional employees for this

contract due to having Buffalo Public Schools added. However, the DOH did not create a contract amendment to authorize the additional employees.

- b. Incorrect number of hours – 13 of 14 invoices tested had more total hours invoiced for, than the authorized maximum 1,120 hours based on the terms of the contract. BHC stated that a minimum of 1,240 hours could be invoiced based on their interpretation of the Contract.
- c. Unauthorized number of employees – 14 of 14 invoices tested had more than the contract approved 28 full time employees listed on the invoice detail. The contract authorized 28 full time employees plus three standby employees. BHC stated that 31 full time employees could be invoiced based on their interpretation of the Contract.
- d. Unmatched hours on the invoice and its detail – Three (3) of the 14 invoices tested total hours on the invoices and its detail did not match. Two (2) of the three (3) invoices stated 1,240 hours, whereas their detail totaled to a lower number, and there was a statement made by BHC on the invoice detail that the minimum total hours that can be billed is 1,240. One (1) of the three (3) invoice's total hours on the invoice and detail had a difference of 0.5 hours, which is immaterial.
- e. No timesheet or mileage log – 14 of 14 invoices tested did not have any timesheets or mileage logs to validate the hours and mileage invoiced for was specifically dedicated to work on this Contract.
- f. No questions or requests for documentation - No evidence was found that either the DOH or the Comptroller questioned the number of employees or total hours on invoices and their detail or requested original supporting documentation prior to approval and payment of the invoices.

We recommend that BHC should invoice based on the terms of the Contract. We also recommend that the DOH should create a contract amendment and resolution when the terms of the contract are updated. We also recommend that BHC should review their invoices and employee time records for accuracy prior to submitting them for payment. We also recommend that BHC should create employee timesheets and mileage logs to record the time and miles spent specifically on the contracted services. We also recommend that the DOH and the Comptroller should request supporting documentation and compare the invoice to the terms in the contract for compliance prior to the approval and payment of invoices.

2. Cellular Data Invoice Testing:

Seven (7) of seven (7) invoices, submitted by BHC for this contract, that included cellular data were tested. These invoices were tested against the terms within the contract, in which Erie County was contractually bound to pay for cellular data per month. We noted that the January 2022 cellular data invoice was incorrectly dated for December 2021.

We recommend that BHC ensure that invoice dates agree with the time period and the services being invoiced.

3. Internal Controls Testing:

21 of 21 invoices, submitted by BHC for this contract, were tested. We noted the following:

- a. Non-sequential invoice numbers - Six (6) of the 21 invoices tested did not have sequential invoice numbers. Non-sequential invoice numbers can lead to billing errors.

- b. No segregation of duties - Based on an inquiry with BHC, there is only one employee responsible for creating and approving invoices. These duties are incompatible and increase the risk of fraud or theft when they are completed by a single employee.

We recommend that BHC review its invoicing process to ensure that future invoices are sequentially numbered. We also recommend that BHC, the DOH, and the Comptroller ensure that invoice dates agree with the time period and the services being invoiced for. We also recommend that BHC should segregate incompatible duties.

Auditor Comments

Equipment Invoice Testing:

Two (2) of two (2) invoices, submitted by BHC for this contract, that included equipment were tested against the terms of the contract. Erie County was contractually bound to pay for equipment within the price range stated within the terms of the contract. We conducted a physical inventory count of all returned equipment from BHC for this contract. 53 of 53 tablets, scanners, and rolling carts that were invoiced by BHC were accounted for.

We recommend that future contracts include terms that state supporting documentation, for example, receipts or invoices, is required for payment of invoices.

RESULTS OF EXIT CONFERENCE

An exit conference was held on September 13, 2022 with the President of BHC and two members from the Comptroller's Office – Division of Audit and Control. During the conference, the draft of the audit report was reviewed and included a discussion of the audit results and comments. BHC was in general agreement with the findings, however they did not agree with the calculated disallowances. BHC intends to follow our recommendation and work with the DOH to determine the final valuation for each invoice. In addition, BHC stated that a response to this report will be provided by September 16, 2022.

The Erie County Comptroller's Office would like to thank the President of Buffalo Homecare Inc. for the courtesy extended to us during the audit.

ERIE COUNTY COMPTROLLER'S OFFICE

Cc: Hon. Mark C. Poloncarz, Erie County Executive
Igor Yuzbashev, President of Buffalo Homecare Inc.
Robert W. Keating, Director of Budget and Management
Dr. Gale R. Burstein, Commissioner of the Erie County Department of Health
Jeremy C. Toth, Erie County Attorney
Erie County Fiscal Stability Authority

APPENDICES

Appendix A:

Audit Methodology

Our objectives were to test the compliance with the major terms of Erie County Contract # 21-693-HE ("Contract") and evaluate all invoices submitted by Buffalo Homecare Inc. ("BHC") to the Erie County Department of Health ("DOH") for payment under the terms of the Contract. In addition, we evaluated the internal controls over payroll, billing, and accounting procedures.

To achieve these objectives, we assessed the internal controls in place over payroll, billing, and accounting procedures. An inquiry was conducted by questionnaire and discussions with staff to gather information related to the payroll and billing accounting procedures, segregation of duties, and the accounting systems in use.

Tests were performed on 100% of the invoices submitted by BHC for the Contract, but excluded billings for "Background & Drug Testing."

Tests on invoices were designed based on the assessment of internal controls and on the assessed risk based on the risk assessment. We tested the terms in the contract for hours, mileage, equipment, and cellular data to determine whether the contractor was complying. A physical inventory count was conducted to determine if the quantity of equipment invoiced for was returned from the contractor to Erie County. The invoices for employee hours and mileage were recalculated to evaluate the correct dollar-value of each invoice.

This evidence, taken as a whole, was used to form an opinion based on our objectives.

Appendix B: Auditee's Response to Audit Report



**BUFFALO HOMECARE INC
490 DELAWARE AVENUE
BUFFALO, NEW YORK 14202**

Friday, September 16, 2022

Hon. Kevin R. Hardwick
Erie County Comptroller's Office
Division of Audit & Control
95 Franklin Street
Buffalo, New York 14202

Re: Audit of Buffalo Homecare Inc. Erie County Contract # 21-693-HE

August 25, 2021 through February 7, 2022

Dear Comptroller Hardwick:

Buffalo Homecare entered into the contract 21-693-HE with Erie County DOH on August 25, 2021 to provide COVID-19 screen testing, to support in person learning in Erie County schools. The project was launched within an extremely short amount of time, under tremendous pressure during the COVID-19 state of emergency. Buffalo Homecare's understanding of the program/contract budget is 1240 guaranteed hours per week, based on the "PAYMENT" section as per Attachment A of the original contract, 31 FTEs (full time equivalent) employees at \$65.00 per hour reimbursement.

Buffalo Homecare strongly believes that the disallowance amount of \$578,821 is incorrect based on the statement above. After discussions with the Audit Division, we identified there were mistakes on the original invoice detail, not all employees were accounted for on the detail, corrections to the invoice detail have been made.

Buffalo Homecare is looking forward to working together with Erie County DOH to come to a mutual agreement of the contract and will supply additional billing supporting documents if needed.

Sincerely yours,

Igor Yuzbashev, President
Buffalo Homecare Inc