

## COMMISSION ON STATE MANDATES

1000 STREET, SUITE 300  
SACRAMENTO, CA 95814  
TELEPHONE: (916) 323-3562  
(916) 445-0278  
EMAIL: csminfo@csm.ca.gov



May 27, 2011

Mr. Keith Petersen  
SixTen & Associates  
P.O. Box 340430  
Sacramento, CA 95834-0430

Ms. Jill Kanemasu  
State Controller's Office  
Division of Accounting and Reporting  
3301 C Street, Suite 700  
Sacramento, CA 95816

*And Affected State Agencies and Interested Parties (See Enclosed Mailing List)*

RE: **Adopted Statewide Cost Estimate**  
*Prevailing Wage Rate, 01-TC-28*  
Labor Code Section 1776; Statutes 1978, Chapter 1249  
California Code of Regulations, Title 8, Sections 16400, Subdivisions (c) and (d); 16403,  
Subdivision (a); and 16408, Subdivision (b)  
Grossmont Unified School District, Claimant

Dear Mr. Petersen and Ms. Kanemasu:

On May 26, 2011, the Commission on State Mandates adopted the enclosed statewide cost estimate for the above-entitled matter.

Please contact Nancy Patton at (916) 323-8217 if you have questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Drew Bohan".

Drew Bohan  
Executive Director



## STATEWIDE COST ESTIMATE

**\$480,655**

Labor Code Section 1776

Statutes 1978, Chapter 1249

California Code of Regulations, Title 8,  
Sections 16400, Subdivisions (c), and (d), 16403, Subdivision (a),  
and 16408, Subdivision (b)

*Prevailing Wage Rate*

01-TC-28

Test Claim Filed: June 28, 2002

Reimbursement Period for this Estimate: July 1, 2000 through June 30, 2009

Eligible Claimants: Any School District, including Community College Districts

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### STAFF ANALYSIS

#### **Background and Summary of the Mandate**

The test claim statute and regulations address changes to the California Prevailing Wage Law (CPWL), which is “a comprehensive statutory scheme designed to enforce minimum wage standards on construction projects funded in whole or in part with public funds.” Contractors for public works projects that exceed \$1,000 are required to pay local prevailing wages to construction workers on those projects. The provisions of the CPWL are only applicable when a district contracts with a private entity to carry out a public works project. The test claim statute and regulations mandate certain activities when the CPWL provisions are triggered by projects for repair or maintenance to school facilities and property,<sup>1</sup> when the project constitutes a public works project pursuant to the CPWL, and when the project must be let to contract.

The Commission adopted a statement of decision concluding that Labor Code section 1776, Statutes 1978, chapter 1249, and California Code of Regulations, Title 8, sections 16400, subdivisions (c) and (d), 16403, subdivision (a), and 16408, subdivision (b), constitute a reimbursable state-mandated program within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514.

The claimant filed the test claim on June 28, 2002. The Commission adopted a statement of decision on January 31, 2009, and the parameters and guidelines on January 29, 2010. The parameters and guidelines were corrected on May 25, 2010. Eligible claimants were required to file initial reimbursement claims with the State Controller’s Office (SCO) by November 30, 2010, and late claims by November 30, 2011.

#### Eligible Claimants and Period of Reimbursement

Any “school district” as defined in Government Code section 17519, including community colleges, is eligible to claim reimbursement. The reimbursement period for this new mandate began on July 1, 2000.

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<sup>1</sup> Pursuant to Education Code sections 17002, 17565, 17593, and 81601.

## Reimbursable Activities

The Commission approved the following activities for reimbursement:

- A. Upon a request made to the awarding body by the public for certified payroll records:
  - Obtain certified payroll records from the contractor, including specified information in the request. (Cal. Code Regs., tit. 8, § 16400, subd. (c).)
  - Send an acknowledgment to the requestor including notification of the costs to be paid for preparing the records. (Cal. Code Regs., tit. 8, § 16400, subd. (d).)
  - Provide copies of the records to the requestor. (Lab. Code, § 1776, subd. (b)(3).)
  - Retain copies of payroll records requested by the public and provided by the awarding body for at least 6 months. (Cal. Code Regs., tit. 8, § 16403, subd. (a).)
- B. Withhold penalties from contractor progress payments for noncompliance with the requirement to provide certified payroll records under Labor Code section 1776, upon request of the Department of Industrial Relations' Division of Apprenticeship Standards or the Division of Labor Standards Enforcement. (Lab. Code, § 1776, subd. (g) (as amended by Stats. 1978, ch. 1249).)
- C. Insert stipulations regarding the contractor's and subcontractor's requirements pursuant to Labor Code section 1776 in the contract. (Lab. Code, § 1776, subd. (h) (as amended by Stats. 1978, ch. 1249); Cal. Code Regs., tit. 8, § 16408, subd. (b).)

The above-named activities are only reimbursable when those activities are triggered by projects for repair or maintenance to school facilities and property, pursuant to Education Code sections 17002, 17565, 17593, and 81601, when the project constitutes a public works project pursuant to the CPWL, and when the project must be let to contract under the following circumstances:

1. For *K-12 school districts*, when the project is not an emergency as set forth in Public Contract Code section 20113, and
  - a. for districts with an average daily attendance of less than 35,000, when the total number of hours on the job exceeds 350; or
  - b. for districts with an average daily attendance of 35,000 or greater, the total number of hours on the job exceeds 750 hours or the material cost exceeds \$21,000. (Pub. Contract Code, § 20114.)
2. For *community college districts*, when the project is not an emergency as set forth in Public Contract Code section 20654, and
  - a. for districts with full-time equivalent students of fewer than 15,000, when the total number of hours on the job exceeds 350; or
  - b. for districts with full-time equivalent students of 15,000 or more, the total number of hours on the job exceeds 750 hours or the material cost exceeds \$21,000. (Pub. Contract Code, § 20655.)
3. For any K-12 school district or community college district that is subject to the Uniform Public Contract Cost Accounting Act (UPCCAA), when a project is not an emergency as set forth in Public Contract Code section 22035, and the project cost will exceed:
  - a. \$25,000 for projects completed by December 31, 2006;
  - b. \$30,000 for projects completed on or after January 1, 2007. (Pub. Contract Code, § 22032.)

Activities that are performed as a result of a district's implementation of the Labor Compliance Program pursuant to labor Code section 1771.5 are not reimbursable.

### **Offsetting Revenue Provisions**

Any fees received by school districts pursuant to Labor Code section 1776, subdivision (e), and title 8, California Code of Regulations, section 16402 for obtaining certified payroll records from the contractor, sending an acknowledgment to the requestor, and providing copies of the records to the requestor are identified as offsetting revenue in the parameters and guidelines.

Furthermore, any grant funds available to awarding bodies under the deferred maintenance program, or any other eligible grant program, when used for the newly mandated activities in this test claim, are identified in the parameters and guidelines as possible offsetting revenues.

### **Statewide Cost Estimate**

Staff reviewed the claims data submitted by six community college districts, and one school district, and compiled by the SCO. The actual claims data showed that 23 claims were filed for fiscal years 2003-2004 through 2009-2010, for a total of \$480,655.<sup>2</sup> Based on this data, staff made the following assumptions and used the following methodology to develop a statewide cost estimate for this program.

#### Assumptions

1. *The actual amount claimed for reimbursement may increase if late or amended claims are filed.*

There are 72 community college districts, and over 1,000 school districts in California. Of those, only 6 community college districts and 1 school district filed a total of 23 reimbursement claims for this program between 2003 and 2010. If other eligible claimants file late or amended claims, the amount of reimbursement claims may exceed the statewide cost estimate. Late claims for this program may be filed until November 30, 2011.

2. *There may be several reasons that non-claiming community college and school districts did not file reimbursement claims, including but not limited to:*
  - The Commission approved only a small portion of this program as a mandate. Therefore, many community college districts and school districts cannot reach the \$1,000 threshold for filing reimbursement claims.
  - There is grant money and fees available for this program that, if received, must be offset from reimbursement claims. This may also contribute to the fact that districts cannot reach the \$1,000 threshold for filing claims.
  - They did not have supporting documentation to file a reimbursement claim.
3. *There is a wide variation in costs claimed for this program that appear to be eligible for reimbursement.*

Staff reviewed the reimbursement claims filed and found that the average cost of the 23 claims is \$20,898 per claim. Six claims exceed this amount.<sup>3</sup> Staff found that the agencies with higher-than-average costs hired outside consulting firms to complete the activities

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<sup>2</sup> Claims data reported as of April 11, 2011.

<sup>3</sup> Santa Clarita Community College District filed claims for: (1) \$29,300 in 2004-2005; (2) \$71,900 in 2005-2006; (3) \$52,275 in 2006-2007; (4) \$73,728 in 2007-2008; and (5) \$57,428 in 2008-2009. Yuba Community College District filed a reimbursement claim for \$103,622 in 2007-2008.

required by this program, including obtaining certified payroll records, sending an acknowledgment to the requestor, providing copies of the records to the requestor, and retaining copies of payroll records.

However, the parameters and guidelines and the law do not prohibit community college districts and school districts from using outside resources to implement a mandated program. Therefore, these costs appear to be eligible for reimbursement.

4. *The total amount of reimbursement for this program may be lower than the statewide cost estimate, because the SCO may reduce any reimbursement claim for this program.*

The SCO may conduct audits on this program, and reduce any claim it deems to be excessive or unreasonable.

Methodology

*Fiscal Years 2003-2004 through 2009-2010*

The proposed statewide cost estimate for the above-named fiscal years was developed by totaling the 23 reimbursement claims filed with the SCO for these years.

The proposed statewide cost estimate includes seven fiscal years for a total of \$480,655 for the *Prevailing Wage Rate* program. This averages to \$68,665 annually in costs for the state for this seven-year period.

Following is a breakdown of estimated total costs per fiscal year:

<b>Fiscal Year</b>	<b>Number of School District Claims Filed with SCO</b>	<b>Number of Community College District Claims Filed with SCO</b>	<b>Estimated Cost</b>
2003-2004	0	3	\$28,285
2004-2005	0	3	\$39,068
2005-2006	1	3	\$83,591
2006-2007	0	3	\$72,835
2007-2008	0	4	\$184,792
2008-2009	1	3	\$67,892
2009-2010	0	2	\$4,192
<b>SUB-TOTAL</b>	<b>2</b>	<b>21</b>	<b>\$480,655</b>

**Comments on the Proposed Statewide Cost Estimate**

Commission staff issued the draft staff analysis and proposed statewide cost estimate for comment on April 15, 2011. No comments were submitted.

**Conclusion**

The Commission adopted the statewide cost estimate of **\$480,655** for costs incurred in complying with the *Prevailing Wage Rate* program.

## Commission on State Mandates

Original List Date: 7/8/2002  
Last Updated: 5/11/2011  
List Print Date: 05/26/2011  
Claim Number: 01-TC-28  
Issue: Prevailing Wage Rate

### Mailing List

#### TO ALL PARTIES AND INTERESTED PARTIES:

Each commission mailing list is continuously updated as requests are received to include or remove any party or person on the mailing list. A current mailing list is provided with commission correspondence, and a copy of the current mailing list is available upon request at any time. Except as provided otherwise by commission rule, when a party or interested party files any written material with the commission concerning a claim, it shall simultaneously serve a copy of the written material on the parties and interested parties to the claim identified on the mailing list provided by the commission. (Cal. Code Regs., tit. 2, § 1181.2.)

Ms. Donna Ferebee Department of Finance (A-15) 915 L Street, 11th Floor Sacramento, CA 95814	Tel: (916) 445-3274 Email donna.ferebee@dof.ca.gov Fax: (916) 323-9584
Ms. Juliana Morozumi Department of Finance (A-15) Education Systems Unit 915 L Street, 7th Floor Sacramento, CA 95814	Tel: (916) 445-0328 Email juliana.morozumi@dof.ca.gov Fax:
Mr. Arthur Palkowitz Stutz Artiano Shinoff & Holtz 2488 Historic Decatur Road, Suite 200 San Diego, CA 92106	Tel: (619) 232-3122 Email apalkowitz@stutzartiano.com Fax: (619) 232-3264
Mr. Andy Nichols Nichols Consulting 1857 44th Street Sacramento, CA 95819	Tel: (916) 455-3939 Email andy@nichols-consulting.com Fax: (916) 739-8712
Mr. Jay Lal State Controller's Office (B-08) Division of Accounting & Reporting 3301 C Street, Suite 700 Sacramento, CA 95816	Tel: (916) 324-0256 Email JLal@sco.ca.gov Fax: (916) 323-6527
Ms. Jill Kanemasu State Controller's Office (B-08) Division of Accounting and Reporting 3301 C Street, Suite 700 Sacramento, CA 95816	Tel: (916) 322-9891 Email jkanemasu@sco.ca.gov Fax:
Mr. Ed Hanson Department of Finance (A-15) Education Systems Unit 915 L Street, 7th Floor Sacramento, CA 95814	Tel: (916) 445-0328 Email ed.hanson@dof.ca.gov Fax:
Ms. Yazmin Meza Department of Finance 915 L Street Sacramento, CA 95814	Tel: (916) 445-0328 Email Yazmin.meza@dof.ca.gov Fax:

Mr. Mike Brown School Innovations & Advocacy 11130 Sun Center Drive, Suite 100 Rancho Cordova, CA 95670	Tel: (916) 669-5116 Email: mikeb@sia-us.com Fax: (888) 487-6441
Ms. Andra Donovan San Diego Unified School District Legal Services Office 4100 Normal Street, Room 2148 San Diego, CA 92103	Tel: (619) 725-5630 Email: adonovan@sandi.net Fax:
Ms. Kimberley Nguyen MAXIMUS 3130 Kilgore Road, Suite 400 Rancho Cordova, CA 95670	Tel: (916) 471-5516 Email: kimberlynguyen@maximus.com Fax: (916) 366-4838
Mr. Paul Steenhausen Legislative Analyst's Office (B-29) 925 L Street, Suite 1000 Sacramento, CA 95814	Tel: (916) 319-8324 Email: Paul.Steenhausen@lao.ca.gov Fax: (916) 324-4281
Mr. Steve Bruckman California Community Colleges Chancellor's Office (G-01) 1102 Q Street Sacramento, CA 95814-6511	Tel: (916) 323-7007 Email: sbruckman@cccco.edu Fax: (916) 322-4783
Ms. Cheryl Miller CLM Financial Consultants, Inc. 1241 North Fairvale Avenue Covina, CA 91722	Tel: (626) 484-0660 Email: Fax: (626) 332-4886
Mr. J. Bradley Burgess MGT of America 895 La Sierra Drive Sacramento, CA 95864	Tel: (916) 595-2646 Email: Bburgess@mgtamer.com Fax:
Ms. Socorro Aquino State Controller's Office Division of Audits 3301 C Street, Suite 700 Sacramento, CA 95816	Tel: (916) 322-7522 Email: SAquino@sco.ca.gov Fax:
Ms. Sandy Reynolds Reynolds Consulting Group, Inc. P.O. Box 894059 Temecula, CA 92589	Tel: (951) 303-3034 Email: sandrareynolds_30@msn.com Fax: (951) 303-6607
Mr. Steve Shields Shields Consulting Group, Inc. 1536 36th Street Sacramento, CA 95816	Tel: (916) 454-7310 Email: steve@shieldscg.com Fax: (916) 454-7312
Ms. Beth Hunter Centration, Inc. 8570 Utica Avenue, Suite 100 Rancho Cucamonga, CA 91730	Tel: (866) 481-2621 Email: bhunter@centration.com Fax: (866) 481-2682
Mr. Robert Miyashiro Education Mandated Cost Network 1121 L Street, Suite 1060 Sacramento, CA 95814	Tel: (916) 446-7517 Email: robertm@sscal.com Fax: (916) 446-2011

Ms. Harmeet Barkschat Mandate Resource Services, LLC 5325 Elkhorn Blvd. #307 Sacramento, CA 95842	Tel: (916) 727-1350 Email: harmeet@calsdrc.com Fax: (916) 727-1734
Mr. Anthony Mischel Department of Industrial Relations Division of Administration 320 W. Fourth St., Suite 600 Los Angeles, CA 90013	Tel: (213) 576-7725 Email: tmischel@dir.ca.gov Fax: (213) 576-7735
Mr. David E. Scribner Max8550 2200 Sunrise Boulevard, Suite 240 Gold River, California 95670	Tel: (916) 852-8970 Email: dscribner@max8550.com Fax: (916) 852-8978
Ms. Carol Bingham California Department of Education (E-08) Fiscal Policy Division 1430 N Street, Suite 5602 Sacramento, CA 95814	Tel: (916) 324-4728 Email: cbingham@cde.ca.gov Fax: (916) 319-0116
Mr. Patrick Day San Jose Unified School District 855 Lenzen Avenue San Jose, CA 95126-2736	Tel: (408) 535-6572 Email: patrick_day@sjusd.org Fax: (408) 535-6692
Mr. Thomas Todd Department of Finance (A-15) Education Systems Unit 915 L Street, 7th Floor Sacramento, CA 95814	Tel: (916) 445-3274 Email: thomas.todd@dof.ca.gov Fax:
Ms. Angie Teng State Controller's Office (B-08) Division of Accounting and Reporting 3301 C Street, Suite 700 Sacramento, CA 95816	Tel: (916) 323-0706 Email: ateng@sco.ca.gov Fax:
Mr. Scott Patterson Grossmont Union High School District P.O. Box 1043 La Mesa, CA 91944-1043	Tel: (619) 644-8010 Email: spatterson@guhsd.net Fax: (619) 465-6251
Mr. Jim Spano State Controller's Office (B-08) Division of Audits 3301 C Street, Suite 700 Sacramento, CA 95816	Tel: (916) 323-5849 Email: jspano@sco.ca.gov Fax: (916) 327-0832
Mr. Scott A. Kronland Altshuler, Berzon, Nussbaum, Rubin & Demain 177 Post Street, Suite 300 San Francisco, CA 94108	Tel: (415) 421-7151 Email: skronland@altber.com Fax: (415) 362-8064
Mr. Allan Burdick CSAC-SB 90 Service 2001 P Street, Suite 200 Sacramento, CA 95811	Tel: (916) 443-9136 Email: allan_burdick@mgtamer.com Fax: (916) 443-1766
Mr. Chris Yatooma California Community Colleges Chancellor's Office (G-01) 1102 Q Street Sacramento, CA 95814-6511	Tel: (916) 324-2564 Email: cyatooma@cccco.edu Fax:

Mr. Abe Hajela School Innovations & Advocacy 11130 Sun Center Drive, Suite 100 Rancho Cordova, CA 95670	Tel: (916) 669-5116 Email abeh@sia-us.com Fax: (888) 487-6441
Mr. Keith B. Petersen SixTen & Associates SixTen and Associates P.O. Box 340430 Sacramento, CA 95834-0430	Tel: (916) 419-7093 Email kbpsixten@aol.com Fax: (916) 263-9701
Mr. Jim Soland Legislative Analyst's Office (B-29) 925 L Street, Suite 1000 Sacramento, CA 95814	Tel: (916) 319-8310 Email jim.soland@lao.ca.gov Fax: (916) 324-4281
Mr. David Cichella California School Management Group 3130-C Inland Empire Blvd. Ontario, CA 91764	Tel: (209) 834-0556 Email dcichella@csmcentral.com Fax: (209) 834-0087
Mr. Nicolas Schweizer Department of Finance (A-15) Education Systems Unit 915 L Street, 7th Floor Sacramento, CA 95814	Tel: (916) 445-0328 Email nicolas.schweizer@dof.ca.gov Fax: (916) 323-9530
Ms. Susan Geanacou Department of Finance (A-15) 915 L Street, Suite 1280 Sacramento, CA 95814	Tel: (916) 445-3274 Email susan.geanacou@dof.ca.gov Fax: (916) 449-5252
Ms. Jolene Tollenaar MGT of America 2001 P Street, Suite 200 Sacramento, CA 95811	Tel: (916) 443-9136 Email jolene_tollenaar@mgtamer.com Fax: (916) 443-1766