



May 6, 2025

Ms. Anne Kato
State Controller's Office
Local Government Programs and
Services Division
3301 C Street, Suite 740
Sacramento, CA 95816

Mr. Raymond Palmucci
Office of the San Diego City Attorney
1200 Third Avenue, Suite 1100
San Diego, CA 92101

And Parties, Interested Parties, and Interested Persons (See Mailing List)

Re: Proposed Decision and Parameters and Guidelines

*Lead Sampling in Schools: Public Water System No. 3710020, 17-TC-03-R2
On Remand from City of San Diego v. Commission on State Mandates,
Sacramento County Superior Court, Case No. 24WM000056; Permit Amendment
No. 2017PA-SCHOOLS, City of San Diego Public Water System No. 3710020,
effective January 18, 2017
City of San Diego, Claimant*

Dear Ms. Kato and Mr. Palmucci:

The Proposed Decision and Parameters and Guidelines for the above-captioned matter is enclosed for your review.

Hearing: This matter is set for hearing on **Friday, May 23, 2025, in person at 10:00 a.m., at California Department of Food and Agriculture (CDFA), First Floor Auditorium, 1220 N Street, Sacramento, California, 95814 and via Zoom.**

The Commission is committed to ensuring that its public meetings are accessible to the public and that the public has the opportunity to observe the meeting and to participate by providing written and verbal comment on Commission matters whether they are physically appearing at the in-person meeting location or participating via Zoom. If you want to speak during the hearing and you are in-person, please come to the table for the swearing in and to speak when your item is up for hearing. If you are participating via Zoom, you must use the "Raise Hand" feature in order for our moderators to know you need to be unmuted.

You may join the meeting via Zoom through the link below and can listen and view through your desktop, laptop, tablet, or smart phone. This will allow you to view documents being shared as well.

There are two options for joining the meeting via Zoom:

1. Through the link below you can listen and view through your desktop, laptop, tablet, or smart phone. This will allow you to view documents being shared as well. **(You are encouraged to use this option.)**

[https://csm-ca-
gov.zoom.us/j/88948432031?pwd=gbw1vl1Vc6haeBVG9hcVS1aAc95rlt.1](https://csm-ca.gov.zoom.us/j/88948432031?pwd=gbw1vl1Vc6haeBVG9hcVS1aAc95rlt.1)

Passcode: 052325

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2. Through your landline, smart mobile, or non-smart mobile phone, either number works. You will be able to listen to the proceedings but will not be able to view the meeting or any documents being shared. If you would like to speak, press #2 to use the “Raise Hand” feature.

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Please don't hesitate to reach out to us for help with technical problems at csminfo@csm.ca.gov or 916 323-3562.

Testimony at the Commission Hearing: If you plan to address the Commission on an agenda item, please notify the Commission Office **not later than noon on the Tuesday prior to the hearing, May 20, 2025**. Please also include the names of the people who will be speaking for inclusion on the witness list and the names and email addresses of the people who will be speaking both in person and remotely to receive a hearing panelist link in Zoom. When calling or emailing, please identify the item you want to testify on and the entity you represent. The Commission Chairperson reserves the right to impose time limits on presentations as may be necessary to complete the agenda.

Time to File Written Comments: If you plan to file any written document, please note that Commission staff will include written comments filed at least 15 days in advance of the hearing in the Commissioners' hearing binders, a copy of which is available for public viewing at the Commission meeting. Additionally, written comments filed more than five days in advance of the meeting shall be included in the Commission's meeting binders, if feasible, or shall be provided to the Commission when the item is called, unless otherwise agreed by the Commission or the executive director. (Cal. Code Regs., tit. 2, § 1181.10(b)(1)(A-B)).

However, comments filed less than five days in advance of the meeting, the commenter shall provide 12 copies to Commission staff at the in-person meeting. In the case of participation by teleconference, a PDF copy shall be filed via the Commission's dropbox at <https://www.csm.ca.gov/dropbox.shtml> at least 24 hours prior to the meeting.

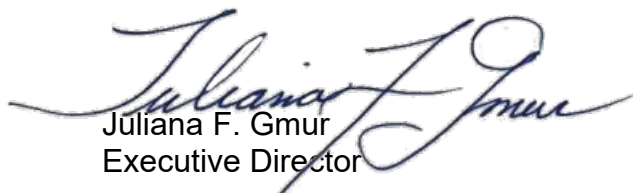
Commission staff shall provide copies of the comments to the Commission and shall place a copy on a table for public review when the item is called or, in the case of participation via teleconference, shall provide an electronic copy to the Commission and post a copy on the Commission's website, and may share the document with the Commission and the public using the “share screen” function. (Cal. Code Regs., tit. 2, § 1181.10(b)(1)(C)).

Postponement: If you would like to request postponement of the hearing, please refer to section 1187.9(b) of the Commission's regulations.

Ms. Kato and Mr. Palmucci
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Special Accommodations: For any special accommodations such as a sign language interpreter, an assistive listening device, materials in an alternative format, or any other accommodations, please contact the Commission Office at least five to seven working days prior to the meeting.

Very truly yours,

A handwritten signature in blue ink, reading "Juliana F. Gmur". The signature is fluid and cursive, with the first name "Juliana" being more prominent and the last name "Gmur" following in a similar style.

Juliana F. Gmur
Executive Director

ITEM 3

PROPOSED DECISION AND PARAMETERS AND GUIDELINES

Permit Amendment No. 2017PA-SCHOOLS, City of San Diego Public Water System
No. 3710020, effective January 18, 2017

Lead Sampling in Schools: Public Water System No. 3710020

17-TC-03-R2

City of San Diego, Claimant

Period Begins January 18, 2017

EXECUTIVE SUMMARY

I. Summary of the Mandate

These Parameters and Guidelines address state-mandated activities arising from a permit amendment issued by the State Water Resources Control Board (State Water Board) to the City of San Diego's public water system, Order No. 2017PA-SCHOOLS and is *applicable to the City of San Diego only*. The permit requires the claimant's public water system, beginning January 18, 2017, to submit to the State Water Resources Control Board's (State Water Board's) Division of Drinking Water a list of all K-12 schools it serves and to sample and test drinking water in K-12 schools for the presence of lead, upon the request of an authorized representative of the school made prior to November 1, 2019.

On March 28, 2025, the Commission on State Mandates (Commission) adopted a Decision finding that the test claim order imposes a reimbursable state-mandated program upon the City of San Diego within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514. The Commission approved this Test Claim for the following reimbursable activities:

1. Submit to the State Water Board's Division of Drinking Water a comprehensive list of the names and addresses of all K-12 schools served water through a utility meter [by the claimant] by July 1, 2017;¹
2. If an authorized school representative of a private K-12 school or a public K-12 school in the claimant's service area requests lead sampling assistance in writing by November 1, 2019;²

¹ Exhibit A, Test Claim Decision, page 75, citing to Test Claim, page 105 (test claim order).

² Exhibit A, Test Claim Decision, page 75, citing to Test Claim, page 105 (test claim order).

- a. Respond in writing within 60 days and schedule a meeting with school officials to develop a sampling plan;³
- b. Finalize a sampling plan and complete initial sampling within 90 days [or an alternative time schedule approved by DDW];⁴
- c. Collect one to five samples at each school, from regularly used drinking fountains, cafeteria or food preparation areas, or reusable bottle filling stations, selected according to the sampling plan, and using the sampling guidance provided in Appendix A;⁵
- d. Collect lead samples during the school year, on a Tuesday, Wednesday, Thursday, or Friday on a day that school is in session and has been in session for at least one day prior to the day of sampling;⁶
- e. Ensure samples are collected by an adequately trained water system representative;⁷
- f. Submit the samples to an ELAP certified laboratory for analysis;⁸
- g. Require the laboratory to submit the data electronically to DDW;⁹
- h. Provide a copy of the results to the school representative;¹⁰
- i. Within two business days of a result that shows an exceedance of 15 ppb, notify the school of the sample result;¹¹

³ Exhibit A, Test Claim Decision, page 76, citing to Test Claim, page 106 (test claim order).

⁴ Exhibit A, Test Claim Decision, page 76, citing to Test Claim, page 106 (test claim order).

⁵ Exhibit A, Test Claim Decision, page 76, citing to Test Claim, page 106 (test claim order).

⁶ Exhibit A, Test Claim Decision, page 76, citing to Test Claim, page 106 (test claim order).

⁷ Exhibit A, Test Claim Decision, page 76, citing to Test Claim, page 106 (test claim order).

⁸ Exhibit A, Test Claim Decision, page 76, citing to Test Claim, page 106 (test claim order).

⁹ Exhibit A, Test Claim Decision, page 76, citing to Test Claim, page 106 (test claim order).

¹⁰ Exhibit A, Test Claim Decision, page 76, citing to Test Claim, page 106 (test claim order).

¹¹ Exhibit A, Test Claim Decision, page 76, citing to Test Claim, page 106 (test claim order).

- j. If an initial sample shows an exceedance of 15 ppb:
- Collect an additional sample within 10 days if the sample site remains in service;¹²
 - Collect a third sample within 10 business days after notification that a resample result is less than or equal to 15 ppb;¹³
 - Collect at least one more lead sample at a sample site where the school has completed some corrective action following an initial lead sample result over 15 ppb;¹⁴
- k. Ensure that the water system receives the results of repeat lead samples from the laboratory in no more than 10 business days;¹⁵
- l. Discuss the lead sample results with the school prior to releasing the sample results to the public, and within 10 days of receiving the results from the laboratory;¹⁶
- m. Communicate with the school after lead sampling and assist the school with the interpretation of laboratory results and provide information regarding potential corrective actions if the results confirm lead levels above 15 ppb.¹⁷ ***The water system is not responsible for the costs of any corrective action or maintenance;***¹⁸
- n. Keep records of all requests for lead related assistance and provide the records to DDW, upon request;¹⁹

¹² Exhibit A, Test Claim Decision, page 76, citing to Test Claim, page 106 (test claim order).

¹³ Exhibit A, Test Claim Decision, page 77, citing to Test Claim, page 106 (test claim order).

¹⁴ Exhibit A, Test Claim Decision, page 77, citing to Test Claim, page 107 (test claim order).

¹⁵ Exhibit A, Test Claim Decision, page 77, citing to Test Claim, page 107 (test claim order).

¹⁶ Exhibit A, Test Claim Decision, page 77, citing to Test Claim, page 107 (test claim order).

¹⁷ Exhibit A, Test Claim Decision, page 77, citing to Test Claim, page 108 (test claim order).

¹⁸ Exhibit A, Test Claim Decision, page 77, citing to Test Claim, page 108 (test claim order).

¹⁹ Exhibit A, Test Claim Decision, page 77, citing to Test Claim, page 108 (test claim order).

- o. Include in the annual Consumer Confidence Report a statement summarizing the number of schools requesting lead sampling.²⁰

Beginning January 1, 2018, any lead testing conducted by the claimant on those public schools constructed or modernized before January 1, 2010, that did not request testing before January 1, 2018, is not required by the test claim order and is not reimbursable.

II. Procedural History

On March 28, 2025, the Commission adopted the Test Claim Decision.²¹ On April 3, 2025, Commission staff issued the Draft Expedited Parameters and Guidelines.²² On April 24, 2025, the State Controller's Office filed comments on the Draft Expedited Parameters and Guidelines recommending no changes.²³ On April 23, 2025, the claimant requested an extension of time to file comments on the Draft Expedited Parameters and Guidelines, which was granted. On April 30, 2025, the claimant filed comments on the Draft Expedited Parameters and Guidelines, stating it has no comments.²⁴

III. Discussion

A. Eligible Claimant (Section II. of the Parameters and Guidelines)

To the extent the costs of this program are paid from proceeds of taxes, the ***City of San Diego only*** is eligible to claim reimbursement for the increased costs as a result of this mandate.

B. Period of Reimbursement (Section III. of the Parameters and Guidelines)

Government Code section 17557(e) states that a test claim shall be submitted on or before June 30 following a given fiscal year to establish eligibility for that fiscal year. The claimant filed the Test Claim on January 11, 2018, establishing eligibility for reimbursement for the 2016-2017 fiscal year. However, the test claim order has a later effective date and therefore, the period of reimbursement for this program begins on the order's effective date, January 18, 2017.

For this program, *all* costs incurred during the initial fiscal years shall be claimed pursuant to Government Code section 17561(d)(1)(A). Since schools requesting service had until November 1, 2019, to submit a request for service under the test claim order and the test claim order imposed limited deadlines for the City of San Diego to act and provide the

²⁰ Exhibit A, Test Claim Decision, page 77, citing to Test Claim, page 108 (test claim order).

²¹ Exhibit A, Test Claim Decision.

²² Exhibit B, Draft Expedited Parameters and Guidelines.

²³ Exhibit C, Controller's Comments on the Draft Expedited Parameters and Guidelines.

²⁴ Exhibit D, Claimant's Comments on the Draft Expedited Parameters and Guidelines.

mandated service, the mandated program ends during the initial fiscal years and annual reimbursement claims pursuant to Government Code section 17560(a) shall not be filed.

C. Reimbursable Activities (Section IV. of the Parameters and Guidelines)

Section IV. of the Parameters and Guidelines identifies the mandated activities approved by the Commission.

D. Claim Preparation and Submission (Section V. of the Parameters and Guidelines)

Section V. of the Parameters and Guidelines (Claim Preparation and Submission) identifies the direct costs that are eligible for reimbursement.

E. Offsetting Revenues and Reimbursements (Section VII. of the Parameters and Guidelines)

Section VII. of the Parameters and Guidelines governs offsetting revenues (i.e., funds that are not a claimant's proceeds of taxes), which are required to be identified and deducted from the costs claimed.

F. Remaining Sections of the Parameters and Guidelines

The remaining sections of the Parameters and Guidelines contain standard boilerplate language.

IV. Staff Recommendation

Staff recommends that the Commission adopt the Proposed Decision and Parameters and Guidelines and authorize staff to make any technical, non-substantive changes to the Proposed Decision following the hearing.

BEFORE THE
COMMISSION ON STATE MANDATES
STATE OF CALIFORNIA

IN RE PARAMETERS AND GUIDELINES

Permit Amendment No. 2017PA-SCHOOLS, City of San Diego Public Water System No. 3710020, effective January 18, 2017

Filed on January 11, 2018

City of San Diego, Claimant

Case Nos.: 17-TC-03-R2

Lead Sampling in Schools: Public Water System No. 3710020

DECISION PURSUANT TO GOVERNMENT CODE SECTION 17500 ET SEQ.; CALIFORNIA CODE OF REGULATIONS, TITLE 2, DIVISION 2, CHAPTER 2.5, ARTICLE 7.

(Adopted May 23, 2025)

DECISION

The Commission on State Mandates (Commission) heard and decided this Decision and Parameters and Guidelines during a regularly scheduled hearing on May 23, 2025. [Witness list will be included in the adopted Decision.]

The law applicable to the Commission's determination of a reimbursable state-mandated program is article XIII B, section 6 of the California Constitution, Government Code sections 17500 et seq., and related case law.

The Commission [adopted/modified/rejected] the Decision and Parameters and Guidelines by a vote of [vote will be included in the adopted Decision and Parameters and Guidelines], as follows:

Member	Vote
Lee Adams, County Supervisor	
Deborah Gallegos, Representative of the State Controller, Vice Chairperson	
Karen Greene Ross, Public Member	
Renee Nash, School District Board Member	
William Pahland, Representative of the State Treasurer	
Michele Perrault, Representative of the Director of the Department of Finance, Chairperson	
Matt Read, Representative of the Director of the Governor's Office of Land Use and Climate Innovation	

I. Summary of the Mandate

These Parameters and Guidelines address state-mandated activities arising from a permit amendment issued by the State Water Resources Control Board (State Water

Board) to the City of San Diego's public water system, Order No. 2017PA-SCHOOLS and is *applicable to the City of San Diego only*. The permit requires the claimant's public water system, beginning January 18, 2017, to submit to the State Water Resources Control Board's (State Water Board's) Division of Drinking Water a list of all K-12 schools it serves and to sample and test drinking water in K-12 schools for the presence of lead, upon the request of an authorized representative of the school made prior to November 1, 2019.

On March 28, 2025, the Commission on State Mandates (Commission) adopted a Decision finding that the test claim order imposes a reimbursable state-mandated program upon the City of San Diego within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514. The Commission approved this Test Claim for the following reimbursable activities:

1. Submit to the State Water Board's Division of Drinking Water a comprehensive list of the names and addresses of all K-12 schools served water through a utility meter [by the claimant] by July 1, 2017;²⁵
2. If an authorized school representative of a private K-12 school or a public K-12 school in the claimant's service area requests lead sampling assistance in writing by November 1, 2019:²⁶
 - a. Respond in writing within 60 days and schedule a meeting with school officials to develop a sampling plan;²⁷
 - b. Finalize a sampling plan and complete initial sampling within 90 days [or an alternative time schedule approved by DDW];²⁸
 - c. Collect one to five samples at each school, from regularly used drinking fountains, cafeteria or food preparation areas, or reusable bottle filling stations, selected according to the sampling plan, and using the sampling guidance provided in Appendix A;²⁹

²⁵ Exhibit A, Test Claim Decision, page 75, citing to Test Claim, page 105 (test claim order).

²⁶ Exhibit A, Test Claim Decision, page 75, citing to Test Claim, page 105 (test claim order).

²⁷ Exhibit A, Test Claim Decision, page 76, citing to Test Claim, page 106 (test claim order).

²⁸ Exhibit A, Test Claim Decision, page 76, citing to Test Claim, page 106 (test claim order).

²⁹ Exhibit A, Test Claim Decision, page 76, citing to Test Claim, page 106 (test claim order).

- d. Collect lead samples during the school year, on a Tuesday, Wednesday, Thursday, or Friday on a day that school is in session and has been in session for at least one day prior to the day of sampling;³⁰
- e. Ensure samples are collected by an adequately trained water system representative;³¹
- f. Submit the samples to an ELAP certified laboratory for analysis;³²
- g. Require the laboratory to submit the data electronically to DDW;³³
- h. Provide a copy of the results to the school representative;³⁴
- i. Within two business days of a result that shows an exceedance of 15 ppb, notify the school of the sample result;³⁵
- j. If an initial sample shows an exceedance of 15 ppb:
 - Collect an additional sample within 10 days if the sample site remains in service;³⁶
 - Collect a third sample within 10 business days after notification that a resample result is less than or equal to 15 ppb;³⁷

³⁰ Exhibit A, Test Claim Decision, page 76, citing to Test Claim, page 106 (test claim order).

³¹ Exhibit A, Test Claim Decision, page 76, citing to Test Claim, page 106 (test claim order).

³² Exhibit A, Test Claim Decision, page 76, citing to Test Claim, page 106 (test claim order).

³³ Exhibit A, Test Claim Decision, page 76, citing to Test Claim, page 106 (test claim order).

³⁴ Exhibit A, Test Claim Decision, page 76, citing to Test Claim, page 106 (test claim order).

³⁵ Exhibit A, Test Claim Decision, page 76, citing to Test Claim, page 106 (test claim order).

³⁶ Exhibit A, Test Claim Decision, page 76, citing to Test Claim, page 106 (test claim order).

³⁷ Exhibit A, Test Claim Decision, page 77, citing to Test Claim, page 106 (test claim order).

- Collect at least one more lead sample at a sample site where the school has completed some corrective action following an initial lead sample result over 15 ppb;³⁸
- k. Ensure that the water system receives the results of repeat lead samples from the laboratory in no more than 10 business days;³⁹
- l. Discuss the lead sample results with the school prior to releasing the sample results to the public, and within 10 days of receiving the results from the laboratory;⁴⁰
- m. Communicate with the school after lead sampling and assist the school with the interpretation of laboratory results and provide information regarding potential corrective actions if the results confirm lead levels above 15 ppb.⁴¹ ***The water system is not responsible for the costs of any corrective action or maintenance;***⁴²
- n. Keep records of all requests for lead related assistance and provide the records to DDW, upon request;⁴³
- o. Include in the annual Consumer Confidence Report a statement summarizing the number of schools requesting lead sampling.⁴⁴

Beginning January 1, 2018, any lead testing conducted by the claimant on those public schools constructed or modernized before January 1, 2010, that did not request testing before January 1, 2018, is not required by the test claim order and is not reimbursable.

³⁸ Exhibit A, Test Claim Decision, page 77, citing to Test Claim, page 107 (test claim order).

³⁹ Exhibit A, Test Claim Decision, page 77, citing to Test Claim, page 107 (test claim order).

⁴⁰ Exhibit A, Test Claim Decision, page 77, citing to Test Claim, page 107 (test claim order).

⁴¹ Exhibit A, Test Claim Decision, page 77, citing to Test Claim, page 108 (test claim order).

⁴² Exhibit A, Test Claim Decision, page 77, citing to Test Claim, page 108 (test claim order).

⁴³ Exhibit A, Test Claim Decision, page 77, citing to Test Claim, page 108 (test claim order).

⁴⁴ Exhibit A, Test Claim Decision, page 77, citing to Test Claim, page 108 (test claim order).

II. Procedural History

On March 28, 2025, the Commission adopted the Test Claim Decision.⁴⁵ On April 3, 2025, Commission staff issued the Draft Expedited Parameters and Guidelines.⁴⁶ On April 24, 2025, the State Controller's Office filed comments on the Draft Expedited Parameters and Guidelines recommending no changes.⁴⁷ On April 23, 2025, the claimant requested an extension of time to file comments on the Draft Expedited Parameters and Guidelines, which was granted. On April 30, 2025, the claimant filed comments on the Draft Expedited Parameters and Guidelines, stating it has no comments.⁴⁸ No other comments were filed.

III. Discussion

The Parameters and Guidelines contain the following information:

A. Eligible Claimant (Section II. of the Parameters and Guidelines)

To the extent the costs of this program are paid from proceeds of taxes, the **City of San Diego only** is eligible to claim reimbursement for the increased costs as a result of this mandate.

B. Period of Reimbursement (Section III. of the Parameters and Guidelines)

Government Code section 17557(e) states that a test claim shall be submitted on or before June 30 following a given fiscal year to establish eligibility for that fiscal year. The claimant filed the Test Claim on January 11, 2018, establishing eligibility for reimbursement for the 2016-2017 fiscal year. However, the test claim order has a later effective date and therefore, the period of reimbursement for this program begins on the order's effective date, January 18, 2017. Therefore, costs incurred are reimbursable on or after January 18, 2017.

For this program, *all* costs incurred during the initial fiscal years shall be claimed pursuant to Government Code section 17561(d)(1)(A). Since schools requesting service had until November 1, 2019, to submit a request for service under the test claim order and the test claim order imposed limited deadlines for the City of San Diego to act and provide the mandated service, the mandated program ends during the initial fiscal years and annual reimbursement claims pursuant to Government Code section 17560(a) shall not be filed.

C. Reimbursable Activities (Section IV. of the Parameters and Guidelines)

Section IV. of the Parameters and Guidelines identifies the mandated activities approved by the Commission beginning January 18, 2017.

⁴⁵ Exhibit A, Test Claim Decision.

⁴⁶ Exhibit B, Draft Expedited Parameters and Guidelines.

⁴⁷ Exhibit C, Controller's Comments on the Draft Expedited Parameters and Guidelines.

⁴⁸ Exhibit D, Claimant's Comments on the Draft Expedited Parameters and Guidelines.

D. Claim Preparation and Submission (Section V. of the Parameters and Guidelines)

Section V. of the Parameters and Guidelines (Claim Preparation and Submission) identifies the direct costs that are eligible for reimbursement.

E. Offsetting Revenues and Reimbursements (Section VII. of the Parameters and Guidelines)

Section VII. of the Parameters and Guidelines governs offsetting revenues (i.e., funds that are not a claimant's proceeds of taxes), which are required to be identified and deducted from the costs claimed, including but not limited to, state and federal funds, any service charge, fee, or assessment authority to offset all or part of the costs of this program, and any other funds that are not the claimant's proceeds of taxes shall be identified and deducted from any claim submitted for reimbursement.

F. Remaining Sections of the Parameters and Guidelines

The remaining sections of the Parameters and Guidelines contain standard boilerplate language.

IV. Conclusion

Based on the foregoing analysis, the Commission hereby adopts the Proposed Decision and Parameters and Guidelines.

PARAMETERS AND GUIDELINES⁴⁹

Permit Amendment No. 2017PA-SCHOOLS, City of San Diego Public Water System
No. 3710020, effective January 18, 2017

Lead Sampling in Schools: Public Water System No. 3710020

17-TC-03-R2

City of San Diego, Claimant

Period of reimbursement begins January 18, 2017

I. SUMMARY OF THE MANDATE

These Parameters and Guidelines address reimbursable state-mandated activities arising from Permit Amendment No. 2017PA-SCHOOLS, City of San Diego Public Water System No. 3710020, effective January 18, 2017, *which is applicable to the City of San Diego only*. This amendment applies to a domestic water supply permit issued to the City of San Diego (claimant) and requires the claimant's public water system, beginning January 18, 2017, to submit to the State Water Resources Control Board's (State Water Board's) Division of Drinking Water a list of all K-12 schools it serves and

⁴⁹ Please note that the Decision and Parameters and Guidelines is a single document and must be read as a whole. It is not intended to be separated and should be posted in its entirety.

to sample and test drinking water in K-12 schools for the presence of lead, upon the request of an authorized representative of the school made prior to November 1, 2019.

On March 28, 2025, the Commission on State Mandates (Commission) adopted a Decision finding that the test claim order imposes a reimbursable state-mandated program upon the City of San Diego within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514. The Commission approved this Test Claim for the following reimbursable activities:

1. Submit to the State Water Board's Division of Drinking Water a comprehensive list of the names and addresses of all K-12 schools served water through a utility meter [by the claimant] by July 1, 2017;⁵⁰
2. If an authorized school representative of a private K-12 school or a public K-12 school in the claimant's service area requests lead sampling assistance in writing by November 1, 2019:⁵¹
 - a. Respond in writing within 60 days and schedule a meeting with school officials to develop a sampling plan;⁵²
 - b. Finalize a sampling plan and complete initial sampling within 90 days [or an alternative time schedule approved by DDW];⁵³
 - c. Collect one to five samples at each school, from regularly used drinking fountains, cafeteria or food preparation areas, or reusable bottle filling stations, selected according to the sampling plan, and using the sampling guidance provided in Appendix A;⁵⁴
 - d. Collect lead samples during the school year, on a Tuesday, Wednesday, Thursday, or Friday on a day that school is in session and has been in session for at least one day prior to the day of sampling;⁵⁵

⁵⁰ Exhibit A, Test Claim Decision, page 75, citing to Test Claim, page 105 (test claim order).

⁵¹ Exhibit A, Test Claim Decision, page 75, citing to Test Claim, page 105 (test claim order).

⁵² Exhibit A, Test Claim Decision, page 76, citing to Test Claim, page 106 (test claim order).

⁵³ Exhibit A, Test Claim Decision, page 76, citing to Test Claim, page 106 (test claim order).

⁵⁴ Exhibit A, Test Claim Decision, page 76, citing to Test Claim, page 106 (test claim order).

⁵⁵ Exhibit A, Test Claim Decision, page 76, citing to Test Claim, page 106 (test claim order).

- e. Ensure samples are collected by an adequately trained water system representative;⁵⁶
- f. Submit the samples to an ELAP certified laboratory for analysis;⁵⁷
- g. Require the laboratory to submit the data electronically to DDW;⁵⁸
- h. Provide a copy of the results to the school representative;⁵⁹
- i. Within two business days of a result that shows an exceedance of 15 ppb, notify the school of the sample result;⁶⁰
- j. If an initial sample shows an exceedance of 15 ppb:
 - Collect an additional sample within 10 days if the sample site remains in service;⁶¹
 - Collect a third sample within 10 business days after notification that a resample result is less than or equal to 15 ppb;⁶²
 - Collect at least one more lead sample at a sample site where the school has completed some corrective action following an initial lead sample result over 15 ppb;⁶³
- k. Ensure that the water system receives the results of repeat lead samples from the laboratory in no more than 10 business days;⁶⁴

⁵⁶ Exhibit A, Test Claim Decision, page 76, citing to Test Claim, page 106 (test claim order).

⁵⁷ Exhibit A, Test Claim Decision, page 76, citing to Test Claim, page 106 (test claim order).

⁵⁸ Exhibit A, Test Claim Decision, page 76, citing to Test Claim, page 106 (test claim order).

⁵⁹ Exhibit A, Test Claim Decision, page 76, citing to Test Claim, page 106 (test claim order).

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⁶² Exhibit A, Test Claim Decision, page 77, citing to Test Claim, page 106 (test claim order).

⁶³ Exhibit A, Test Claim Decision, page 77, citing to Test Claim, page 107 (test claim order).

⁶⁴ Exhibit A, Test Claim Decision, page 77, citing to Test Claim, page 107 (test claim order).

- l. Discuss the lead sample results with the school prior to releasing the sample results to the public, and within 10 days of receiving the results from the laboratory;⁶⁵
- m. Communicate with the school after lead sampling and assist the school with the interpretation of laboratory results and provide information regarding potential corrective actions if the results confirm lead levels above 15 ppb.⁶⁶
The water system is not responsible for the costs of any corrective action or maintenance;⁶⁷
- n. Keep records of all requests for lead related assistance and provide the records to DDW, upon request;⁶⁸
- o. Include in the annual Consumer Confidence Report a statement summarizing the number of schools requesting lead sampling.⁶⁹

Beginning January 1, 2018, any lead testing conducted by the claimant on those public schools constructed or modernized before January 1, 2010, that did not request testing before January 1, 2018, is not required by the test claim order and is not reimbursable.

II. ELIGIBLE CLAIMANT

To the extent the costs of this program are paid from proceeds of taxes, the ***City of San Diego only*** is eligible to claim reimbursement for the increased costs as a result of this mandate.

III. PERIOD OF REIMBURSEMENT

Government Code section 17557(e) states that a test claim shall be submitted on or before June 30 following a given fiscal year to establish eligibility for that fiscal year. The claimant filed the Test Claim on January 11, 2018, establishing eligibility for reimbursement for the 2016-2017 fiscal year. However, the test claim order has a later effective date and therefore, the period of reimbursement for this program begins on the order's effective date, January 18, 2017. Therefore, costs incurred are reimbursable on or after January 18, 2017.

⁶⁵ Exhibit A, Test Claim Decision, page 77, citing to Test Claim, page 107 (test claim order).

⁶⁶ Exhibit A, Test Claim Decision, page 77, citing to Test Claim, page 108 (test claim order).

⁶⁷ Exhibit A, Test Claim Decision, page 77, citing to Test Claim, page 108 (test claim order).

⁶⁸ Exhibit A, Test Claim Decision, page 77, citing to Test Claim, page 108 (test claim order).

⁶⁹ Exhibit A, Test Claim Decision, page 77, citing to Test Claim, page 108 (test claim order).

Reimbursement for state-mandated costs may be claimed as follows:

1. Actual costs for one fiscal year shall be included in each claim.
2. Pursuant to Government Code section 17561(d)(1)(A), all claims for reimbursement of initial fiscal year costs shall be submitted to the State Controller (Controller) within 120 days of the issuance date for the claiming instructions.
3. For this program, *all* costs incurred during the initial fiscal years shall be claimed pursuant to Government Code section 17561(d)(1)(A). Since schools requesting service had until November 1, 2019, to submit a request for service under the test claim order and the test claim order imposed limited deadlines for the City of San Diego to act and provide the mandated service, the mandated program ends during the initial fiscal years and annual reimbursement claims pursuant to Government Code section 17560(a) shall not be filed.
4. If revised claiming instructions are issued by the Controller pursuant to Government Code section 17558(c), between November 15 and February 15, a local agency filing an annual reimbursement claim shall have 120 days following the issuance date of the revised claiming instructions to file a claim. (Gov. Code §17560(b).)
5. If the total costs for a given fiscal year do not exceed \$1,000, no reimbursement shall be allowed except as otherwise allowed by Government Code section 17564(a).
6. There shall be no reimbursement for any period in which the Legislature has suspended the operation of a mandate pursuant to state law.

IV. REIMBURSABLE ACTIVITIES

To be eligible for mandated cost reimbursement for any fiscal year, only actual costs may be claimed. Actual costs are those costs actually incurred to implement the mandated activities. Actual costs must be traceable and supported by source documents that show the validity of such costs, when they were incurred, and their relationship to the reimbursable activities. A source document is a document created at or near the same time the actual cost was incurred for the event, or activity in question. Source documents may include, but are not limited to, employee time records or time logs, sign-in sheets, invoices, and receipts.

Evidence corroborating the source documents may include, but is not limited to, worksheets, cost allocation reports (system generated), purchase orders, contracts, agendas, training packets, and declarations. Declarations must include a certification or declaration stating, "I certify (or declare) under penalty of perjury under the laws of the State of California that the foregoing is true and correct," and must further comply with the requirements of Code of Civil Procedure section 2015.5. Evidence corroborating the source documents may include data relevant to the reimbursable activities otherwise in compliance with local, state, and federal government requirements. However, corroborating documents cannot be substituted for source documents.

The claimant is only allowed to claim and be reimbursed for increased costs for reimbursable activities identified below. Increased cost is limited to the cost of an activity that the claimant is required to incur as a result of the mandate.

The following activities are reimbursable:

1. Submit to the State Water Board's Division of Drinking Water a comprehensive list of the names and addresses of all K-12 schools served water through a utility meter [by the claimant] by July 1, 2017;⁷⁰
2. If an authorized school representative of a private K-12 school or a public K-12 school in the claimant's service area requests lead sampling assistance in writing by November 1, 2019:⁷¹
 - a. Respond in writing within 60 days and schedule a meeting with school officials to develop a sampling plan;⁷²
 - b. Finalize a sampling plan and complete initial sampling within 90 days [or an alternative time schedule approved by DDW];⁷³
 - c. Collect one to five samples at each school, from regularly used drinking fountains, cafeteria or food preparation areas, or reusable bottle filling stations, selected according to the sampling plan, and using the sampling guidance provided in Appendix A;⁷⁴
 - d. Collect lead samples during the school year, on a Tuesday, Wednesday, Thursday, or Friday on a day that school is in session and has been in session for at least one day prior to the day of sampling;⁷⁵
 - e. Ensure samples are collected by an adequately trained water system representative;⁷⁶

⁷⁰ Exhibit A, Test Claim Decision, page 75, citing to Test Claim, page 105 (test claim order).

⁷¹ Exhibit A, Test Claim Decision, page 75, citing to Test Claim, page 105 (test claim order).

⁷² Exhibit A, Test Claim Decision, page 76, citing to Test Claim, page 106 (test claim order).

⁷³ Exhibit A, Test Claim Decision, page 76, citing to Test Claim, page 106 (test claim order).

⁷⁴ Exhibit A, Test Claim Decision, page 76, citing to Test Claim, page 106 (test claim order).

⁷⁵ Exhibit A, Test Claim Decision, page 76, citing to Test Claim, page 106 (test claim order).

⁷⁶ Exhibit A, Test Claim Decision, page 76, citing to Test Claim, page 106 (test claim order).

- f. Submit the samples to an ELAP certified laboratory for analysis;⁷⁷
- g. Require the laboratory to submit the data electronically to DDW;⁷⁸
- h. Provide a copy of the results to the school representative;⁷⁹
- i. Within two business days of a result that shows an exceedance of 15 ppb, notify the school of the sample result;⁸⁰
- j. If an initial sample shows an exceedance of 15 ppb:
 - Collect an additional sample within 10 days if the sample site remains in service;⁸¹
 - Collect a third sample within 10 business days after notification that a resample result is less than or equal to 15 ppb;⁸²
 - Collect at least one more lead sample at a sample site where the school has completed some corrective action following an initial lead sample result over 15 ppb;⁸³
- k. Ensure that the water system receives the results of repeat lead samples from the laboratory in no more than 10 business days;⁸⁴

⁷⁷ Exhibit A, Test Claim Decision, page 76, citing to Test Claim, page 106 (test claim order).

⁷⁸ Exhibit A, Test Claim Decision, page 76, citing to Test Claim, page 106 (test claim order).

⁷⁹ Exhibit A, Test Claim Decision, page 76, citing to Test Claim, page 106 (test claim order).

⁸⁰ Exhibit A, Test Claim Decision, page 76, citing to Test Claim, page 106 (test claim order).

⁸¹ Exhibit A, Test Claim Decision, page 76, citing to Test Claim, page 106 (test claim order).

⁸² Exhibit A, Test Claim Decision, page 77, citing to Test Claim, page 106 (test claim order).

⁸³ Exhibit A, Test Claim Decision, page 77, citing to Test Claim, page 107 (test claim order).

⁸⁴ Exhibit A, Test Claim Decision, page 77, citing to Test Claim, page 107 (test claim order).

- l. Discuss the lead sample results with the school prior to releasing the sample results to the public, and within 10 days of receiving the results from the laboratory;⁸⁵
- m. Communicate with the school after lead sampling and assist the school with the interpretation of laboratory results and provide information regarding potential corrective actions if the results confirm lead levels above 15 ppb.⁸⁶ ***The water system is not responsible for the costs of any corrective action or maintenance;***⁸⁷
- n. Keep records of all requests for lead related assistance and provide the records to DDW, upon request;⁸⁸
- o. Include in the annual Consumer Confidence Report a statement summarizing the number of schools requesting lead sampling.⁸⁹

Beginning January 1, 2018, any lead testing conducted by the claimant on those public schools constructed or modernized before January 1, 2010, that did not request testing before January 1, 2018, is not required by the test claim order and is not reimbursable.

V. CLAIM PREPARATION AND SUBMISSION

Each of the following cost elements must be identified for each reimbursable activity identified in Section IV., Reimbursable Activities, of this document. Each claimed reimbursable cost must be supported by source documentation as described in Section IV. Additionally, each reimbursement claim must be filed in a timely manner.

A. Direct Cost Reporting

Direct costs are those costs incurred specifically for the reimbursable activities. The following direct costs are eligible for reimbursement.

1. Salaries and Benefits

Report each employee implementing the reimbursable activities by name, job classification, and productive hourly rate (total wages and related benefits

⁸⁵ Exhibit A, Test Claim Decision, page 77, citing to Test Claim, page 107 (test claim order).

⁸⁶ Exhibit A, Test Claim Decision, page 77, citing to Test Claim, page 108 (test claim order).

⁸⁷ Exhibit A, Test Claim Decision, page 77, citing to Test Claim, page 108 (test claim order).

⁸⁸ Exhibit A, Test Claim Decision, page 77, citing to Test Claim, page 108 (test claim order).

⁸⁹ Exhibit A, Test Claim Decision, page 77, citing to Test Claim, page 108 (test claim order).

divided by productive hours). Describe the specific reimbursable activities performed and the hours devoted to each reimbursable activity performed.

2. Materials and Supplies

Report the cost of materials and supplies that have been consumed or expended for the purpose of the reimbursable activities. Purchases shall be claimed at the actual price after deducting discounts, rebates, and allowances received by the claimant. Supplies that are withdrawn from inventory shall be charged on an appropriate and recognized method of costing, consistently applied.

3. Contracted Services

Report the name of the contractor and services performed to implement the reimbursable activities. If the contractor bills for time and materials, report the number of hours spent on the activities and all costs charged. If the contract is a fixed price, report the services that were performed during the period covered by the reimbursement claim. If the contract services are also used for purposes other than the reimbursable activities, only the pro-rata portion of the services used to implement the reimbursable activities can be claimed. Submit contract consultant and attorney invoices with the claim and a description of the contract scope of services.

4. Fixed Assets

Report the purchase price paid for fixed assets (including computers) necessary to implement the reimbursable activities. The purchase price includes taxes, delivery costs, and installation costs. If the fixed asset is also used for purposes other than the reimbursable activities, only the pro-rata portion of the purchase price used to implement the reimbursable activities can be claimed.

5. Travel

Report the name of the employee traveling for the purpose of the reimbursable activities. Include the date of travel, destination, the specific reimbursable activity requiring travel, and related travel expenses reimbursed to the employee in compliance with the rules of the local jurisdiction. Report employee travel time according to the rules of cost element A.1., Salaries and Benefits, for each applicable reimbursable activity.

B. Indirect Cost Rates

Indirect costs are costs that are incurred for a common or joint purpose, benefiting more than one program, and are not directly assignable to a particular department or program without efforts disproportionate to the result achieved. Indirect costs may include both: (1) overhead costs of the unit performing the mandate; and (2) the costs of the central government services distributed to the other departments based on a systematic and rational basis through a cost allocation plan.

Compensation for indirect costs is eligible for reimbursement in accordance with the Office of Management and Budget Circular 2 CFR, Chapter I and Chapter II, Part 200 et al. Claimants have the option of using 10 percent of direct labor, excluding fringe benefits,

or preparing an Indirect Cost Rate Proposal (ICRP) if the indirect cost rate claimed exceeds 10 percent.

If the claimant chooses to prepare an ICRP, both the direct costs (as defined and described in 2 CFR, Chapter I and Chapter II, Part 200 et al.) and the indirect costs shall exclude capital expenditures and unallowable costs (as defined and described in 2 CFR, Chapter I and Chapter II, Part 200 et al.). However, unallowable costs must be included in the direct costs if they represent activities to which indirect costs are properly allocable.

The distribution base may be: (1) total direct costs (excluding capital expenditures and other distorting items, such as pass-through funds, major subcontracts, etc.); (2) direct salaries and wages; or (3) another base which results in an equitable distribution.

In calculating an ICRP, the claimant shall have the choice of one of the following methodologies:

1. The allocation of allowable indirect costs (as defined and described in 2 CFR, Chapter I and Chapter II, Part 200 et al.) shall be accomplished by: (1) classifying a department's total costs for the base period as either direct or indirect; and (2) dividing the total allowable indirect costs (net of applicable credits) by an equitable distribution base. The result of this process is an indirect cost rate which is used to distribute indirect costs to mandates. The rate should be expressed as a percentage that the total amount of allowable indirect costs bears to the base selected; or
2. The allocation of allowable indirect costs (as defined and described in 2 CFR, Chapter I and Chapter II, Part 200 et al.) shall be accomplished by: (1) separating a department into groups, such as divisions or sections, and then classifying the division's or section's total costs for the base period as either direct or indirect; and (2) dividing the total allowable indirect costs (net of applicable credits) by an equitable distribution base. The result of this process is an indirect cost rate that is used to distribute indirect costs to mandates. The rate should be expressed as a percentage which the total amount of allowable indirect costs bears to the base selected.

VI. RECORD RETENTION

Pursuant to Government Code section 17558.5(a), a reimbursement claim for actual costs filed pursuant to this chapter⁹⁰ is subject to the initiation of an audit by the Controller no later than three years after the date that the actual reimbursement claim is filed or last amended, whichever is later. However, if no funds are appropriated or no payment is made to a claimant for the program for the fiscal year for which the claim is filed, the time for the Controller to initiate an audit shall commence to run from the date of initial payment of the claim. In any case, an audit shall be completed not later than two years after the date that the audit is commenced. All documents used to support the reimbursable activities, as described in Section IV., must be retained during the

⁹⁰ This refers to title 2, division 4, part 7, chapter 4 of the Government Code.

period subject to audit. If an audit has been initiated by the Controller during the period subject to audit, the retention period is extended until the ultimate resolution of any audit findings.

VII. OFFSETTING REVENUES AND REIMBURSEMENTS

Any offsetting revenue the claimant experiences in the same program as a result of the same statutes or executive orders found to contain the mandate shall be deducted from the costs claimed. In addition, reimbursement for this mandate from any source, including but not limited to, state and federal funds, any service charge, fee, or assessment authority to offset all or part of the costs of this program, and any other funds that are not the claimant's proceeds of taxes shall be identified and deducted from any claim submitted for reimbursement.

VIII. STATE CONTROLLER'S CLAIMING INSTRUCTIONS

Pursuant to Government Code section 17558(b), the Controller shall issue claiming instructions for each mandate that requires state reimbursement not later than 90 days after receiving the adopted parameters and guidelines from the Commission, to assist local governments in claiming costs to be reimbursed. The claiming instructions shall be derived from these parameters and guidelines and the decisions on the test claim and parameters and guidelines adopted by the Commission.

Pursuant to Government Code section 17561(d)(1), issuance of the claiming instructions shall constitute a notice of the right of the eligible claimants to file reimbursement claims, based upon parameters and guidelines adopted by the Commission.

IX. REMEDIES BEFORE THE COMMISSION

Upon request of an eligible claimant, the Commission shall review the claiming instructions issued by the Controller or any other authorized state agency for reimbursement of mandated costs pursuant to Government Code section 17571. If the Commission determines that the claiming instructions do not conform to the parameters and guidelines, the Commission shall direct the Controller to modify the claiming instructions and the Controller shall modify the claiming instructions to conform to the parameters and guidelines as directed by the Commission.

In addition, requests may be made to amend parameters and guidelines pursuant to Government Code section 17557(d), and California Code of Regulations, title 2, section 1183.17.

X. LEGAL AND FACTUAL BASIS FOR THE PARAMETERS AND GUIDELINES

The decisions adopted for the test claim and parameters and guidelines are legally binding on all parties and interested parties and provide the legal and factual basis for the parameters and guidelines. The support for the legal and factual findings is found in the administrative record. The administrative record is on file with the Commission.

DECLARATION OF SERVICE BY EMAIL

I, the undersigned, declare as follows:

I am a resident of the County of Sacramento and I am over the age of 18 years, and not a party to the within action. My place of employment is 980 Ninth Street, Suite 300, Sacramento, California 95814.

On May 6, 2025, I served the:

- **Current Mailing List dated April 30, 2025**
- **Proposed Decision and Parameters and Guidelines issued May 6, 2025**

Lead Sampling in Schools: Public Water System No. 3710020, 17-TC-03-R2
On Remand from City of San Diego v. Commission on State Mandates,
Sacramento County Superior Court, Case No. 24WM000056; Permit Amendment
No. 2017PA-SCHOOLS, City of San Diego Public Water System No. 3710020,
effective January 18, 2017
City of San Diego, Claimant

By making it available on the Commission's website and providing notice of how to locate it to the email addresses provided on the attached mailing list.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on May 6, 2025 at Sacramento, California.



Jill Magee
Commission on State Mandates
980 Ninth Street, Suite 300
Sacramento, CA 95814
(916) 323-3562

COMMISSION ON STATE MANDATES

Mailing List

Last Updated: 4/30/25

**Claim
Number:** 17-TC-03-R2

Matter: Lead Sampling in Schools: Public Water System No. 3710020

Claimant: City of San Diego

TO ALL PARTIES, INTERESTED PARTIES, AND INTERESTED PERSONS:

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, § 1181.3.)

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