

ITEM 15
REQUEST TO AMEND ALL PARAMETERS AND GUIDELINES
TO INCLUDE TIME STUDY LANGUAGE

04-PGA-04

State Controller's Office, Requestor

Executive Summary

On January 31, 2005, the SCO submitted a request to amend **all existing parameters and guidelines** to allow claimants to use time studies to support salary and benefit costs when an activity is task-repetitive in nature.

The SCO developed *Time-Study Guidelines* (Guidelines) and indicated the Guidelines would be placed on the SCO's website and included in their annual claiming instructions. Specifically, the Guidelines allow claimants to file reimbursement claims using the Guidelines for costs incurred on or after January 1, 2005, and for costs incurred prior to January 1, 2005, for tasks that are repetitive in nature and are not supported by actual time records.

Government Code section 17557 requires the Commission to adopt parameters and guidelines setting out reimbursable activities, if it approves a test claim and determines that there are costs mandated by the state. While conducting a time study to determine the cost of certain time-repetitive acts may be useful, there is nothing in statute that requires parameters and guidelines to include language regarding time studies.

Staff finds that it is not appropriate to amend all existing parameters and guidelines for the following reasons:

1. Every program does not include tasks that are repetitive in nature.
2. It is not necessary to amend every set of parameters and guidelines when time studies will not be conducted on every program.
3. The SCO has the independent authority to issue time study guidelines and approve time studies when issuing claiming instructions and auditing reimbursement claims. The Commission has no authority to approve the SCO's time study guidelines at the parameters and guidelines stage.
4. There are other processes, like reasonable reimbursement methodologies, that are not included in every set of parameters and guidelines, but are included on a case-by-case basis.

Therefore, staff finds that language should only be included in parameters and guidelines on a case-by-case basis.

Staff Recommendation

Staff recommends that the Commission deny the SCO's request to amend all parameters and guidelines. Instead, staff recommends that language be included in parameters and guidelines on a case-by-case basis that allows claimants to use time studies to support salary and benefit costs when an activity is task-repetitive in nature.

Requestor

State Controller's Office

Chronology

01/31/05 State Controller's Office submits Request to Amend All Parameters and Guidelines to Include Time Study Language

03/24/05 SixTen and Associates submits comments

04/04/05 Cost Recovery Systems, Inc. submits comments

04/13/05 Department of Finance submits comments

06/22/05 State Controller's Office submits rebuttal comments

10/10/06 Draft staff analysis issued

Background and Summary of the Request

On January 31, 2005, the SCO submitted a request to amend **all existing parameters and guidelines** to replace existing language in the "Employee Salaries and Benefits" section under Supporting Documentation with the following language:¹

Claimants may use time studies to support salary and benefit costs when an activity is a task repetitive in nature. Time study usage is subject to the time study guidelines included in the State Controller's annual claiming instructions.

The SCO attached *Time-Study Guidelines (Guidelines)*² approved by the SCO, and indicated the Guidelines would be placed on the SCO's website and included in their annual claiming instructions. Specifically, the Guidelines allow claimants to file reimbursement claims using the guidelines for costs incurred on or after January 1, 2005, and for costs incurred prior to January 1, 2005, for tasks that are repetitive in nature and are not supported by actual time records.

SixTen and Associates, Cost Recovery Systems, and Department of Finance filed comments on the request, and the SCO filed rebuttal comments. On October 10, 2006, staff issued a draft staff analysis on this matter. No comments were filed on that draft staff analysis.

Positions of the Parties

SixTen and Associates provided the following comments.³

- The effect of the SCO proposal would make the Commission subject to the SCO claiming instructions which are unilaterally created and modified without public notice or comment, which is in essence underground rulemaking.
- The SCO inappropriately uses section 17518.5 as the authority for time studies. This section definition is utilized by section 17557, which controls the adoption of parameters and guidelines, which permit the use of a "reasonable reimbursement methodology."

¹ Exhibit A.

² Commonly referred to as "TSG."

³ Exhibit B.

- A time study is not a substitute process to determine actual costs; it is one of many cost accounting methods which result in the reporting of “actual costs.”
- There is no law or regulation cited in support of the SCO limitation which allows the time study results to be projected forward two years, but not longer, and not retroactively.
- The SCO time study guidelines are not a realistic option for most claimants. The mechanism would have to be designed by persons with significant cost accounting knowledge and experience, persons not typically employed by school districts and community colleges.

SixTen and Associates and Cost Recovery Systems, Inc.,⁴ both provided comments regarding the following:

- The SCO requires that time study documentation consist of contemporaneous time records and daily reporting. If the claimant had continuous records of actual time spent, no time study would be required.
- The SCO asserts that random moment sampling is not acceptable, but does not define the process.

In addition, Cost Recovery Systems, Inc. suggested amendments to the Guidelines for clarification and provided the following:

- The Guidelines should not be effective until it is amended into the parameters and guidelines and until claiming instructions are released.
- Actual time reporting is not a subcategory of a time study and should not be addressed in the Guidelines.
- The time study plan requirements are too detailed and excessively restrictive. There should be some discretion left to the agency conducting the work to determine the best method of implementing the time study.
- The requirements of the “Employee Universe” section are unnecessary and add to the time and cost local agencies must spend to prepare a claim. Detailed descriptions of activities and programs are already identified in the parameters and guidelines.
- Language should be added that states that the time and cost resulting from conducting time studies is eligible for reimbursement.

The DOF generally supports the SCO proposal and made the following comments:⁵

- The DOF would be open to considering the use of time studies for activities that are not necessarily “daily”, but may be “periodic” in nature.
- The DOF concurs that such studies should not be applied retroactively, and should be documented as to methodology and actual employee sampling.
- A two-year limit on the use of a prior time study is appropriate, as it allows for re-adjustments at the local level for staff training, expertise, technological enhancements, and demographic changes.

⁴ Exhibit C.

⁵ Exhibit D.

- A time study can be a reasonable “other approximation of local costs mandated by the state” pursuant to Government Code section 17518.5, in certain situations.

In its response to the comments submitted, the SCO⁶ reiterates that it proposed uniform guidelines in order to provide clarity for the claimants and reliability of results for all involved. The guidelines are intended as an alternative to the creation and retention of source documents to support time utilized per task. However, the claimants would still need to create and maintain source documents to verify that the task was actually accomplished. It is the choice of the claimants as to whether they would like to develop a time study under the guidelines. It would not be a requirement to utilize time studies, only that if the method is chosen, such studies shall comply with the guidelines.

Discussion

Government Code section 17557 requires the Commission, if it determines that there are costs mandated by the state, to determine the amount to be subvented to local agencies and school districts for reimbursement of the mandated costs. In so doing, the Commission is required to adopt parameters and guidelines setting out reimbursable activities. While conducting a time study to determine the cost of certain time-repetitive acts may be useful, there is nothing in statute that requires parameters and guidelines to include language regarding time studies.

The Commission’s regulations (§ 1183.1) require the parameters and guidelines to include instruction on claim preparation, including instructions for direct and indirect cost reporting, or application of a reasonable reimbursement methodology. The regulations do not require parameters and guidelines to include guidelines for conducting time studies.

While there is “standard boilerplate ” language included in each set of parameters and guidelines, staff finds that it is not appropriate to include language in all sets of parameters and guidelines for the following reasons:

1. Every program does not include tasks that are repetitive in nature.-
2. It is not necessary to amend every set of parameters and guidelines when time studies will not be conducted on every program.
3. Pursuant to Government Code sections 17558 and 17561, the SCO has the independent authority to issue time study guidelines and approve time studies when issuing claiming instructions and auditing reimbursement claims. The Commission has no authority to approve the SCO’s time study guidelines at the parameters and guidelines stage.
4. There are other processes, like reasonable reimbursement methodologies, that are not included in every set of parameters and guidelines, but are included on a case-by-case basis. Time study language should also be included on a case-by-case basis, when a time study has been conducted for a certain program.

Therefore, staff finds that language should only be included in parameters and guidelines on a case-by-case basis.

⁶ Exhibit E.

Staff Recommendation

Staff recommends that the Commission deny the SCO's request to amend all parameters and guidelines. Instead, staff recommends that language be included in parameters and guidelines on a case-by-case basis that allows claimants to use time studies to support salary and benefit costs when an activity is task-repetitive in nature.