

Arthur M. Palkowitz
619.881-1288
apalkowitz@as7law.com

RECEIVED
July 08, 2016
**Commission on
State Mandates**

July 8, 2016

Heather Halsey
Executive Director
Commission on State Mandates
980 9th Street, Suite 300
Sacramento, CA 95814

Re: Case Name: The Stull Act Program (14-9825-I-01)
Written Comments to Draft Proposed Decision
Claimant: Oceanside Unified School District

Dear Ms. Halsey:

Oceanside Unified School District (“Claimant”) files the following written comments in response to the Draft Proposed Decision.

A. Introduction

Claimant has provided ample evidence they are entitled to reimbursement for performing the reimbursable activities required by the mandate. Despite this, State Controller Office (“Controller”) rejected 99% of the claimant's reimbursement claim despite Controller's revised audit findings that concluded 1,149 evaluations were performed. As a result, the denial of the claim is arbitrary and capricious and must be reversed.

B. Summary

Oceanside Unified School District (“the District”) filed claims for reimbursement of costs that the District incurred during Fiscal Years 1997-1998, 1998-1999, 1999-2000, 2000-2001, 2001-2002, 2002-2003, 2003-2004, 2004-2005 (eight claims) to implement the state mandated Stull Program Act Program set forth in Chapter 498, Statutes (Chapter 498/83) and Chapter 4, Statutes of 1999 (Chapter 4/99). The costs claimed were primarily for the salaries and benefits of the school site staff and related indirect costs. Controller denied claimant’s costs contending the District did not support claimed costs with source documents.

The reimbursable activities include the following:

1. Preparing the evaluation;
2. Goals and objectives conference with instructor;

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3. Pre-observation conference with instructor;
4. Classroom observation with instructor;
5. Post observation conference with instructor;
6. Final conference with instructor;
7. Conducting final conferences; written evaluations;
8. District reporting.

C. Analysis

The guidelines for the Stull Act program were adopted September 27, 2005, by the Commission. The initial claim period, Fiscal Years 1997-1998, 1998-1999, 1999-2000, 2000-2001, 2001-2002, 2002-2003, 2003-2004, 2004-2005, predates the date of guideline adoption. Controller's application of an overly narrow interpretation of the supporting documentation guideline language to claims prior to the fiscal year 2005/06 violates the Clovis Unified School District appellate court decision dated September 21, 2010. This decision found Controller could not apply contemporaneous source documentation requirements (CSDR) prior to the date the CSDR language was actually approved by Commission on State Mandates and added to a program's guidelines.

Claimant's claim that 2.5 hours were incurred for each evaluation is based on the Controller's audit from a comparable neighboring district, also serving grades k-12; as well as other time studies accepted by the Controller during the audits of other school districts. (Ex. P-T) The Draft Proposed Decision provides no legal authority, as there is none, to exclude the time studies from the as the basis for claimant's claim.

Effectively the time studies included in the Controller's audits created a Reasonable Reimbursement Methodology, a uniform cost allowance, in conformity with Government Code section 17518.5(b), as it is based on cost information from a representative sample of eligible claimants, information provided by association of local agencies and school districts, or other projections of local costs. The time study of 2.5 hours per evaluation is reliable since auditing of reimbursement claims is not a prerequisite for the development and approval of a reasonable reimbursement methodology. (Cal. Code Regs., § 1183.12)

Time studies have been acceptable methodologies for reimbursement in lieu of or in support of contemporaneous records. To disregard its application, especially when the time studies have been approved by the Controller is an abuse of discretion. To conclude the reimbursable activities listed above were conducted in 30 minutes, allows less than 4 minutes

Artiano Shinoff

Heather Halsey
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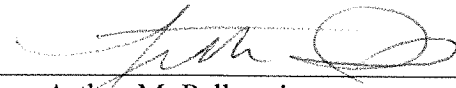
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for each activity to be completed. An analysis of each activity easily concludes otherwise. As such the record includes evidence, as required by the Commission's regulations, to justify reimbursement at 2.5 hours per evaluation.

CERTIFICATION

I certify by my signature below, under penalty of perjury under the laws of the State of California, that the statements made in this document are true and complete to the best of my own personal knowledge or information and belief.



Arthur M. Palkowitz
Attorney for the Claimant

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 July 8, 2016, I served the:

Claimant Comments on the Draft Proposed Decision

The Stull Act, 14-9825-I-01

Education Code Section 44660-44665

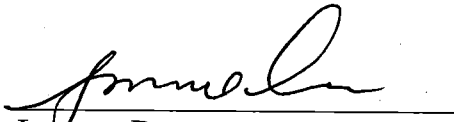
Statutes 1983, Chapter 498; Statutes 1999, Chapter 4

Fiscal Years: 1997-1998, 1998-1999, 1999-2000, 2000-2001, 2001-2002, 2002-2003, 2003-2004, and 2004-2005

Oceanside Unified School District, 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 July 8, 2016 at Sacramento, California.



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

COMMISSION ON STATE MANDATES

Mailing List

Last Updated: 3/24/16

Claim Number: 14-9825-I-01

Matter: The Stull Act

Claimant: Oceanside Unified School District

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.)

Socorro Aquino, *State Controller's Office*

Division of Audits, 3301 C Street, Suite 700, Sacramento, CA 95816

Phone: (916) 322-7522

SAquino@sco.ca.gov

Lacey Baysinger, *State Controller's Office*

Division of Accounting and Reporting, 3301 C Street, Suite 700, Sacramento, CA 95816

Phone: (916) 324-0254

lbaysinger@sco.ca.gov

Marieta Delfin, *State Controller's Office*

Division of Accounting and Reporting, 3301 C Street, Suite 700, Sacramento, CA 95816

Phone: (916) 322-4320

mdelfin@sco.ca.gov

Donna Ferebee, *Department of Finance*

915 L Street, Suite 1280, Sacramento, CA 95814

Phone: (916) 445-3274

donna.ferebee@dof.ca.gov

Chris Ferguson, *Department of Finance*

Education Systems Unit, 915 L Street, 7th Floor, 915 L Street, 7th Floor, Sacramento, CA 95814

Phone: (916) 445-3274

Chris.Ferguson@dof.ca.gov

Susan Geanacou, *Department of Finance*

915 L Street, Suite 1280, Sacramento, CA 95814

Phone: (916) 445-3274

susan.geanacou@dof.ca.gov

Rebecca Hamilton, *Department of Finance*

Education Systems Unit, 915 L Street, 7th Floor, Sacramento, CA 95814
Phone: (916) 445-0328
Rebecca.Hamilton@dof.ca.gov

Ed Hanson, *Department of Finance*
Education Systems Unit, 915 L Street, 7th Floor, Sacramento, CA 95814
Phone: (916) 445-0328
ed.hanson@dof.ca.gov

Karen Huddleston, *Controller, Oceanside Unified School District*
2111 Mission Avenue, Oceanside, CA 92058
Phone: (760) 966-4045
khuddleston@oside.k12.ca.us

Jill Kanemasu, *State Controller's Office*
Division of Accounting and Reporting, 3301 C Street, Suite 700, Sacramento, CA 95816
Phone: (916) 322-9891
jkanemasu@sco.ca.gov

Dan Kaplan, *Fiscal & Policy Analyst, Legislative Analyst's Office*
925 L Street, Suite 1000, Sacramento, CA 95814
Phone: (916) 319-8353
Dan.Kaplan@lao.ca.gov

Anne Kato, *State Controller's Office*
Division of Accounting and Reporting, 3301 C Street, Suite 700, Sacramento, CA 95816
Phone: (916) 324-5919
akato@sco.ca.gov

Shelly Kruse, *Accountant, Oceanside Unified School District*
Fiscal Services, 2111 Mission Avenue, Oceanside, CA 92058
Phone: (760) 966-4440
michelle.kruse@oside.us

Jay Lal, *State Controller's Office (B-08)*
Division of Accounting & Reporting, 3301 C Street, Suite 700, Sacramento, CA 95816
Phone: (916) 324-0256
JLal@sco.ca.gov

Kathleen McPerry, *Administrative Secretary II, to Karen Huddleston, Controller, Oceanside Unified School District*
Fiscal Services, 2111 Mission Avenue, Oceanside, CA 92058
Phone: (760) 966-4038
kmcperry@oside.us

Yazmin Meza, *Department of Finance*
915 L Street, Sacramento, CA 95814
Phone: (916) 445-0328
Yazmin.meza@dof.ca.gov

Robert Miyashiro, *Education Mandated Cost Network*
1121 L Street, Suite 1060, Sacramento, CA 95814
Phone: (916) 446-7517
robertm@sscal.com

Keith Nezaam, *Department of Finance*
915 L Street, 8th Floor, Sacramento, CA 95814
Phone: (916) 445-8913

Keith.Nezaam@dof.ca.gov

Andy Nichols, *Nichols Consulting*
1857 44th Street, Sacramento, CA 95819
Phone: (916) 455-3939
andy@nichols-consulting.com

Christian Osmena, *Department of Finance*
915 L Street, Sacramento, CA 95814
Phone: (916) 445-0328
christian.osmena@dof.ca.gov

Arthur Palkowitz, *Artiano Shinoff & Holtz, APC*
Claimant Representative
2488 Historic Decatur Road, Suite 200, San Diego, CA 92106
Phone: (619) 232-3122
apalkowitz@sashlaw.com

Keith Petersen, *SixTen & Associates*
P.O. Box 340430, Sacramento, CA 95834-0430
Phone: (916) 419-7093
kbsixten@aol.com

Sandra Reynolds, *Reynolds Consulting Group, Inc.*
P.O. Box 894059, Temecula, CA 92589
Phone: (951) 303-3034
sandrareynolds_30@msn.com

Carla Shelton, *Commission on State Mandates*
980 9th Street, Suite 300, Sacramento, CA 95814
Phone: (916) 327-6490
carla.shelton@csm.ca.gov

Jim Spano, Chief, Mandated Cost Audits Bureau, *State Controller's Office*
Division of Audits, 3301 C Street, Suite 700, Sacramento, CA 95816
Phone: (916) 323-5849
jspano@sco.ca.gov

Dennis Speciale, *State Controller's Office*
Division of Accounting and Reporting, 3301 C Street, Suite 700, Sacramento, CA 95816
Phone: (916) 324-0254
DSpeciale@sco.ca.gov