

MERCED COUNTY OFFICE OF EDUCATION

Audit Report

MIGRANT EDUCATION PROGRAM

July 1, 2013, through June 30, 2014



BETTY T. YEE
California State Controller

May 2016



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California State Controller

May 16, 2016

Veronica Aguila, Director
California Department of Education
English Learner Support Division
Migrant Education Program
1430 N Street, Suite 2204
Sacramento, CA 95814-5901

Dear Ms. Aguila:

The State Controller's Office, pursuant to an Interagency Agreement with the California Department of Education, conducted an audit of the Merced County Office of Education's (COE) Migrant Education Region's Migrant Education Program (MEP) for the period of July 1, 2013, through June 30, 2014.

The purpose of the audit was to determine whether the Merced COE complied with the United States Department of Education Office of Migrant Education's MEP requirements; specifically, that the COE maintains proper internal controls to ensure that the program-related costs were incurred for eligible and approved costs, and the accounts and records substantiate that the funds were expended for allowable costs.

Our audit determined that the Merced COE maintains adequate internal controls to ensure MEP compliance and that MEP funds were expended for allowable costs. However, we found that the Merced COE lacked proper internal controls regarding documentation of the procurement of a contracted service. The Merced COE did not comply with state and federal procurement requirements for three sampled contracts, totaling \$178,311. Therefore, we could not substantiate whether these MEP services were procured properly.

If you have any questions, please contact Andrew Finlayson, Chief, State Agency Audits Bureau, by telephone at (916) 324-6310, or by email at afinlayson@sco.ca.gov.

Sincerely,

Original signed by

JEFFREY V. BROWNFIELD, CPA
Chief, Division of Audits

JVB/rg

Attachment

cc: Raúl Díaz, Director

Merced County Office of Education

Kevin Chan, Director

Audits and Investigations Division

California Department of Education

Celina Torres, Education Administrator I

English Learner Support Division

California Department of Education

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Audit Report

Summary

The State Controller’s Office (SCO) conducted an audit of the Merced County Office of Education’s (COE) Migrant Education Program (MEP) for the period of July 1, 2013, through June 30, 2014.

The purpose of the audit was to determine whether the Merced COE complied with the United States Department of Education Office of Migrant Education’s MEP requirements; specifically, that the Merced COE maintains proper internal controls to ensure that program-related costs were incurred for eligible and approved costs, and that the accounts and records substantiate that the funds were expended for allowable costs.

Our audit determined that the Merced COE maintains adequate internal controls to ensure MEP compliance and that MEP funds were expended for allowable costs. However, we found that the Merced COE lacked proper internal controls regarding documentation of the procurement of a contracted service. The Merced COE did not comply with state and federal procurement requirements for three sampled contracts, totaling \$178,311. Therefore, we could not substantiate whether these MEP services were procured properly.

Background

The Migrant Education Program is authorized under the federal “No Child Left Behind Act” and is funded by Title I, Part C, with the mission of providing supplementary services to ensure that migrant children meet the same academic standards that non-migrant children are expected to meet.

Funds support high-quality education programs for migrant children and help ensure that those children who relocate are not penalized in any manner by disparities among states in curriculum, graduation requirements, or state academic content and student academic achievement standards. Funds also ensure that migrant children are provided with appropriate education services (including supportive services) that address their special needs and that migrant students receive full and appropriate opportunities to meet the same state academic content and student academic achievement standards that non-migrant children are expected to meet. Federal funds are allocated by formula to state educational agencies, based on each state’s per-pupil expenditure for education and counts of eligible migrant children, ages 3 through 21, residing within the state.

The allowable MEP efforts are identified, formulated, and developed in concert with the California Department of Education (CDE) and the State’s 23 MEP regions/sub-grantees. The regions/sub-grantees include county offices of education and/or school districts. At the state level, the CDE also administers and monitors the federal pass-through funds for the MEP sub-grantees and recipients.

The Merced COE provides, administers, and directly oversees 32 school districts in three counties, with four districts through District Service Agreements (DSA) and 28 districts through Memorandum of Understandings (MOU). These sub-recipient districts are responsible for directly providing and administering MEP services to its students and are subject to regional oversight. The Merced COE may also fund a consortium of school districts, typically with an enrollment of fewer than 200 migrant students, in which MEP services are provided through an MOU. The Merced COE and sub-recipient districts offer migrant instructional services to eligible migrant students through various extended day settings: after school instruction, Saturday school, summer school, etc. These services are offered to provide instructional support to meet the unique needs to migrant students.

The Office of Migrant Education conducted a review of the MEP and issued the review in September 2011. The California State Auditor audited the administration of the federally-funded MEP administered by the CDE and issued its audit report in February 2013. The reviews did not identify any specific administrative oversight concerns of the region or its subrecipients.

The CDE requested that the SCO assess administrative oversight efforts¹ and conduct this performance audit of the MEP subgrantees.

The SCO's authority to conduct this audit is given by:

- Interagency Agreement No. CN 140308 effective February 1, 2015, between the SCO and the CDE, which provides that the SCO will conduct an independent management review of the CDE's administrative oversight efforts, including technical assistance provided to MEP subgrantees, and an independent management review of MEP subgrantee fiscal administrative and reporting practices over MEP funding.
- Government Code section 12410, which states, "The Controller shall superintend the fiscal concerns of the state. The Controller shall audit all claims against the state, and may audit the disbursement of any state money, for correctness, legality, and for sufficient provisions of law for payment"

Objectives, Scope, and Methodology

The purpose of our audit was to determine whether the Merced COE complied with the federal MEP requirements; specifically, that the Merced COE maintains proper internal controls to ensure that the region's efforts and program-related costs were incurred for eligible and approved MEP program activities, and that accounting records and source documents substantiate that the MEP funds were expended for approved allowable costs for the audit period of July 1, 2013, through June 30, 2014.

¹ This assessment will be covered in a separate management letter to the CDE.

Audit methodologies included, but were not limited to, the following:

- Reviewing applicable state and federal requirements related to the MEP, including the California MEP Fiscal Handbook, 2007;
- Reviewing prior audits and single audit reports, and written policies and procedures relating to the MEP;
- Reviewing the MEP regional application, and budget and quarterly expenditure reports;
- Conducting inquiries with personnel, and reviewing and assessing related internal controls; and
- Obtaining and reviewing supporting documentation to ensure that MEP expenditures for costs were necessary, reasonable, and allowable.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Conclusion

Our audit determined that the Merced COE maintains adequate internal controls to ensure MEP compliance and that MEP funds were expended for allowable costs. However, we found that the Merced COE lacked proper internal controls regarding documentation of the procurement of a contracted service. The Merced COE did not comply with state and federal procurement requirements for three sampled contracts, totaling \$178,311. Therefore, we could not substantiate whether these MEP services were procured properly.

Views of Responsible Officials

We issued a draft audit report on April 14, 2016. Raúl Díaz, Director, responded by email (attachment) on April 26, 2016, acknowledging the finding.

Restricted Use

This report is solely for the information and use of the Merced County Office of Education, the United States Department of Education, the California Department of Education, and the SCO. It is not intended to be and should not be used by anyone other than these specified parties. The restriction is not intended to limit distribution of this report, which is a matter of public record.

Original signed by

JEFFREY V. BROWNFIELD, CPA
Chief, Division of Audits

May 16, 2016

**Schedule 1—
Summary of Reported, Audited, and Questioned Costs
July 1, 2013, through June 30, 2014 (includes 5th Quarter*)**

<u>Object Code</u>	<u>Description</u>	<u>Total Costs</u>	<u>Audited Costs</u>	<u>Questioned Costs</u>
Certificated Personnel Salaries				
1100	Teachers	\$ 272,513	\$ 272,513	\$ -
1200	Pupil Support Services	-	-	-
1300	Supervisor/Administrators	452,044	452,044	-
1900	Other Certificated Salaries	-	-	-
	Subtotal	\$ 724,557	\$ 724,557	\$ -
Classified Salaries				
2100	Instructional Aides	\$ 1,325,847	\$ 1,325,847	\$ -
2200	Support Services Salaries	-	-	-
2300	Supervisor/Administrators	477,975	477,975	-
2400	Clerical, Technical and Office Staff	207,450	207,450	-
2900	Other Classified Salaries	693,593	693,593	-
	Subtotal	\$ 2,704,865	\$ 2,704,865	\$ -
Benefits				
3000-3900	Employee Benefits	\$ 1,173,432	\$ 1,173,432	\$ -
	Subtotal	\$ 1,173,432	\$ 1,173,432	\$ -
Books and Supplies				
4100	Textbooks Curricula Materials	\$ -	\$ -	\$ -
4200	Books & Reference Materials	173,894	173,894	-
4300	Materials & Supplies	101,926	101,926	-
4400	Noncapitalized Equipment	17,678	17,678	-
4700	Food	-	-	-
	Subtotal	\$ 293,498	\$ 293,498	\$ -
Services and Other Operating Expenditures				
5100	Subagreements for Services	\$ 393,097	\$ 393,097	\$ -
5200	Travel & Conference	152,274	152,274	-
5300	Dues & Memberships	150	150	-
5400	Insurance	5,540	5,540	-
5500	Operations & Housekeeping Services	5,200	5,200	-
5600	Rentals, Leases, Repairs & Noncap Imp	24,273	24,273	-
5700	Transfers of Direct Costs	143,155	143,155	-
5800	Prof/Cons/Serv & Operating Exp.	513,249	334,938	(178,311)
5900	Communications	1,907	1,907	-
	Subtotal	\$ 1,238,845	\$ 1,060,534	\$ (178,311)
	Subtotal	\$ 6,135,197	\$ 5,956,886	\$ (178,311)
	Indirect Cost	404,687	404,687	-
	Total	\$ 6,539,884	\$ 6,361,573	\$ (178,311)

*Note: The 5th Quarter is the first quarter of a subsequent fiscal year, during which the COE is allowed to spend MEP funds that were not expended in the preceding fiscal year.

Finding and Recommendation

FINDING 1— Lack of adherence to procurement requirements

In reviewing the Merced County Office of Education's (COE) procurement activities for three sampled contracts, (UC Merced Young Writer's Academy \$52,500, Education and Leadership Foundation \$36,941 and CSU Stanislaus Pre-Freshman Enrichment Program \$88,870) totaling \$178,311, we determined that the Merced COE did not follow procurement requirements set forth in the California MEP Fiscal Handbook, 2007, and the criteria set forth in Title 34, *Code of Federal Regulations*, section 80.36 (34 CFR 80.36) in regards to its procurement activities. We noted that the Merced COE:

- Did not obtain price or rate quotations from an adequate number of qualified sources;
- Did not perform a cost or price analysis, including making independent estimates before receiving proposals; and
- Lacked maintenance of records sufficient to detail the significant history of a procurement, including the rationale for the method of procurement; selection of contract type, price, or rate quotations from an adequate number of qualified sources; contractor selection or rejection; cost or price analysis; and the basis for the contract price.

Therefore, we could not determine if MEP services were procured properly. We acknowledge that some vendors provide unique and specific MEP services that often preclude the region from obtaining price or rate quotations from multiple sources or reviewing multiple proposals. To adhere to applicable federal criteria, the region should incorporate noncompetitive procurement into its policies, procedures, and guidelines for vendor selection.

34 CFR 80.36 (b) (9) states:

Grantees and subgrantees will maintain records sufficient to detail the significant history of a procurement. These records will include, but are not necessarily limited to the following: rationale for the method of procurement, selection of contract type, contractor selection or rejection, and the basis for the contract price.

34 CFR 80.36 (c) states, in part:

Competition. (1) All procurement transactions will be conducted in a manner providing full and open competition consistent with the standards of section 80.36... (3) Grantees will have written selection procedures for procurement transactions. These procedures will ensure that all solicitations: (i) Incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured. Such description shall not, in competitive procurements, contain features which unduly restrict competition. The description may include a statement of the qualitative nature of the material, product or service to be procured, and when necessary, shall set forth those minimum essential characteristics and standards to which it must conform if it is to satisfy its intended use... (ii) Identify all requirements which the offerors must fulfill and all other factors to be used in evaluating bids or proposals.

34 CFR 80.36 (d) states, in part:

Methods of procurement to be followed- (1) Procurement by small purchase procedures. Small purchase procedures are those relatively simple and informal procurement methods for securing services, supplies, or other property that do not cost more than the Simplified Acquisition Threshold fixed at 41 U.S.C. 403 (11) (currently set at \$100,000). If small purchase procedures are used, price or rate quotations shall be obtained from an adequate number of qualified sources.

34 CFR 80.36 (d) (4) states, in part:

Procurement by noncompetitive proposals is procurement through solicitation of a proposal from only one source, or after solicitation of a number of sources, competition is determined inadequate.

(i) Procurement by noncompetitive proposals may be used only when the award of a contract is infeasible under small purchase procedures, sealed bids or competitive proposals and one of the following circumstances applies:

(A) The item is available only from a single source;

(B) The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation;

(C) The awarding agency authorizes noncompetitive proposals; or

(D) After solicitation of a number of sources, competition is determined inadequate.

34 CFR 80.36 (f) states, in part:

Contract cost and price. (1) Grantees and subgrantees must perform a cost or price analysis in connection with every procurement action including contract modifications. The method and degree of analysis is dependent on the facts surrounding the particular procurement situation, but as a starting point, grantees must make independent estimates before receiving bids or proposals...

Recommendation

In order to ensure adherence to the standards as prescribed by federal and state laws and regulations, the Merced COE should improve its current procurement procedures and practices to include the following:

- Maintaining records sufficient to detail the history of procurement, including the rationale for the method of procurement, selection of contract type, and contractor selection or rejection;
- Performing cost or price analysis in connection with every procurement action;
- Establishing written criteria for reviewing proposals and assessing the technical qualifications of contracted personnel;
- Obtaining price or rate quotations from an adequate number of qualified sources; and
- Adhering to applicable federal criteria regarding a noncompetitive procurement.

Furthermore, the Merced COE should consult with the California Department of Education to make a determination on the \$178,311 in questioned MEP costs.

Merced COE Response

As the draft audit report states on Finding 1, ...We acknowledge that some vendors provide unique and specific MEP services that often preclude the region from obtaining price or rate quotations from multiple sources or reviewing multiple proposals...We believe that internal controls were in place in MCOE MEP however, these were primarily limited to emails with prospective vendors and based on prior successes with the selected vendors.

The MCOE MEP Office had already taken steps to enhance the procurement process prior to the conduct of this audit. Evidence of this was provided to SCO staff during their visits at MCOE which included the procurement process used by MCOE MEP for the Comprehensive Needs Assessment (CNA) which was conducted in July, 2015. Additionally, MCOE, MEP has been working with other MEP regions in developing a scoring instrument to be used to compare multiple proposals for services. I am attaching to this email, the document that our office will be using for this purpose.

SCO Response

The Merced COE discussed with us, during the exit conference, proposed steps for improving the process. The improved process would affect transactions in periods subsequent to our audit scope. The SCO acknowledges that the Merced COE MEP is making changes to improve the procurement process, but has not yet evaluated the new changes.

**Attachment—
Merced COE's Response to Draft Audit Report**

Goto, Jan

From: Raul Diaz [REDACTED]
Sent: Tuesday, April 26, 2016 9:25 PM
To: Goto, Jan
Subject: Fwd: Vendor comparison Sheet
Attachments: Comparative Cost-Benefit Analysis Rubric.doc; ATT00001.htm

Jan,

Thank you for allowing me to respond to the draft audit report completed by your office. I have reviewed the draft report and wish to submit the following to Finding 1.

As the draft audit report states on Finding 1, ...We acknowledge that some vendors provide unique and specific MEP services that often preclude the region from obtaining price or rate quotations from multiple sources or reviewing multiple proposals... We believe that internal controls were in place in MCOE MEP however, these were primarily limited to emails with prospective vendors and based on prior successes with the selected vendors.

The MCOE MEP Office had already taken steps to enhance the procurement process prior to the conduct of this audit. Evidence of this was provided to SCO staff during their visits at MCOE which included the procurement process used by MCOE MEP for the Comprehensive Needs Assessment (CNA) which was conducted in July, 2015. Additionally, MCOE, MEP has been working with other MEP regions in developing a scoring instrument to be used to compare multiple proposals for services. I am attaching to this email, the document that our office will be using for this purpose.

We believe these examples demonstrate the commitment by MCOE MEP, to fulfill state and federal procurement requirements.

Thank you for accepting these comments to the draft audit report.

Sent from my iPad

Raúl Z. Díaz, Director
Migrant Education, Region III
Merced County Office of Education
632 West 13th Street
Merced, CA 95341
(209) 381-6702

[cid:image001.png@01D028E8.FC605600]

Proudly serving the Counties of Madera, Merced and Stanislaus

**MIGRANT EDUCATION REGION III
Comparative Cost-Benefit Analysis Rubric**

NAME OF SERVICE: <input type="checkbox"/> Regular <input type="checkbox"/> Summer <input type="checkbox"/> School Readiness <input type="checkbox"/> ELA/Math <input type="checkbox"/> High School <input type="checkbox"/> OSY <input type="checkbox"/> Parent Involvement <input type="checkbox"/> Health		APPROVAL <input type="checkbox"/> Approved <input type="checkbox"/> Not Approved Director's Signature: _____ Duration of Service: _____					
		Vendor 1		Vendor 2		Vendor 3	
Vendor Name:							
Vendor Address:							
Type of Contact (Phone/Web/etc):							
Cost Per Pupil		\$		\$		\$	
Type of Costs (materials, lodging, instruction, etc.)							
Accepts PO's and/or contract?		Yes	No	Yes	No	Yes	No
Services available when programmatically needed?							
Knowledge and/or experience providing services of this type?							
Experience working with California Education Agencies?							
Ability of contractor/vendor to meet all tasks and/or services?							
Meets the unique needs of migrant students?							
Supports quality delivery of services?							
Other (Specify)							
RECOMMENDATIONS BASED ON THE COMPARISON							
Based on the cost-benefit analysis presented above, the following is recommended:							

**State Controller's Office
Division of Audits
Post Office Box 942850
Sacramento, CA 94250-5874**

<http://www.sco.ca.gov>