

CHULA VISTA ELEMENTARY SCHOOL DISTRICT

Audit Report

COLLECTIVE BARGAINING AND COLLECTIVE BARGAINING AGREEMENT DISCLOSURE PROGRAM

Chapter 961, Statutes of 1975;
and Chapter 1213, Statutes of 1991

July 1, 2008, through June 30, 2012



BETTY T. YEE
California State Controller

November 2015



BETTY T. YEE
California State Controller

November 24, 2015

Glendora M. Tremper, President
Board of Education
Chula Vista Elementary School District
84 East J Street
Chula Vista, CA 91910

Dear Ms. Tremper:

The State Controller's Office audited the costs claimed by the Chula Vista Elementary School District for the legislatively mandated Collective Bargaining and Collective Bargaining Agreement Disclosure Program (Chapter 961, Statutes of 1975; and Chapter 1213, Statutes of 1991) for the period of July 1, 2008, through June 30, 2012.

The district claimed \$559,314 for the mandated program. Our audit found that \$431,322 is allowable, and \$127,992 is unallowable primarily because the district claimed ineligible, unsupported, and overstated costs; and misstated indirect costs. The State paid the district \$34,212. The State will pay allowable costs claimed that exceed the amount paid, totaling \$397,110, contingent upon available appropriations.

If you disagree with the audit findings, you may file an Incorrect Reduction Claim (IRC) with the Commission on State Mandates (Commission). The IRC must be filed within three years following the date of this report. You may obtain IRC information at the Commission's website at www.csm.ca.gov/docs/IRCForm.pdf.

If you have any questions, please contact Jim L. Spano, Chief, Mandated Cost Audits Bureau, by telephone at (916) 323-5849.

Sincerely,

Original signed by

JEFFREY V. BROWNFIELD, CPA
Chief, Division of Audits

JVB/sa

cc: Francisco Escobedo, Ed.D., Superintendent
Chula Vista Elementary School District
Oscar Esquivel, Assistant Superintendent of
Business Services and Support
Chula Vista Elementary School District
Theresa Villanueva, Director of Fiscal Services
Chula Vista Elementary School District
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Audit Report

Summary

The State Controller's Office (SCO) audited the costs claimed by the Chula Vista Elementary School District for the legislatively mandated Collective Bargaining and Collective Bargaining Agreement Disclosure Program (Chapter 961, Statutes of 1975; and Chapter 1213, Statutes of 1991) for the period of July 1, 2008, through June 30, 2012.

The district claimed \$559,314 for the mandated program. Our audit found that \$431,322 is allowable, and \$127,992 is unallowable primarily because the district claimed ineligible, unsupported, and overstated costs; and misstated indirect costs. The State paid the district \$34,212. The State will pay allowable costs claimed that exceed the amount paid, totaling \$397,110, contingent upon available appropriations.

Background

In 1975, the State enacted the Rodda Act (Chapter 961, Statutes of 1975), requiring the employer and employee to meet and negotiate, thereby creating a collective bargaining atmosphere for public school employers. The legislation created the Public Employment Relations Board to issue formal interpretations and rulings regarding collective bargaining under the Rodda Act. In addition, the legislation established organizational rights of employees and representational rights of employee organizations, and recognized exclusive representatives related to collective bargaining.

On July 17, 1978, the Board of Control (now the Commission on State Mandates [Commission]) determined that the Rodda Act imposed a state mandate upon school districts, reimbursable under Government Code section 17561.

Chapter 1213, Statutes of 1991, added Government Code section 3547.5. This section requires school districts to publicly disclose major provisions of a collective bargaining effort before the agreement becomes binding. On August 20, 1998, the Commission determined that this legislation also imposed a state mandate upon school districts, reimbursable under Government Code section 17561.

Claimants are allowed to claim increased costs. For components G1 through G3, increased costs represent the difference between the current-year Rodda Act activities and the base-year Winton Act activities (generally, fiscal year [FY] 1974-75), as adjusted by the Implicit Price Deflator. For components G4 through G7, increased costs represent actual costs incurred.

The seven components are as follows:

- G1 – Determining Bargaining Units and Exclusive Representatives
- G2 – Election of Unit Representatives
- G3 – Cost of Negotiations
- G4 – Impasse Proceedings
- G5 – Collective Bargaining Agreement Disclosure
- G6 – Contract Administration
- G7 – Unfair Labor Practice Charges

The program's parameters and guidelines establish the state mandate and define the reimbursement criteria. The Commission adopted the parameters and guidelines on October 22, 1980, and amended them ten times, most recently on January 29, 2010.

In compliance with Government Code section 17558, the SCO issues claiming instructions to assist school districts in claiming mandated program reimbursable costs.

Objectives, Scope, and Methodology

We conducted the audit to determine whether costs claimed represent increased costs resulting from the Collective Bargaining and Collective Bargaining Agreement Disclosure Program for the period of July 1, 2008, through June 30, 2012.

The objectives of our audit were to determine whether costs claimed were supported by appropriate source documents, were not funded by another source, and were not unreasonable and/or excessive.

The legal authority to conduct this audit is provided by Government Code sections 12410, 17558.5, and 17561. We did not audit the district's financial statements. 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.

We limited our review of the district's internal controls to gaining an understanding of the transaction flow and claim preparation process as necessary to develop appropriate auditing procedures. Our audit scope did not assess the efficiency or effectiveness of program operations.

To achieve our audit objectives, we performed the following audit procedures:

- Interviewed employees, completed the internal control questionnaire, and performed a walk-through of the cost components of each claim.
- Traced costs claimed to supporting documentation that showed when the costs were incurred, the validity of such costs, and their relationship to mandated activities.
- Tested transactions selected through auditor professional judgement for the relevant cost elements.

Conclusion

Our audit found instances of noncompliance with the requirements outlined above. These instances are described in the accompanying Schedule (Summary of Program Costs) and in the Findings and Recommendations section of this report.

For the audit period, the Chula Vista Elementary School District claimed \$559,314 for costs of the Collective Bargaining and Collective Bargaining Agreement Disclosure Program. Our audit found that \$431,322 is allowable and \$127,992 is unallowable. The State paid the district \$34,212. The State will pay allowable costs claimed that exceed the amount paid, totaling \$397,110, contingent upon available appropriations.

**Views of
Responsible
Officials**

We issued a draft audit report on November 10, 2015. Oscar Esquivel, Assistant Superintendent of Business Services and Support, responded by later dated November 20, 2015 (Attachment), disagreeing with the audit results. This final audit report includes the district's response.

Restricted Use

This report is solely for the information and use of the Chula Vista Elementary School District, the San Diego County Office of Education, the California Department of Education, the California Department of Finance, and the SCO; it is not intended to be and should not be used by anyone other than these specified parties. This 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

November 24, 2015

Schedule—
Summary of Program Costs
July 1, 2008, through June 30, 2012

Cost Elements	Actual Costs Claimed	Allowable per Audit	Audit Adjustments	Reference ¹
<u>July 1, 2008, through June 30, 2009</u>				
Direct costs:				
Component activities G1 through G3:				
Salaries and benefits	\$ 56,404	\$ 48,606	\$ (7,798)	Finding 1
Contract services	39,199	38,116	(1,083)	Finding 2
Subtotal	95,603	86,722	(8,881)	
Less base-year direct costs adjusted by the Implicit Price Deflator	(4,287)	(4,287)	-	
Increased direct costs, G1 through G3	91,316	82,435	(8,881)	
Component activities G4 through G7:				
Salaries and benefits	35,589	11,083	(24,506)	
Contract services	68,087	64,251	(3,836)	
Increased direct costs, G4 through G7	103,676	75,334	(28,342)	
Total increased direct costs, G1 through G7	194,992	157,769	(37,223)	
Indirect costs	2,920	5,254	2,334	Finding 3
Total program costs	<u>\$ 197,912</u>	163,023	<u>\$ (34,889)</u>	
Less amount paid by the State		(24,508)		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 138,515</u>		
<u>July 1, 2009, through June 30, 2010</u>				
Direct costs:				
Component activities G1 through G3:				
Salaries and benefits	\$ 51,477	\$ 36,641	\$ (14,836)	Finding 1
Contract services	30,478	30,420	(58)	Finding 2
Subtotal	81,955	67,061	(14,894)	
Less base-year direct costs adjusted by the Implicit Price Deflator	(4,334)	(4,334)	-	
Increased direct costs, G1 through G3	77,621	62,727	(14,894)	
Component activities G4 through G7:				
Salaries and benefits	23,030	3,293	(19,737)	
Contract services	19,332	17,510	(1,822)	
Increased direct costs, G4 through G7	42,362	20,803	(21,559)	
Total increased direct costs, G1 through G7	119,983	83,530	(36,453)	
Indirect costs	3,995	2,539	(1,456)	Finding 3
Total program costs	<u>\$ 123,978</u>	86,069	<u>\$ (37,909)</u>	
Less amount paid by the State		(9,704)		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 76,365</u>		

Schedule (continued)

Cost Elements	Actual Costs Claimed	Allowable per Audit	Audit Adjustments	Reference ¹
<u>July 1, 2010, through June 30, 2011</u>				
Direct costs:				
Component activities G1 through G3:				
Salaries and benefits	\$ 42,124	\$ 34,086	\$ (8,038)	Finding 1
Contract services	32,632	29,624	(3,008)	Finding 2
Subtotal	74,756	63,710	(11,046)	
Less base-year direct costs adjusted by the Implicit Price Deflator	(4,437)	(4,437)	-	
Increased direct costs, G1 through G3	70,319	59,273	(11,046)	
Component activities G4 through G7:				
Salaries and benefits	7,287	2,490	(4,797)	
Contract services	30,317	19,922	(10,395)	
Increased direct costs, G4 through G7	37,604	22,412	(15,192)	
Total increased direct costs, G1 through G7	107,923	81,685	(26,238)	
Indirect costs	4,037	3,055	(982)	Finding 3
Total program costs	<u>\$ 111,960</u>	84,740	<u>\$ (27,220)</u>	
Less amount paid by the State		-		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 84,740</u>		
<u>July 1, 2011, through June 30, 2012</u>				
Direct costs:				
Component activities G1 through G3:				
Salaries and benefits	\$ 48,466	\$ 44,466	\$ (4,000)	Finding 1
Contract services	33,638	30,253	(3,385)	Finding 2
Subtotal	82,104	74,719	(7,385)	
Less base-year direct costs adjusted by the Implicit Price Deflator	(4,587)	(4,587)	-	
Increased direct costs, G1 through G3	77,517	70,132	(7,385)	
Component activities G4 through G7:				
Salaries and benefits	10,517	4,630	(5,887)	
Contract services	32,709	19,060	(13,649)	
Increased direct costs, G4 through G7	43,226	23,690	(19,536)	
Total increased direct costs, G1 through G7	120,743	93,822	(26,921)	
Indirect costs	4,721	3,668	(1,053)	Finding 3
Total program costs	<u>\$ 125,464</u>	97,490	<u>\$ (27,974)</u>	
Less amount paid by the State		-		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 97,490</u>		

Schedule (continued)

Cost Elements	Actual Costs Claimed	Allowable per Audit	Audit Adjustments	Reference ¹
<u>Summary: July 1, 2008, through June 30, 2012</u>				
Total increased direct costs	\$ 543,641	416,806	\$(126,835)	
Indirect costs	<u>15,673</u>	<u>14,516</u>	<u>(1,157)</u>	
Total program costs	<u>\$ 559,314</u>	431,322	<u>\$(127,992)</u>	
Less amount paid by the State		<u>(34,212)</u>		
Allowable costs claimed in excess of (less than) amount paid		<u>\$397,110</u>		

¹ See the Findings and Recommendations section.

Findings and Recommendations

FINDING 1— Unallowable salaries and benefits

The district claimed \$274,894 in salaries and benefits for the audit period. We found that \$185,295 is allowable and \$89,599 is unallowable. The costs are unallowable because the district claimed ineligible, overstated, and unsupported costs; misclassified costs; and underclaimed costs.

The following table summarizes the claimed, allowable, and unallowable salaries and benefits by reimbursable component for the audit period:

Reimbursable Component	Amount Claimed	Amount Allowable	Audit Adjustment
<u>FY 2008-09</u>			
G1 - Determining Bargaining Units	\$ 143	\$ 143	\$ -
G3 - Cost of Negotiations	56,261	48,463	(7,798)
G4 - Impasse Proceedings	9,253	4,074	(5,179)
G6 - Contract Administration	20,499	3,318	(17,181)
G7 - Unfair Labor Practice Charges	5,837	3,691	(2,146)
Subtotal, FY 2008-09	91,993	59,689	(32,304)
<u>FY 2009-10</u>			
G3 - Cost of Negotiations	51,477	36,641	(14,836)
G4 - Impasse Proceedings	130	1,065	935
G6 - Contract Administration	21,680	997	(20,683)
G7 - Unfair Labor Practice Charges	1,220	1,231	11
Subtotal, FY 2009-10	74,507	39,934	(34,573)
<u>FY 2010-11</u>			
G3 - Cost of Negotiations	42,124	34,086	(8,038)
G4 - Impasse Proceedings	10	10	-
G6 - Contract Administration	7,256	2,457	(4,799)
G7 - Unfair Labor Practice Charges	21	23	2
Subtotal, FY 2010-11	49,411	36,576	(12,835)
<u>FY 2011-12</u>			
G3 - Cost of Negotiations	48,466	44,466	(4,000)
G4 - Impasse Proceedings	931	1,033	102
G6 - Contract Administration	7,599	1,375	(6,224)
G7 - Unfair Labor Practice Charges	1,987	2,222	235
Subtotal, FY 2011-12	58,983	49,096	(9,887)
<u>Total Salaries and Benefits</u>			
G1 - Determining Bargaining Units	143	143	-
G3 - Cost of Negotiations	198,328	163,656	(34,672)
G4 - Impasse Proceedings	10,324	6,182	(4,142)
G6 - Contract Administration	57,034	8,147	(48,887)
G7 - Unfair Labor Practice Charges	9,065	7,167	(1,898)
Total Salaries and Benefits	\$ 274,894	\$ 185,295	\$ (89,599)

The program's parameters and guidelines (section G – Claim Components (Reimbursable Costs)) state, in part:

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...However, corroborating documents cannot be substituted for source documents.

Component G3 – Cost of Negotiations

The district claimed \$198,328 in salaries and benefits for the Cost of Negotiations cost component for the audit period. We found that \$163,656 is allowable and \$34,672 is unallowable. The costs are unallowable because the district claimed ineligible, overstated, and unsupported costs; misclassified costs; and underclaimed costs.

The following table summarizes the audit adjustments for the Cost of Negotiations cost component by fiscal year:

	Fiscal Year				Total
	2008-09	2009-10	2010-11	2011-12	
Ineligible costs	\$ (5,541)	\$ (16,215)	\$ (13,410)	\$ (7,541)	\$(42,707)
Unsupported costs	(1,367)	-	(612)	(455)	(2,434)
Misclassified costs	(300)	(938)			(1,238)
Overstated costs	(1,102)	(117)	-	-	(1,219)
Unclaimed costs	-	3,278	4,081	407	7,766
Misstated productive hourly rates	512	(844)	1,903	3,589	5,160
Audit adjustment	<u>\$ (7,798)</u>	<u>\$ (14,836)</u>	<u>\$ (8,038)</u>	<u>\$ (4,000)</u>	<u>\$(34,672)</u>

The parameters and guidelines (section G3) state, in part:

Negotiations: Reimbursable functions include – receipt of exclusive representative's initial contract proposal, holding of public hearings, providing a reasonable number of copies of the employer's proposed contract to the public, development and presentation of the initial district contract proposal, negotiation of the contract, reproduction and distribution of the final contract agreement.

- a. Show the costs of salaries and benefits for employer representatives participating in negotiations. Contracted services will be reimbursed. Costs for maximum of five public school employer representatives per unit, per negotiation session will be reimbursed.

- b. Show the costs of salaries and benefits for employer representatives and employees participating in negotiations planning sessions. Contracted services for employer representatives will be reimbursed. Salaries and benefits must be shown as described in Item H3.
- c. Indicate the cost of substitutes for release time of exclusive bargaining unit representatives during negotiations. Give the job classification of the bargaining unit representative that required the substitute and dates the substitute worked. Substitute costs for a maximum of five representatives per unit, per negotiation session will be reimbursed. The salaries of union representatives are not reimbursable.

Ineligible costs

The district claimed \$42,707 in ineligible costs:

- Health Benefits Committee – The district claimed \$18,342 (\$11,436 for fiscal year (FY) 2009-10, \$5,867 for FY 2010-11, and \$1,039 for FY 2011-12) for district staff to participate in the Health Benefits Committee meetings. The Health Benefits Committee meetings were reestablished in an agreement between the district and the Chula Vista Educators (CVE) in 2009. As reimbursement is limited to negotiation activities, the costs claimed to implement contract provisions of an already-negotiated collective bargaining agreement are not allowable activities.
- Layoff discussions – The district claimed \$10,006 (\$155 for FY 2008-09, \$5,299 for FY 2010-11 and \$4,552 for FY 2011-12) for district staff to discuss layoff activities. Prior to the audit period, the district had negotiated procedures for implementing layoffs. As such, the layoff costs claimed are for implementing terms and conditions of a previously negotiated activity, therefore, the costs claimed are not allowable.
- Individual negotiation preparation – The district claimed \$3,987 (\$2,116 for FY 2008-09, \$1,059 for FY 2009-10, \$102 for FY 2010-11, and \$710 for FY 2011-12) for district staff to individually prepare for negotiations. The parameters and guidelines allow reimbursement for negotiation planning sessions, which are meetings of more than one person for the purpose of strategizing for upcoming negotiations. However, the district claimed reimbursement for individual preparation, which is not an allowable activity.
- Fact-finding preparation – For FY 2008-09, the district claimed \$3,270 for the Assistant Superintendent of Business Services to prepare for fact-finding. Reimbursement is limited to the costs of the school employer panel representative, which the Assistant Superintendent was not; therefore, the costs claimed are not allowable.

- Subcommittee reduction meeting – For FY 2009-10, the district claimed \$3,720 for district staff to participate in a subcommittee reduction meeting for the Chula Vista Classified Employees Organization (CVCEO). Reimbursement is limited to participating in at-table negotiations or negotiation planning sessions. As participation is neither a negotiation activity nor a planning session, the costs claimed are not allowable.
- Public Employment Relations Board (PERB) preparation with the attorney – For FY 2010-11, the district claimed \$2,142 for district staff to prepare for PERB hearings with an attorney and to participate in PERB hearings. Although these activities may be allowable in the Unfair Labor Practice Charges cost component, the district did not provide documentation from its attorney to corroborate the hours claimed.
- Substitute costs – For FY 2011-12, the district claimed \$1,240 in substitute costs for the release time of exclusive bargaining unit representatives. We found that the district claimed reimbursement for substitute costs for time spent by district staff to discuss layoffs, which is unallowable. In addition, we found that not all at-table negotiations lasted the entire day. We allowed substitute costs for the actual time district staff spent participating in at-table negotiations. For at-table negotiation meetings that also included a discussion of layoffs, we allowed reimbursement for only the time devoted to negotiations.

Unsupported costs

The district claimed \$2,434 in unsupported costs:

- For FY 2008-09, the district claimed 73 hours for the Assistant Superintendent of Business Services to participate in at-table negotiations; however, the district provided sign-in sheets to support 59.25 hours only, leaving 13.75 hours unsupported. We confirmed that 2.25 hours were overstated (as discussed below) and 11.5 hours, totaling \$1,367, were unsupported.
- For FY 2010-11, the district claimed 6 hours for the Assistant Superintendent of Human Resources to participate in an at-table negotiation on July 9, 2010; however, the Assistant Superintendent's name was not listed on the sign-in sheet as a participant in the negotiation. Therefore, we found that \$612 was unsupported.
- For FY 2011-12, the district claimed 3 hours, totaling \$294, for an Assistant Superintendent to participate in an at-table negotiation with CVCEO on August 26, 2011. The district did not provide any documentation, such as a sign-in sheet, to support the costs claimed.
- For FY 2011-12, the district claimed 1.70 hours, totaling \$161, for three district staff members to participate in a negotiation planning session; however, the district did not provide any documentation to support the costs claimed.

Misclassified costs

- For FY 2008-09, the district claimed \$300 in substitute costs for the release time of exclusive bargaining unit representatives during impasse proceedings. For FY 2009-10, the district claimed \$938 for the Assistant Superintendent of Human Resources to participate in an impasse proceeding. As the costs claimed were supported by source documentation and were for allowable activities, we reclassified them to the Impasse Proceedings cost component.

Overstated costs

The district claimed \$1,219 in overstated costs:

- For FY 2008-09, the district claimed 5 hours for five district employees to participate in an at-table negotiation on September 9, 2008 (for a total of 25 hours). The district provided a sign-in sheet documenting that the at-table negotiation lasted only 2.75 hours because the union refused to return to the bargaining table. Therefore, we found that the remaining 2.25 hours, for a total of 11.25 hours, totaling \$1,102, are unallowable.
- For FY 2009-10, the district double-claimed 1 hour, totaling \$117, for the Assistant Superintendent of Human Resources to participate in a negotiation planning session with the district's attorney. The double-claimed costs occurred because the district claimed costs for the attorney based on both the employee's mandated activity log and the attorney's invoice.

Unclaimed costs

The district underclaimed \$7,766 in costs:

- For FY 2009-10, the district claimed 7 hours for the Director of Certificated – HR to participate in CVE at-table negotiations; however the district provided documentation to support 30 hours. Therefore, we found that the district underclaimed 23 hours, totaling \$1,958.
- For FY 2009-10, the district claimed 16 hours for a Principal to participate in CVCEO at-table negotiations; however the district provided documentation to support 30 hours. Therefore, we found that the district underclaimed 14 hours, totaling \$1,203.
- For FY 2009-10, the district underclaimed 1 hour, totaling \$117, for the Assistant Superintendent of Human Resources to participate in negotiation planning sessions with the district's attorney. The costs were supported by the attorney invoice.
- For FY 2010-11, the district did not claim any time for the Director of Certificated – HR to participate in an at-table negotiation session with CVCEO on July 9, 2010. As the Director's name was on the sign-in sheet provided by the district, we found that 6 hours, totaling \$443, were allowable.

- For FY 2010-11, the district did not claim any substitute costs for the release time of exclusive bargaining representatives during negotiations. The district provided Absence Reports to support the substitute costs incurred. Therefore, we found that \$3,638 is allowable.
- For FY 2011-12, the district did not claim any time for the Assistant Superintendent of Human Resources to participate in an at-table negotiation session with CVE on October 17, 2011. While the Assistant Superintendent’s signature was not identified on the at-table negotiation sign-in sheet, her attendance has been documented on both her mandate activity log and a bargaining update list that identified her presence at the negotiation. Therefore, we found that 4 hours, totaling \$407, are allowable.

Misstated productive hourly rates

The district misstated the productive hourly rates of the district representatives and substitutes by \$5,160:

- For FY 2008-09 and FY 2009-10, the district claimed a daily rate of \$100 for both classified and certificated substitutes. We found that classified substitutes have hourly rates that vary depending on each position. We recalculated the classified substitute costs using the rates stated in the district’s Substitute Handbook.
- For FY 2010-11 and FY 2011-2, the district understated its benefits costs. We found that the district included only Health and Welfare benefit amounts in its productive hourly rate computation even though the district included other benefit costs. Therefore, we recomputed the productive hourly rate using a 21% benefit rate identified in the parameters and guidelines and applied the revised rates to the allowable hours of district representatives.

Component G4 – Impasse Proceedings

The district claimed \$10,324 in salaries and benefits for the Impasse Proceedings cost component for the audit period. We found that \$6,182 is allowable and \$4,142 is unallowable. The costs are unallowable because the district claimed ineligible and misclassified costs, and understated the productively hourly rates.

The following table summarizes the audit adjustments for the Impasse Proceedings cost component by fiscal year:

	Fiscal Year				Total
	2008-09	2009-10	2010-11	2011-12	
Ineligible costs	\$ (5,600)	\$ (11)	\$ -	\$ -	\$ (5,611)
Misclassified costs	300	938	-	-	1,238
Misstated productive hourly rates	121	8	-	102	231
Audit adjustment	<u>\$ (5,179)</u>	<u>\$ 935</u>	<u>\$ -</u>	<u>\$ 102</u>	<u>\$ (4,142)</u>

The parameters and guidelines (section G4) state, in part:

a. Mediation

(1) Costs for salaries and benefits for employer representative personnel are reimbursable. Contracted services will be reimbursed. Costs for a maximum of five public school employer representatives per mediation session will be reimbursed. Salaries and benefits must be shown as described in Item H3.

(2) Indicate the costs of substitutes for the release time of exclusive bargaining unit representatives during impasse proceedings. The job classification of the employee witnesses and the date they were absent shall be indicated. Costs for a maximum of five representatives per mediation session will be reimbursed.

b. Fact-finding publication of the findings of the fact-finding panel. (To the extent fact-finding was required under the Winton Act during the 1974-75 fiscal year, costs are not reimbursable.)

(1) All costs of the school employer panel representative shall be reimbursed. Salaries and benefits must be shown as described in Item H3.

Ineligible costs

The district claimed \$5,611 in ineligible costs:

- District team meetings – For FY 2008-09, the district claimed \$2,140 for the Assistant Superintendent of Human Resources to participate in district team meetings as the district’s fact-finding panel representative. The district provided attorney invoices documenting that an external consultant was hired as the district’s fact-finding panel member. As reimbursement is limited to the costs of the school employer panel representative, the costs claimed are not allowable.
- Fact-finding preparation – For FY 2008-09, the district claimed \$2,295 for the Assistant Superintendents of Human Resources and Business Services to prepare for fact-finding. Reimbursement is limited to the costs of the school employer panel representative, which neither of them were; therefore, the costs claimed are not allowable.
- Mediation preparation – For FY 2008-09, the district claimed 9.8 combined hours, totaling \$1,165, for the Assistant Superintendents of Human Resources and Business Services to prepare for mediations. For FY 2009-10, the district claimed 0.10 hours, totaling \$11, for the Assistant Superintendent of Human Resources to prepare for mediations. The parameters and guidelines do not identify mediation preparation as an allowable activity. As reimbursement is limited to attendance at mediation sessions, the costs claimed are not allowable.

Misclassified costs

For FY 2008-09, the district claimed \$300 in substitute costs for the release time of exclusive bargaining unit representatives during impasse proceedings in the Cost of Negotiations cost component. For FY 2009-10,

the district claimed \$938 for the Assistant Superintendent of Human Resources to participate in an impasse proceeding in the Cost of Negotiations cost component. As the costs claimed were supported by source documentation and are for allowable activities, we reclassified them to the Impasse Proceedings cost component.

Productive hourly rates

As previously discussed in the Cost of Negotiations cost component, the district misstated the productive hourly rates of the district representatives and the substitutes. Therefore, we recalculated the productively hourly rates and found that the district underclaimed costs by \$231 for the audit period.

Component G6 – Contract Administration

The district claimed \$57,034 in salaries and benefits for the Contract Administration cost component for the audit period. We found that \$8,147 is allowable and \$48,887 is unallowable. The costs are unallowable because the district claimed ineligible costs, underclaimed costs, and misstated the productively hourly rates.

The following table summarizes the audit adjustments for the Contract Administration cost component by fiscal year:

	Fiscal Year				Total
	2008-09	2009-10	2010-11	2011-12	
Ineligible costs	\$ (17,313)	\$ (20,691)	\$ (5,007)	\$ (6,291)	\$ (49,302)
Unclaimed costs	139	-	62	-	201
Misstated productive hourly rates	(7)	8	146	67	214
Audit adjustment	<u>\$ (17,181)</u>	<u>\$ (20,683)</u>	<u>\$ (4,799)</u>	<u>\$ (6,224)</u>	<u>\$ (48,887)</u>

The parameters and guidelines (section G6) state, in part:

Contract administration and adjudication of contract disputes either by arbitration or litigation. Reimbursable functions include grievances and administration and enforcement of the contract.

- a. Salaries and benefits of employer personnel involved in adjudication of contract disputes. Contracted services will be reimbursed.
- c. Reasonable costs incurred for a reasonable number of training sessions held for supervisory and management personnel on contract administration/interpretation of the negotiated contract are reimbursable. Contract interpretations at staff meetings are not reimbursable. Personal development and information programs, i.e., classes, conferences, seminars, workshops, and time spent by employees attending such meetings are not reimbursable.

Ineligible costs

The district claimed \$49,302 in ineligible costs as follows:

- CVCEO and CVE meetings – The district claimed \$28,155 (\$8,609 for FY 2008-09, \$9,677 for FY 2009-10, \$4,691 for FY 2010-11, and \$5,178 for FY 2011-12) for district staff to participate in CVCEO and CVE meetings. The CVCEO meetings occur bi-weekly and the CVE meetings occur either weekly or bi-weekly. The purpose of these meetings is for district staff to discuss general contract issues, such as staff usage of catastrophic leave. The district did not provide documentation to support that specific collective bargaining-related grievances were discussed at these meetings. As reimbursement is limited to adjudication of contract disputes, the costs claimed are not allowable.
- Layoffs – For FY 2009-10, the district claimed \$7,990 for district staff to participate in layoff discussions. Prior to FY 2009-10, the district had negotiated procedures for implementing layoffs. The layoff costs claimed for FY 2009-10 were for implementing terms and conditions of a previously-negotiated activity. Therefore, the costs claimed are not allowable.
- Budget advisory meetings – The district claimed \$6,089 (\$3,151 for FY 2008-09 and \$2,938 for FY 2009-10) for district staff to participate in budget advisory meetings. The Budget Advisory Committee is made up of members from each school site; its purpose is to look into the district's financial situation. Based on the outcome of the meetings, the committee recommends changes to the Superintendent. As reimbursement is limited to training sessions held for supervisory and management personnel on a negotiated contract, the costs claimed are not allowable.
- Reallocation meetings – For FY 2008-09, the district claimed \$3,320 for district staff to participate in reallocation meetings. The Reallocation Committee comprises both union and district representatives. The committee meets to ensure that the pay rates for each position are comparable to pay rates of similar positions in other districts. As reimbursement is limited to training sessions held for supervisory and management personnel on a negotiated contract, the costs claimed are not allowable.
- Contract interpretation – The district claimed \$1,658 (\$143 for FY 2008-09, \$86 for FY 2009-10, \$316 for FY 2010-11, and \$1,113 for FY 2011-12) for district staff to participate in telephone conferences with the district's attorneys. Topics of discussion included the probation period for new hires, retiree health benefits, reemployment rights, and personnel matters. As reimbursement is limited to training sessions held for supervisory and management personnel on a negotiated contract, the costs claimed are not allowable.

- Reclassification meetings – For FY 2008-09, the district claimed \$1,139 for district staff to participate in reclassification meetings. The Reclassification Committee meets to review requests for reclassification. Examples include a Programmer who wants his or her current position to be reclassified as a Senior Programmer. As reimbursement is limited to training sessions held for supervisory and management personnel on a negotiated contract, the costs claimed are not allowable.
- Transportation meetings – Due to an external investigation in early 2009, the district discovered that some bus drivers were not in compliance with regulations. As a result, for FY 2008-09, the district claimed \$951 for district staff to participate in meetings to find resolution. The district did not provide documentation to support that any collective bargaining-related grievances were filed by the bus drivers. As such, the costs claimed are not allowable.

Underclaimed grievance costs

The district underclaimed \$201 in costs as follows:

- For FY 2008-09, the district claimed 28.30 hours for district staff to participate in grievance meetings. We traced the costs claimed to supporting documentation, such as the district employees' Mandated Cost Time Record sheet, and found that 29.90 hours are allowable. Therefore, we found that the district underclaimed 1.60 hours, totaling \$139.
- For FY 2010-11, the district claimed 26.45 hours for district staff to participate in grievance meetings. We traced the costs claimed to supporting documentation, such as the district employees' Mandated Cost Time Record sheet, and found that 27.65 hours are allowable. Therefore, we found that the district underclaimed 1.20 hours, totaling \$62.

Productive hourly rates

As previously discussed in the Cost of Negotiations cost component section, the district misstated the productive hourly rates of the district representatives and substitutes. Therefore, we recalculated the productively hourly rates and found that the district underclaimed costs by \$214 for the audit period.

Component G7 – Unfair Labor Practice Charges

The district claimed \$9,065 in salaries and benefits for the Unfair Labor Practice Charges cost component for the audit period. We found that \$7,167 is allowable and \$1,898 is unallowable. The costs are unallowable because the district claimed ineligible costs and understated the productively hourly rate.

The following table summarizes the audit adjustments for the Unfair Labor Practice Charges cost component by fiscal year:

	Fiscal Year				Total
	2008-09	2009-10	2010-11	2011-12	
Ineligible costs	\$ (2,140)	\$ -	\$ -	\$ -	\$ (2,140)
Productive hourly rates	(6)	11	2	235	242
Audit adjustment	<u>\$ (2,146)</u>	<u>\$ 11</u>	<u>\$ 2</u>	<u>\$ 235</u>	<u>\$ (1,898)</u>

Ineligible costs

For FY 2008-09, the district claimed 18 hours, totaling \$2,140, for the Assistant Superintendent of Business Services to participate in fact-finding on May 6, 2009, and May 22, 2009. Reimbursement is limited to the costs of the fact-finding panel member. The Assistant Superintendent was not a panel member; therefore, the costs claimed are not allowable.

Productive hourly rates

As previously discussed in the Cost of Negotiations cost component, the district misstated the productive hourly rates of the district representatives and substitutes. Therefore, we recalculated the productively hourly rates and found that the district underclaimed costs by \$242 for the audit period.

Recommendation

Commencing in FY 2013-14, the district elected to participate in a block grant program, pursuant to Government Code section 17581.6, in lieu of filing annual mandated cost claims. If the district chooses to opt out of the block grant program, we recommend that the district ensure that all costs claimed are reimbursable per the parameters and guidelines, and are properly supported. Supporting documentation should identify the mandated functions performed.

District's Response

The district disagrees with most of the issues identified in Finding 1. Please see the attachment for the district's full response.

SCO's Comment

The finding and recommendation remain unchanged. We have the following comments for issues disputed by the district:

A. Component G3 – Cost of Negotiations

Ineligible Costs

1. Health Benefits Committee – The district believes that the Health Benefits Committee is an effective part of the negotiation process and that staff time should be allowable. We disagree.

A tentative agreement between the district and Chula Vista Educators, dated May 22, 2009, states the following:

CVE and the District will reconstitute the Health Benefits Committee (HBC) with the following membership:

Three CVE members
One charter teacher representative
Three CVCEO members
Three District management representatives

Both parties recognize that HBC plays a critical role in the business relationships of the District with its insurance providers, and therefore, the HBC will by providing training by Jim Schlotz and Ron Bennet on the duties and responsibilities of an insurance committee. This committee shall operate as a consensus committee.

For the 2010 year the HBC will solicit quotes through the existing broker of record from available providers. After meeting and conferring the HBC will select plans and providers and make recommendations to their respective constituents....

Reimbursement is limited to participation in planning sessions to strategize for upcoming negotiations and participation in at-table negotiation sessions. As the district already has negotiated terms and conditions of the Health Benefits Committee, costs claimed implementing an already-negotiated activity is not allowable.

2. Layoff Discussions – The district believes that layoff costs for implementing terms and conditions of a previously negotiated activity should be allowable. We disagree.

The district states, “The parameters and guidelines allow for negotiation of layoff procedures. The fact that the language existed in the previous contract does not preclude continued negotiation of the process.” We agree that had the district *negotiated* how layoff procedures were to be identified in a collective bargaining agreement, the costs claimed would be allowable. However, that is not the case here. The time claimed by the district was for staff participation in “Bargaining Updates – Meetings Regarding Layoffs” and topics of discussion included updates on the budget, positions affected by layoffs, and revised proposals in lieu of layoffs. These activities are not reimbursable.

3. Individual Negotiation Preparation – The district believes that all staff time participating in negotiation should be reimbursable. We disagree. The term “negotiation planning session” that appears in the parameters and guidelines is not defined. However, the word “session” implies a meeting or gathering. Webster’s New World Dictionary defines the word “session” as (a) “the sitting together or meeting of a group, assembly, as of a court, legislature, council, etc., (b) a continuous day-to-day series of such meetings, and (c) the term or period of such a meeting or meetings.” Therefore, we conclude that individual negotiation preparation time is not a reimbursable activity because the term “preparation” is absent

from the parameters and guidelines for this component, and the common definition of the word “session” refers to a group activity.

4. Fact-Finding Preparation – The district believes that costs for the Assistant Superintendent of Business Services, who is not the employer panel representative, should be allowable. We disagree.

The parameters and guidelines state, “All costs of the school employer panel representative shall be reimbursed.” As the Assistant Superintendent of Business Services is not the school employer panel representative, none of her time is allowable.

5. Subcommittee Reduction Meeting – The district states, “It appears that the referenced meeting was a negotiation planning session and the staff time should be allowed.” We disagree.

The meeting was not a negotiation planning session because the meetings included members of the union’s bargaining team. The time claimed was for district staff to meet with union members to develop a reduction list with regard to the upcoming layoffs. Provision 11.3 of Article 34 of the agreement between the district and CVCEO states that the union has the right to consult with the district regarding the implementation of any layoff.

6. PERB Preparation with Attorney – The district believes that the reasonable presumption is that the attorney and district accurately reported their time and efforts. We disagree.

The district claimed reimbursement for its Assistant Superintendent of Human Resources to meet with an attorney to “prep for PERB hearings,” yet the district did not provide any corroborating documentation from its attorney to support that any meetings occurred. Further, in the absence of corroborating documentation, we are uncertain as to what discussions or activity took place.

7. Substitute Costs – The district believes that time spent by district staff to discuss layoffs should be allowable. We disagree.

As previously discussed, staff participation in layoff discussions is not an allowable activity. As such, time claimed for substitutes for the release time of bargaining unit representatives to participate in layoff discussions is not allowable.

Unsupported Costs

8. At-table Negotiations – The district states, “The staff time claimed is from her individual time sheet.” We are uncertain what “individual time sheet” the district is referring to. During audit fieldwork, the district provided us with a “Mandated Cost” worksheet that identifies time claimed by the employee; however, this worksheet does not meet the definition of a source document, in that it was not prepared at or near the time the actual cost was

incurred. As specified in the audit finding, we allowed all time supported by source documentation, such as at-table negotiation sign-in sheets.

9. At-table Negotiations – The district states, “The staff time claimed is from the Assistant Superintendent of Human Resources signed and dated individual time and is an acceptable source so the staff time should be allowed.” We are uncertain as to what “individual time” the district refers. During audit fieldwork, the district provided us with a “Mandated Cost” worksheet that identifies time claimed by the employee; however, this worksheet does not meet the definition of a source document, in that it was not prepared at or near the time the actual cost was incurred. The district provided no evidence that the Assistant Superintendent of Human Resources participated in negotiations as her name or signature was not recorded on the at-table negotiation sign-in sheets and the district provided no other corroborating evidence.

10. At-table Negotiations – The district states, “The staff time claimed is from the Assistant Superintendent of Human Resources signed and dated individual time sheet and is an acceptable source so the staff time should be allowed.” We are uncertain as to what “individual time sheet” the district refers. During audit fieldwork, the district provided us with a “Mandated Cost” worksheet that identifies time claimed by the employee; however, this worksheet does not meet the definition of a source document, in that it was not prepared at or near the time the actual cost was incurred. As specified in the audit finding, we allowed all time supported by source documentation, such as at-table negotiation sign-in sheets.

11. Individual Negotiation Preparation – The hours claimed are supported by a “Sort by Name” report that is prepared by the district’s consultant several months after the end of the fiscal year when the mandated cost claims are completed. The “Sort by Name” report does not meet the definition of a source document, in that it was not prepared at or near the time the actual cost was incurred. The specific unallowable time is as follows:

Date	Unsupported	Employee Classification	PHR	Amount
	Hours Claimed			Unsupported
09/17/11	1.0	Assistant Superintendent	\$ 101.89	\$ 101.89
11/15/11	0.3	Assistant Superintendent	\$ 98.27	29.48
02/06/12	0.3	Director - Certificated	\$ 75.21	22.56
02/07/12	0.1	Director - Certificated	\$ 75.21	7.52
Total	1.7			\$ 161.45

Misclassified Costs

12. Cost of Negotiations vs. Impasse Proceedings – The district agreed with this finding.

Overstated Costs

13. Overstated Hours – The district believes that the costs should be allowable as the draft audit report did not indicate whether the administrative team members used the additional time for a caucus or other relevant activity. We disagree.

The September 9, 2008 “Negotiations Update” stated that the negotiation ended at 12:45 p.m.; it did not mention any “caucus or other relevant activity” occurring thereafter.

14. Double-claimed Costs – The district does not dispute this adjustment.

Unclaimed Costs

15. Director of Certificated – HR – The district agreed with this adjustment.
16. Principal – The district agrees with this adjustment.
17. Assistant Superintendent – HR – The district agreed with this adjustment.
18. Director of Certificated – HR – The district agreed with this adjustment.
19. Substitute Costs – The district agreed with this adjustment.
20. Assistant Superintendent – HR – The district agreed with this adjustment.

Misstated Productive hourly Rates

21. Substitutes – The district agreed with this adjustment.
22. District Representatives – The district agreed with this adjustment.

B. Component G4 – Impasse Proceedings*Ineligible Costs*

1. District Team Meetings – The district states, “The parameters and guidelines language for fact-finding does not exclude reimbursement of District staff when a consultant is hired, rather the language merely states that the consultant is also reimbursable.” We disagree.

The parameters and guidelines state that reimbursement is for “All costs of the school employer panel representative... Salaries and benefits must be shown as described in Item H3.” The fact-finding section of the parameters and guidelines (section G4.b.) makes no reference to consultants. We do not dispute that the Assistant

Superintendent of Human Resources is a relevant support person to the fact-finding panel representative; however, the parameters and guidelines allow reimbursement only for a panel representative.

2. Fact-finding Preparation – The district states, “The parameters and guidelines language does not exclude preparation time. There is no stated, or reasonable inference from, the parameters and guidelines language that panel meeting time is the only reimbursable time.” We disagree.

The parameters and guidelines state that reimbursement is for “All costs of the school employer panel representative.” The term “representative” is singular and does not include district staff other than the panel representative. Preparation time for the panel representative is allowable; however any time claimed for other district employees is not allowable.

3. Mediation Preparation – The district states, “The parameters and guidelines language does not exclude preparation time. There is no stated, or reasonable inference from, the parameters and guidelines language that mediation session time is the only reimbursable time.” We disagree.

The fact that the parameters and guidelines do not identify “mediation preparation” as an allowable activity is evidence that this activity is not allowable. The Commission identified when preparation time is allowable and when it is not in the parameters and guidelines. Section G1.c.(2) states, “Actual preparation time will be reimbursed (emphasis added),” and section G1.c.(6) states “Cost of preparation for one transcript per PERB hearing will be reimbursed (emphasis added).”

Misclassified Costs

4. Costs of Negotiations vs. Impasse Proceedings – The district agreed with this reclassification.

Productive Hourly Rates

5. Substitutes and District Representatives – The district agreed with this adjustment.

C. Component G6 – Contract Administration

Ineligible Costs

1. CVCEO and CVE Meetings – The district believes that costs of meetings that may prevent future grievances should be allowable. We disagree.

Section G of the parameters and guidelines require that actual costs claimed “be supported by source documents that show the

validity of such costs, when they were incurred, and their relationship to reimbursable activities.” The district did not provide documentation to support that a grievance was ever filed on the subject matter discussed at these meetings. In addition, topics of discussion at these meetings include both personnel-related grievances and collective bargaining related-grievances. Absent documentation to support a collective bargaining-related grievance, the costs claimed are not allowable.

2. Layoffs – The district believes that costs to implement terms and conditions of a previously negotiated activity are allowable. We disagree.

Section G6(a) of the parameters and guidelines state that reimbursement is for “Salaries and benefits of employer personnel involved in adjudication of contract disputes.” The district did not provide documentation to support that a collective bargaining-related grievance was filed due to the district’s improper implementation of a layoff provision outlined in the collective bargaining agreement.

3. Budget Advisory Meetings – The district “conceded” the audit adjustment for this item.
4. Reallocation Meetings – The district believes that these meetings enforce the content of the contract and that staff time should be allowable. We disagree.

Section G6(a) of the parameters and guidelines states that reimbursement is for “Salaries and benefits of employer personnel involved in adjudication of contract disputes.” The district did not provide documentation to support that a collective bargaining-related grievance was filed due to the district’s unequitable enforcement of compensation.

5. Contract Interpretation – The district believes that costs claimed are for the proper and uniform enforcement of the content of the contract terms and the staff time should be allowable. We disagree. The district further believes that improperly implementing such activities would be subject to a grievance.

Section G6(a) of the parameters and guidelines states that reimbursement is for “Salaries and benefits of employer personnel involved in adjudication of contract disputes.” The district did not provide documentation to support that a collective bargaining-related grievance was filed for any of the enumerated contract issues identified.

6. Reclassification Meetings – The district believes that these meetings enforce the content of the contract and that the staff time should be allowed. We disagree.

Section G6(a) of the parameters and guidelines states that reimbursement is for “Salaries and benefits of employer personnel involved in adjudication of contract disputes.” The district did not provide documentation to support that a collective bargaining-related grievance was filed due to the district’s improper handling of a reclassified employee.

- 7. Transportation Meetings – The district “conceded” to the adjustment.

Unclaimed Grievances Costs

- 8. District Staff – The district agreed with this adjustment.

Productive Hourly Rates

- 9. Substitutes and District Representatives – The district agreed with this adjustment.

D. Component G7 – Unfair Labor Practice Charges

Ineligible Costs

- 1. Fact-finding Panel – The district believes that the costs of the Assistant Superintendent of Business Services, who is not a fact-finding panel member representative, should be allowable. We disagree.

Section G4(b) of the parameters and guidelines states, “All costs of the school employer panel representative shall be reimbursed.” Since the Assistant Superintendent of Business Services is not the school employer panel representative, none of her time is allowable.

**FINDING 2—
Unallowable contract
services**

The district claimed \$286,392 in contract services for the audit period. We found that \$249,156 is allowable and \$37,236 is unallowable. The costs are unallowable because the district claimed ineligible, unsupported, and overstated costs.

The following table summarizes the claimed, allowable, and unallowable contract services by reimbursable component for the audit period:

Reimbursable Component	Amount Claimed	Amount Allowable	Audit Adjustment
<u>FY 2008-09</u>			
G1 - Determining Bargaining Units	\$ 6,237	\$ 6,237	\$ -
G3 - Cost of Negotiations	32,962	31,879	(1,083)
G4 - Impasse Proceedings	41,042	40,212	(830)
G6 - Contract Administration	25,587	22,581	(3,006)
G7 - Unfair Labor Practice Charges	1,458	1,458	-
Subtotal, FY 2008-09	<u>107,286</u>	<u>102,367</u>	<u>(4,919)</u>
<u>FY 2009-10</u>			
G3 - Cost of Negotiations	30,478	30,420	(58)
G4 - Impasse Proceedings	4,037	4,037	-
G6 - Contract Administration	12,339	10,517	(1,822)
G7 - Unfair Labor Practice Charges	2,956	2,956	-
Subtotal, FY 2009-10	<u>49,810</u>	<u>47,930</u>	<u>(1,880)</u>
<u>FY 2010-11</u>			
G3 - Cost of Negotiations	32,632	29,624	(3,008)
G4 - Impasse Proceedings	1,904	1,904	-
G6 - Contract Administration	26,861	16,466	(10,395)
G7 - Unfair Labor Practice Charges	1,552	1,552	-
Subtotal, FY 2010-11	<u>62,949</u>	<u>49,546</u>	<u>(13,403)</u>
<u>FY 2011-12</u>			
G3 - Cost of Negotiations	33,638	30,253	(3,385)
G4 - Impasse Proceedings	897	897	-
G6 - Contract Administration	30,692	17,043	(13,649)
G7 - Unfair Labor Practice Charges	1,120	1,120	-
Subtotal, FY 2011-12	<u>66,347</u>	<u>49,313</u>	<u>(17,034)</u>
<u>Total Contract Services</u>			
G1 - Determining Bargaining Units	6,237	6,237	-
G3 - Cost of Negotiations	129,710	122,176	(7,534)
G4 - Impasse Proceedings	47,880	47,050	(830)
G6 - Contract Administration	95,479	66,607	(28,872)
G7 - Unfair Labor Practice Charges	7,086	7,086	-
Total Contract Services	<u>\$ 286,392</u>	<u>\$ 249,156</u>	<u>\$ (37,236)</u>

The parameters and guidelines (section G – Claim Components (Reimbursable Costs)) state, in part:

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 parameters and guidelines (section H5) state:

Professional and Consultant Services: ...Invoices must be submitted as supporting documentation with your claim. The maximum reimbursable fee for contracted services is \$135 per hour. Annual retainer fees shall be no greater than \$135 per hour. Reasonable expenses will also be paid as identified on the monthly billings of consultants. However, travel expenses for consultants and experts (including attorneys) hired by the claimant shall not be reimbursed in an amount higher than that received by State employees, as established under Title 2, Div. 2, Section 700ff, CAC.

School Mandated Cost Manual, Filing a Claim, states:

A charter school is not eligible to file mandated cost claims under these programs because it is not defined as school district pursuant to GC section 17519. Accordingly, charter schools cannot be reimbursed for their costs by filing a claim or through a third party's claim such as a school district or superintendent of schools.

Component G3 – Cost of Negotiations

The district claimed \$129,710 in contract services for the Cost of Negotiations cost component for the audit period. We found that \$122,176 is allowable and \$7,534 is unallowable. The costs are unallowable because the district claimed ineligible costs and unsupported costs.

The following table summarizes the audit adjustments for the Cost of Negotiations cost component by fiscal year:

	Fiscal Year				Total
	2008-09	2009-10	2010-11	2011-12	
Ineligible costs:					
Ineligible activities	\$ -	\$ -	\$ (2,848)	\$ (2,592)	\$ (5,440)
Ineligible meals	(1,034)	(58)	(160)	(746)	(1,998)
Ineligible mileage	-	-	-	(47)	(47)
Total ineligible costs	(1,034)	(58)	(3,008)	(3,385)	(7,485)
Unsupported costs	(49)	-	-	-	(49)
Audit adjustment	<u>\$ (1,083)</u>	<u>\$ (58)</u>	<u>\$ (3,008)</u>	<u>\$ (3,385)</u>	<u>\$ (7,534)</u>

Ineligible costs

The district claimed \$7,485 in ineligible costs:

- Layoffs – The district claimed \$5,197 (\$2,848 for FY 2010-11 and \$2,349 for FY 2011-12) for its attorney to prepare for layoff discussions and to participate in discussions with district staff regarding layoffs. As previously discussed, reimbursement for layoffs is unallowable because the district had negotiated procedures for implementing layoffs; therefore, the costs claimed were for implementing terms and conditions of a previously-negotiated activity.

- Ineligible meal costs – The district claimed reimbursement of \$1,998 (\$1,034 for FY 2008-09, \$58 for FY 2009-10, \$160 for FY 2010-11, and \$746 for FY 2011-12) for lunch costs incurred by its attorney during travel to the district to participate in negotiations. The parameters and guidelines allow reimbursement for contract services' travel expenses at an amount no higher than that received by State employees. The California Department of Human Resources states that for travel lasting less than 24 hours, employees may not claim lunch. Therefore, we found that none of the meal costs claimed are allowable.
- General legal guidance – For FY 2011-12, the district claimed \$243 for its attorney to provide general legal guidance, such as on press inquiries and interference with union activities. As reimbursement is limited to negotiations, the costs claimed are not allowable.
- Ineligible mileage – For FY 2011-12, the district claimed \$47 in mileage costs for its attorney to travel to the district on January 23, 2012, to meet with a district employee. The district did not provide documentation to support that the meeting was for either an at-table negotiation session or a negotiation planning session. As such, the costs claimed are not allowable.

Unsupported costs

For FY 2008-09, the district claimed \$49 in mileage costs for its attorney to travel to the district on February 10, 2009, to participate in a negotiation planning session. The district did not provide documentation to support the costs claimed.

Component G4 – Impasse Proceedings

The district claimed \$47,880 in contract services for the Impasse Proceedings costs component for the audit period. We found that \$47,050 is allowable and \$830 is unallowable. The costs are unallowable because the district overstated the attorney's hourly rate for FY 2008-09.

The district claimed 20.75 hours at an hourly rate of \$135 for an employee with School Services of California to participate in fact-finding. The district provided invoices supporting that the employee's billing rate was only \$95. Therefore, we found that \$830 ($(\$135 - \$95) \times 20.75$ hours) is overstated.

Component G6 – Contract Administration

The district claimed \$95,479 in contract services for the Contract Administration cost component for the audit period. We found that \$66,607 is allowable and \$28,872 is unallowable. The costs are unallowable because the district claimed ineligible costs.

The following table summarizes the audit adjustments for the Contract Administration cost component by fiscal year:

	Fiscal Year				Total
	2008-09	2009-10	2010-11	2011-12	
Ineligible costs	\$ (3,006)	\$ (1,822)	\$ (10,395)	\$ (13,649)	\$ (28,872)

Ineligible costs

The district claimed the following ineligible activities for contract interpretation and contract administration:

- Charter schools – Costs related to charter schools are not allowable because charter schools are not eligible for mandated costs reimbursement.
- Layoffs – As previously discussed, the district already has negotiated procedures for implementing layoffs. Therefore, the layoff costs incurred for implementing terms and conditions of a previously negotiated activity are not allowable.
- General legal guidance – Reimbursement is limited to the adjudication of contract disputes. Any general legal guidance provided to the district not related to a collective bargaining-related grievance is not allowable.

Recommendation

Commencing in FY 2013-14, the district elected to participate in a block grant program, pursuant to Government Code section 17581.6, in lieu of filing annual mandated cost claims. If the district chooses to opt out of the block grant program, we recommend that the district ensure that all costs claimed are reimbursable per the parameters and guidelines, and are properly supported. Supporting documentation should identify the mandated functions performed as required by the claiming instructions.

District's Response

The district disagrees with most of the issues identified in Finding 2. Please see the attachment for the district's full response.

SCO's Comment

The finding and recommendation remain unchanged. We have the following comments for issues disputed by the district:

A. Component G3 – Cost of Negotiations

Ineligible Costs

1. Layoffs – The district states, "...the District disagrees with this reason for adjustment since the process of negotiating layoff

procedures and contract enforcement of those procedures are reimbursable costs.” We disagree.

Section G3(a) of the parameters and guidelines states that reimbursement is for “employer representatives participating in negotiations.” The time spent by the attorney to negotiate layoffs is reimbursable, however time spent for the attorney to meet with district staff to follow-through and implement layoffs after the activity already has been negotiated, is not allowable.

2. Ineligible meal costs – The district believes that meal costs by the attorney during travel to the district to participate in negotiations are claimable for travel lasting fewer than 24 hours. We disagree.

Section H5 of the parameters and guidelines states, “However, travel expenses for consultants and experts (including attorneys) hired by the claimant shall not be reimbursed in an amount higher than that received by State employees, as established under Title 2, Div. 2, Section 700ff, CAC.” We agree that attorneys are not state or district employees, however, reimbursement is limited to that which is allowable for State employees.

3. General legal guidance – The district “conceded” to the adjustment as the amount is de minimus.
4. Ineligible mileage - The district “conceded” to the adjustment as the amount is de minimus.

Unsupported Costs

5. Mileage costs – The district “conceded” to this adjustment.

B. Component G4 – Impasse Proceedings

Overstated Costs

1. School Services of California – The district agreed with the adjustment.

C. Component G6 – Contract Administration

Ineligible Costs

1. Charter schools – The district believes that costs of employees located at charter schools are covered by the district’s collective bargaining contract and as such, are allowable.

The district claimed attorney costs to research the return rights of charter school employees. Cost of charter schools, either by filing a claim or through a third party (school district or superintendent of schools) are not allowable costs.

2. Layoffs – The district believes that the cost to enforce layoff procedures are allowable. We disagree.

Section G6(a) of the parameters and guidelines states that reimbursement is for “Salaries and benefits of employer personnel involved in adjudication of contract disputes.” The district did not provide documentation to support that a collective bargaining-related grievance was filed due to the district’s improper implementation of a layoff provision outlined the collective bargaining agreement.

3. General legal guidance – The district indicated that it is unable to ascertain the substance of the unallowable costs from the draft audit report.

We discussed the unallowable costs during the audit field work. Examples of costs claimed for general legal guidance include reviewing correspondence regarding teacher conduct, responding to requests for information by the unions, research regarding enrollment quotas, and reviewing files regarding past practices of bumping. Section G6(a) of the parameters and guidelines states that reimbursement is for “Salaries and benefits of employer personnel involved in adjudication of contract disputes.” Time spent by an attorney to provide “general legal guidance” to the district is not an allowable activity.

**FINDING 3—
Misstated indirect
costs**

The district claimed \$15,673 in indirect costs for the audit period. We found that \$14,516 is allowable and \$1,157 is unallowable. The costs are unallowable because the district overstated allowable direct costs for the audit period (see Findings 1 and 2), incorrectly excluded contract services from the indirect cost rate calculation for FY 2008-09, and overstated the FY 2009-10 indirect cost rate.

For FY 2008-09, the district did not apply the indirect cost rate to contract services. The parameters and guidelines allow indirect cost rates provisionally approved by the California Department of Education (CDE). The CDE indirect cost rates apply to total direct costs (salaries and benefits, materials and supplies, and contract services). The error occurred because the district followed the State Controller’s Office claiming instructions identified on Form 1 for the Collective Bargaining Program, which inadvertently excluded contract services from the calculation of indirect costs. The claiming instructions have since been updated.

Also, for FY 2009-10, the district claimed the FY 2008-09-approved indirect cost rate of 3.33%. We confirmed with the CDE that the FY 2009-10-approved indirect cost rate is 3.04%.

The following table summarizes the audit adjustments to indirect costs by fiscal year:

	Fiscal Year				Total
	2008-09	2009-10	2010-11	2011-12	
Allowable increased costs	\$ 157,769	\$ 83,530	\$ 81,685	\$ 93,822	\$ 416,806
Applied to allowable indirect cost rates	3.33%	3.04%	3.74%	3.91%	
Allowable indirect costs	5,254	2,539	3,055	3,668	14,516
Less claimed indirect costs	(2,920)	(3,995)	(4,037)	(4,721)	(15,673)
Audit adjustment	\$ 2,334	\$ (1,456)	\$ (982)	\$ (1,053)	\$ (1,157)

Recommendation

Commencing in FY 2013-14, the district elected to participate in a block grant program, pursuant to Government Code section 17581.6, in lieu of filing annual mandated cost claims. If the district chooses to opt out of the block grant program, we recommend that the district claim reimbursement using the proper indirect cost rate approved by the CDE, apply the indirect cost rate to allowable direct costs, and calculate indirect costs consistent with the updated guidance provided in the State Controller's Office claiming instructions.

District's Response

The District claimed \$15,673 in indirect costs during the audit period. The draft audit report found that \$14,516 is allowable and \$1,157 is unallowable. The majority of the amount disallowed is a direct result of the direct cost reductions in Findings 1 and 2. The District does not dispute this adjustment.

OTHER ISSUE — Documentation standards

The district's response includes a general statement regarding the documentation of staff time to implement the mandated program.

District's Response

About one fourth of the amount claimed for reimbursement for the four fiscal years has been disallowed by the audit. In sum, where the Controller does not assert that the claimed costs were unreasonable, which is the only statutory mandated cost audit standard (Government Code Section 17561(d)(2)), the wrong standard of review was used. The draft audit report essentially asserts that a significant part of the staff time to implement the mandated activities is inappropriately or insufficiently documented. The draft audit report cites a portion of the relevant parameters and guidelines language as the legal standard for source documentation:

To be eligible for mandated cost reimbursement for any fiscal year, only actual costs may be claimed. Actual costs are those actually incurred to implement the mandated activity. 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 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.... However, corroborating documents cannot be substituted for source documents.

None of the governmental entities that establish the accounting standards and reporting requirements that school districts are subject to publish any standards or reporting requirements for state mandate cost accounting. Nor does the Controller, whose particular responsibility has been the payment and audit of the mandate annual claims for more than thirty years (specifically since 1980 for this mandate), publish accounting forms for use by claimants to record staff time spent on mandates. In the absence of governmental standards, districts must rely upon documentation produced in the regular course of business and forms designed by mandate consultants for the collection of staff mandate time not otherwise available from regular business records. Where these forms or other documentation was apparently sufficient, the auditor made qualitative judgments regarding the scope of activities as to whether they were related to the mandate program. Where it was not, the auditor disallowed the claimed costs for insufficient documentation. These choices are subjective because there is no cited criteria.

In a similar manner, a substantial amount of staff time is disallowed because the auditor concluded a separate and additional "corroborating" source document was not provided. The staff time claimed is generally derived from meeting sign-in sheets, meeting minutes or agendas, individual time sheets, and extracts from the attorney billings. Each of these sources met the documentation requirements for annual claims. The audit does not indicate what additional source document should be reasonably available in the usual course of business or strictly required by any published mandated cost accounting standard. Uniform compliance would be more likely if the Controller published forms for this purpose, as the Controller has done for other local compliance programs within the Controller's payment and audit jurisdiction.

SCO's Comments

The district states in its response that "the draft report essentially asserts that a significant part of the staff time to implement the mandated activities is inappropriately or insufficiently documented." We disagree.

Finding 1 of the audit report cites unallowable salaries and benefits totaling \$89,599 for the audit period because the district claimed ineligible, overstated, and unsupported costs; misclassified costs; and underclaimed costs. The amount of the finding identified in the audit report for unsupported costs totals \$2,434 for the audit period. Therefore, the amount of the finding related to "inappropriate or insufficient documentation" represents 2.7% of the audit finding. We do not believe that an issue involving less than 3% of the audit finding rises to the level of "significant," as stated by the district.

The audit report lists four specific instances of unsupported costs:

- \$1,367 in unsupported costs for FY 2008-09 because sign-in sheets provided by the district did not support 11.5 hours spent by the Assistant Superintendent of Business Services to participate in at-table negotiations.
- \$612 in unsupported costs for FY 2010-11 because the Assistant Superintendent of Human Resources was not listed as an attendee on the district's sign-in sheet for an at-table negotiation session held on July 9, 2010.
- \$294 in unsupported costs for FY 2011-12 because the district provided no documentation of any kind (such as a sign-in sheet) to support that an Assistant Superintendent participated in an at-table negotiation session on August 26, 2011.
- \$161 in unsupported costs for FY 2011-12 because no documentation of any kind was provided to support that three district staff members participated in a negotiation planning session.

The district's response overlooks that our audit report found unclaimed costs totaling \$7,967 because the district provided documentation supporting more time spent by district staff performing the reimbursable activities than what it claimed.

The district's response states that "none of the governmental entities that establish the accounting standards and reporting requirements that school districts are subject to publish any standards or reporting requirements for state mandate cost accounting." We disagree. The Commission on State Mandates (Commission) is a quasi-judicial body established by the State Legislature when it enacted Government Code section 17500 under Chapter 1459, Statutes of 1984. Pursuant to the authority provided to the Commission by the Legislature, the parameters and guidelines for the Collective Bargaining Agreement Disclosure Program were originally adopted on October 22, 1980 and most recently amended on January 29, 2010.

Section G (Claim Components (Reimbursable Costs)) contained in the most recent version of the parameters and guidelines provides the legal standard for source documentation for school districts wishing to claim reimbursement for mandated costs incurred under this mandated program. The language in this section of the parameters and guidelines provides definitions for the terms "actual costs," "source documents," and "corroborating documents." The language provides examples of acceptable source documents that claimants can use to support their claims, as well as examples of corroborating documents. Therefore, the district's belief that there are no standards applicable to State mandated cost claims is unfounded. School districts claiming reimbursement for mandated costs incurred need only comply with the parameters and guidelines concerning acceptable source documentation. The district's response also references documents "reasonably available in the usual course of business." The district's claims included sign-in sheets that were created during the usual course of business to support time spent by its

staff in at-table negotiation sessions. However, most of the unsupported costs cited in the audit report were for time claimed that was not supported by such documentation.

The district states its belief that none of the unallowable costs cited in the audit report were unreasonable. We disagree. The definition of “unreasonable,” as found in the Merriam-Webster’s Collegiate Dictionary, Tenth Edition (2001), is “not conformable to reason” or “exceeding the bounds of reason.” Reason is defined as “a sufficient ground of explanation or of logical defense; something that supports a conclusion or explains a fact.” The district did not provide documentation to support some of its claimed costs; therefore, these claimed costs are unreasonable.

**OTHER ISSUE—
Statute of limitations**

The district’s response includes a comment regarding the two-year statute of limitations to issue the audit report.

District’s Response

The District asserts that all four annual claims are beyond the statute of limitations to complete the audit. Statutes of 2004, Chapter 313, operative January 1, 2005, amended Government Code section 17558.5, subdivision (a), to state:

A reimbursement claim for actual costs filed by a local agency or school district pursuant to this chapter 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 no later than two years after the date that the audit is commenced.

The final audit report has not yet been issued. It is uncontested that an audit is completed only when the final audit report is issued. The 2005 version of Section 17558.5 requires the audit to be completed within two years of commencement. The Commission on State Mandates determined on March 27, 2015, (CSM 09-4425-I-17 and CSM 10-4425-I-18, Sierra Joint Community College District, Collective Bargaining) that for purposes of measure the statute of limitations, the audit commences no later than the date that the District is on notice than an audit is in progress.

To the extent an entrance conference letter exists and was sent to the claimant, that letter provides verification to a claimant that an audit is in progress, and that the claimant may be required to produce documentation to support its claims. In this way, the entrance conference letter serves the goals of finality and predictability, and ensures that a claimant will not prematurely dispose of needed evidence to support its claim.

Here, the District has no record of an entrance letter. Instead, auditor Erika Hardoya [sic] sent an e-mail to the District dated October 29, 2013, with a list of documents that is required for the audit as well as additional

instruction on the audit process. As a result of the Sierra Joint CCD decision, this email becomes the most relevant document that places the District on notice that an audit is in progress. Since the final audit report has not been issued, the Controller has already missed the two-year statute of limitations to finish the audit. Therefore, the entirety of the audit findings for all fiscal years are void.

SCO's Comments

On March 27, 2015, the Commission adopted its decision for an Incorrect Reduction Claim filed by Sierra Joint Community College District for the Collective Bargaining and Collective Bargaining Agreement Disclosure Program (IRCs 09-4425-I-17 and 10-4425-I-18).

In its decision, the Commission states, "...the goals of finality and predictability in the operation of a limiting statute are best served by applying section 17558.5 to the Controller's entrance conference letter...." The Commission goes on to state, "To the extent an entrance conference letter exists and was sent to the claimant, that letter provides verification to a claimant that an audit is in progress, and that the claimant may be required to produce documentation to support its claims. In this way, the entrance conference letter serves the goals of finality and predictability, and ensures that a claimant will not prematurely dispose of needed evidence to support its claim."

We agree that the auditor corresponded, via email, with the district on October 29, 2013. However, that correspondence was initiated only to inform the district of SCO's intent to audit the district's reimbursement claims, which also included a request to schedule an entrance conference. Until the necessary arrangements are made between the SCO and the claimant, an audit has not yet been initiated. An audit does not officially commence until the Audit Manager reviews the exchange of information between the auditor and the claimant, approves the date scheduled for an entrance conference, and then prepares and signs an audit start letter. The audit start letter is an official notice from the SCO to the top business official of the audited entity that an audit has been initiated. It provides claimants with all of the information relevant to the commencement of an audit, such as the program and years being audited, the authority under which the SCO will conduct the audit, information relative to the scheduling of the audit entrance conference, and a list of requested documents to be made available by the claimant at the entrance conference. The audit engagement letter for this audit from the SCO Audit Manager addressed to Oscar Esquivel, Assistant Superintendent of Business Services and Support, was dated November 25, 2013. Therefore, the two-year requirement to issue the final audit report will expire two-years after this date.

OTHER ISSUE— Public Records Request

The district's response included a public records request.

District's Response

The District requests that the Controller provide the District any and all written instructions, memoranda, or other writings in effect and applicable to the audit procedures and findings for audits of this

mandated program. Government Code Section 6253, subdivision (c), requires the state agency that is the subject of the request, within ten days from receipt of a request for a copy of records, to determine whether the request, in whole or in part, seeks copies of disclosable public records in possession of the agency and promptly notify the requesting party of the determination and the reasons therefore. Also, as required, when so notifying the District, the agency must state the estimated date and time when the records will be made available.

SCO's Comment

The SCO responded to the district's request separately from this report.

**Attachment—
District's Response to
Draft Audit Report**



CHULA VISTA ELEMENTARY SCHOOL DISTRICT

84 EAST "J" STREET • CHULA VISTA, CALIFORNIA 91910 • 619 425-9600

EACH CHILD IS AN INDIVIDUAL OF GREAT WORTH

November 20, 2015

Mr. Jim L. Spano, Chief
Mandated Costs Audits Bureau
Division of Audits
California State Controller
P.O. Box 942850
Sacramento, CA 94250-5874

Re: Collective Bargaining Audit
FY 2008-09 through FY 2011-12
Chula Vista Elementary School District

Dear Mr. Spano:

This letter is the response of the Chula Vista Elementary School District to the draft audit report received by e-mail on November 9, 2015, for the above-referenced program and fiscal years transmitted by the letter dated November 10, 2015, from Jeffrey V. Brownfield, Chief, Division of Audits, Controller's Office.

About one fourth of the amount claimed for reimbursement for the four fiscal years has been disallowed by the audit. In sum, where the Controller does not assert that the claimed costs were unreasonable, which is the only statutory mandated cost audit standard (Government Code Section 17561(d) (2)), the wrong standard of review was used. The draft audit report essentially asserts that a significant part of the staff time to implement the mandated activities is inappropriately or insufficiently documented. The draft audit report cites a portion of the relevant parameters and guidelines language as the legal standard for source documentation:

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

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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. . . . However, corroborating documents cannot be substituted for source documents.

None of the governmental entities that establish the accounting standards and reporting requirements that school districts are subject to publish any standards or reporting requirements for state mandate cost accounting. Nor does the Controller, whose particular responsibility has been the payment and audit of the mandate annual claims for more than thirty years (specifically since 1980 for this mandate), publish cost accounting forms for use by claimants to record staff time spent on mandates. In the absence of governmental standards, districts must rely upon documentation produced in the regular course of business and forms designed by mandate consultants for the collection of staff mandate time not otherwise available from regular business records. Where these forms or other documentation was apparently sufficient, the auditor made qualitative judgments regarding the scope of activities as to whether they were related to the mandate program. Where it was not, the auditor disallowed the claimed costs for insufficient documentation. These choices are subjective because there is no cited criteria.

In a similar manner, a substantial amount of staff time is disallowed because the auditor concluded a separate and additional "corroborating" source document was not provided. The staff time claimed is generally derived from meeting sign-in sheets, meeting minutes or agendas, individual time sheets, and extracts from the attorney billings. Each of these sources meet the documentation requirements for annual claims. The audit does not indicate what additional source document should be reasonably available in the usual course of business or strictly required by any published mandate cost accounting standard. Uniform compliance would be more likely if the Controller published forms for this purpose, as the Controller has done for other local compliance programs within the Controller's payment and audit jurisdiction.

An incorrect reduction claim will be needed since most of the adjustments are based on Controller audit policies, the propriety of which can only be determined by appeal to the Commission on State Mandates.

FINDING 1 Unallowable Salaries and Benefits <\$89,599>

The District claimed \$274,894 in salaries and benefits during the audit period. The draft audit found that \$185,295 is allowable and \$89,599 is unallowable,

because the District claimed "ineligible, overstated, and unsupported costs; misclassified costs; and under-claimed costs."

A. COMPONENT G3-COST OF NEGOTIATIONS <\$34,672>

The District claimed \$198,328 in salaries and benefits for this component during the audit period. The draft audit found that \$163,656 is allowable and \$34,672 is unallowable.

FY 2008-09 <\$7,798> FY 2009-10 <\$14,836> FY 2010-11 <\$8,038> FY 2011-12 <\$4,000>

Ineligible Costs <\$42,707>

1. Health Benefits Committee <\$18,342>

FY 2008-09 \$0 FY 2009-10 <\$11,436> FY 2010-11 <\$5,867> FY 2011-12 <\$1,039>

The draft audit report disallows the time spent participating in the Health Benefits Committee because the District and the union, (Chula Vista Educators), were not negotiating provisions of the collective bargaining agreement. Instead, the committee was "reconstituted in an agreement between the district and the Chula Vista Educators (CVE) in 2009." The stated reason is indecipherable. As discussed during the exit conference, the purpose of the committee is to evaluate and select health care plans for consideration by the negotiating teams. This committee is an effective part of the negotiation process and the staff time should be allowed.

2. Layoff Discussions <\$10,006>

FY 2008-09 <\$155> FY 2009-10 \$0 FY 2010-11 <\$5,299> FY 2011-12 <\$4,552>

The draft audit report disallows the time because "prior to the audit period, the district had negotiated procedures for implementing layoffs. As such, the layoff costs claimed are for implementing terms and conditions of a previously negotiated activity." The parameters and guidelines allow for negotiation of the layoff procedures. The fact that language existed in the previous contract does not preclude continued negotiation of the process. The staff time should be allowed.

3. Individual Negotiation Preparation <\$3,987>

FY 2008-09 <\$2,116> FY 2009-10 <\$1,059> FY 2010-11 <\$102> FY 2011-12 <\$710>

The draft audit report states that the District claimed ineligible costs "for district staff to individually prepare for negotiations." The draft audit report states that "[t]he parameters and guidelines allow reimbursement for negotiation planning sessions, which are meetings of more than one person for the purpose of

strategizing for upcoming negotiations." It appears that planning time was allowed if there was a sign-in sheet for a group meeting (e.g., at-table), but not for individual planning time.

The parameters and guidelines language reimburses staff time for "participating in negotiations." There are no conditions or limitations stated on the nature of the reimbursable staff time, that is, individual preparation time is not excluded in the parameters and guidelines. There is no stated, or reasonable inference from, the parameters and guidelines language that planning is only a group activity. Individual or group planning is an anticipated rational and reasonably necessary part of any process in the usual course of business and the Controller has no basis to exclude it from this component or any other component. The staff time should be allowed.

4. Fact Finding Preparation FY 2008-09 <\$3,270>

The draft audit report states that the Assistant Superintendent of Business Services costs are in ineligible because "[r]eimbursement is limited to the costs of the school employer panel representative, which she was not." The parameters and guidelines do not exclude preparation time which is an anticipated rational and reasonably necessary part of any process in the usual course of business. The staff time should be allowed.

5. Subcommittee Reduction Meeting FY 2009-10 <\$3,720>

The draft audit report states that the subcommittee reduction meeting for the Chula Vista Classified Employees Organization (CVCEO) "is neither a negotiation activity nor a planning session." It appears that the referenced meeting was a negotiation planning session and the staff time should be allowed.

6. PERB Preparation with Attorney FY 2010-11 <\$2,142>

The draft audit report states that the PERB costs are "possibly allowable in the Unfair Labor Practice Charges cost component, the district did not provide documentation from its attorney to corroborate the hours claimed." The draft audit does not indicate what type of additional information is required, or a reason to contradict the reasonable presumption that the attorney and District accurately reported their time and effort. These costs should be allowed and reclassified if necessary.

7. Substitute Costs FY 2011-12 <\$1,240>

The draft audit report states that "the district claimed reimbursement for substitute costs for time spent by district staff to discuss layoffs, which is unallowable." Further, the audit report limits the substitute time to the actual time for the sessions. The substitute cost should be allowed since the subject matter

of the session, as discussed above, is reimbursable. Further, the entire substitute time should be allowed since substitutes are generally hired for entire days, even if the District could predict a shorter meeting time. Prorating the substitute cost to a partial day does not recognize the required contractual cost of the substitutes.

Unsupported Costs

<\$2,434>

8. At-Table Negotiations FY 2008-09 <\$1,367>

The draft audit report states that the District did not support 11.5 hours of the 73 hours claimed for the Assistant Superintendent of Business Services to attend at-table negotiations sessions because the name did not appear on at-table session sign-in sheets. The staff time claimed is from her individual time sheet. Either document is an acceptable source so the staff time should be allowed.

9. At-Table Negotiations FY 2010-11 <\$612>

The draft audit report disallows 6 hours for the Assistant Superintendent of Human Resources to participate in an at-table negotiation on July 9, 2010, because her name was not listed on the sign-in sheet as a participant in the negotiation. The staff time claimed is from the Assistant Superintendent of Human Resources signed and dated individual time and is an acceptable source so the staff time should be allowed.

10. At-Table Negotiations FY 2011-12 <\$294>

The draft audit report disallows 3 hours claimed for the Assistant Superintendent to participate in an at-table negotiation with CVCEO on August 26, 2011, because "[t]he district did not provide any documentation, such as a sign-in sheet, to support the costs claimed." The staff time claimed is from the Assistant Superintendent of Human Resources signed and dated individual time sheet and is an acceptable source so the staff time should be allowed.

11. Individual Negotiation Preparation FY 2011-12 <\$161>

The draft audit report states that the District did not provide any documentation supporting costs claimed for three employees involved in negotiation preparation. The staff time would not have been claimed unless there was written documentation. If these disallowances pertain to individual preparation time, that eligibility issue has been discussed in item 3 above. Note that some staff preparation times are reported in accumulated amounts, e.g., 40 hours, on one at-table session sign in sheet, but is necessarily entered into the claim preparation software as five 8-hours days. This is particularly true for those persons who spend several days between sessions updating budget and salary cost information to be used for the session where the preparation time is noted

on the sign-in sheet. The sign-in sheets also use "ditto marks" to indicate the same time for several persons attending which may have been construed by the auditor as a non-response. The staff time claimed is generally derived from meeting sign-in sheets, meeting minutes or agendas, individual time sheets, and extracts from the attorney billings. The draft audit report does not provide sufficient information to determine what staff time was not supported by other sources or what other support would be required. The staff time should be allowed.

Misclassified Costs **<\$1,238>**

12. Cost of Negotiations vs. Impasse Proceedings

FY 2008-09 <\$300> FY 2009-10 <\$938>

The draft audit report states that substitute costs of \$300 claimed as at-table negotiations should be impasse proceedings for Fiscal Year 2008-09. The draft audit report also states that the Assistant Superintendent of Human Resources costs of \$938 claimed as at-table negotiations should be claimed as impasse proceedings. The District agrees. (See B. 4. below)

Overstated Costs **<\$1,219>**

13. Overstated Hours FY 2008-09 <\$1,102>

The draft audit report states that the 5 hours for 5 staff at the September 9, 2008 meeting was overstated by 2.25 hours each for a total of 11.25 hours overstated because the union representatives refused to return to the session. The audit report does not indicate whether the administrative team members used the additional time for a caucus or other relevant activity so the staff time should be allowed.

14. Double Claimed Costs FY 2009-10 <\$117>

The draft audit report states that the District double-claimed 1 hour for the Assistant Superintendent of Human Resources. This appears to be a clerical error and is not disputed by the District.

Unclaimed Costs **\$7,766**

15. Director of Certificated-- HR FY 2009-10 \$1,958

The draft audit report states that the District under-claimed 23 hours for the Director of Certificated-HR to participate in at-table negotiations. The District agrees with this adjustment.

16. Principal FY 2009-10 \$1,203

The draft audit report states that the District under-claimed 14 hours for a Principal to participate in at-table negotiations. The District agrees with this adjustment.

17. Assistant Superintendent-- HR FY 2009-10 \$117

The draft audit report states that the District under-claimed 1 hour for the Assistant Superintendent of Human Resources to participate in negotiation planning sessions with the attorney, supported by the attorney invoice. The District agrees with this adjustment.

18. Director of Certificated-- HR FY 2010-11 \$443

The draft audit report states that the District did not claim 6 hours for the Director of Certificated-HR to participate in an at-table negotiations session on July 9, 2010. The District agrees with this adjustment.

19. Substitute Costs FY 2010-11 \$3,638

The draft audit report states that the District did not claim any substitute costs for release time of exclusive bargaining representatives during negotiations. The District provided Absence Reports to support the substitute costs incurred. The District agrees with this adjustment.

20. Assistant Superintendent-- HR FY 2011-12 \$407

The draft audit report states that the District did not claim 4 hours for the Assistant Superintendent of Human Resources to participate in at table negotiation session on October 17, 2011. The time was not found on the session sign-in sheet, but "her attendance has been documented on both her mandate activity log and a bargaining update list that identifies her presence at the negotiation." The District agrees with this adjustment.

Misstated Productive Hourly Rates \$5,160

21. Substitutes 2008-09 and 2009-10

The District claimed a daily rate of \$100 for both classified and certificated substitutes. Rates actually vary and the auditor identified the precise hourly rates for classified substitutes. The District agrees with this adjustment.

22. District Representatives 2010-11 and 2011-12

The draft audit report uses the 21% benefit rate allowed by the parameters and guidelines. The District agrees with this adjustment.

B. COMPONENT G4-IMPASSE PROCEEDINGS <\$4,142>

The District claimed \$10,324 in salaries and benefits for this component. The draft audit report found that \$6,182 is allowable and \$4,142 is unallowable.

FY 2008-09 <\$5,179> FY 2009-10 \$935 FY 2010-11 \$0 FY 2011-12 \$102

Ineligible Costs <\$5,611>

1. District Team Meetings FY 2008-09 <\$2,140>

The draft audit report states that the time claimed for the Assistant Superintendent of Human Resources to participate in District team meetings as one of the fact-finding panel members is not claimable. The audit report states that since a consultant was hired as the District's fact-finding panel member representative no District staff time is reimbursable. If the audited time is indeed District team meetings, then it is planning and preparation for the panel meetings, not the panel meeting. Even so, the Assistant Superintendent of Human Resources is a relevant support person for the fact finding representative at the panel meetings. The parameters and guidelines language for fact-finding does not exclude reimbursement of District staff when a consultant is hired, rather the language merely states that the consultant is also reimbursable. The staff time should be allowed.

2. Fact-finding Preparation FY 2008-09 <\$2,295>

The draft audit report states that the time claimed to prepare for fact-finding is not allowable. The audit report asserts that "reimbursement is limited to the costs of the school employer panel representative." The parameters and guidelines language does not exclude preparation time. There is no stated, or reasonable inference from, the parameters and guidelines language that panel meeting time is the only reimbursable time. Individual or group planning is an anticipated rational and reasonably necessary part of any process in the usual course of business and the Controller has no basis to exclude it from this component or any other component. The staff time should be allowed.

3. Mediation Preparation FY 2008-09 <\$1,165> FY 2009-10 <\$11>

The draft audit report states that the time claimed to prepare for mediation sessions is not an allowable activity and asserts that "reimbursement is limited to attendance at mediation sessions." The parameters and guidelines language does not exclude preparation time. There is no stated, or reasonable inference

from, the parameters and guidelines language that mediation session time is the only reimbursable time. Individual or group planning is an anticipated rational and reasonably necessary part of any process in the usual course of business and the Controller has no basis to exclude it from this component or any other component. The staff time should be allowed.

Misclassified Costs **\$1,238**

4. Cost of Negotiations vs. Impasse Proceedings

FY 2008-09 \$300 FY 2009-10 \$938

The District agrees with this reclassification. (See A. 12. above)

Productive Hourly Rates **\$231**

5. Substitutes FY 2008-09 and FY 2009-10
District Representatives FY 2010-11 and FY 2011-12

As stated in (A. 21. and 22.) the draft audit report uses the 21% benefit rate allowed by the parameters and guidelines. The District agrees with this adjustment.

C. COMPONENT G6-CONTRACT ADMINISTRATION <\$48,887>

The District claimed \$57,034 in salaries and benefits for this component. The draft audit report found that \$8,147 is allowable and \$48,887 is unallowable.

FY 2008-09 <\$17,181> FY 2009-10 <\$20,683> FY 2010-11 <\$4,799> FY 2011-12 <\$6,224>

Ineligible Costs **<\$49,302>**

1. CVCEO and CVE Meetings <\$28,155>

FY 2008-09 <\$8,609> FY 2009-10 <\$9,677> FY 2010-11 <\$4,691> FY 2011-12 <\$5,178>

The District and union representatives meet, generally biweekly, to discuss contract implementation issues. These meetings serve the purpose of reducing grievances and are legitimate contract adjudication efforts. The draft audit report states that "the district did not provide documentation to support that specific collective bargaining-related grievances were discussed at these meetings." If a grievance was later filed on the subject matter discussed at the meetings, it would not have been a 'specific grievance' at the time of these meetings, so there is no way to identify a specific post facto grievance. If the grievance is prevented, there is no specific grievance to be referenced. The staff time should be allowed.

2. Layoffs FY 2009-10 <\$7,990>

The draft audit report states that the "layoff costs claimed for FY 2009-10 were for implementing terms and conditions of a previously negotiated activity. As such, the costs claimed are not allowable." To the contrary, the parameters and guidelines, at G.6., state:

Contract administration and adjudication of contract disputes either by arbitration or litigation. Reimbursable functions include grievances and administration and enforcement of the contract. Emphasis added.

The time reported is principally for Human Resources administrators and staff to enforce the negotiated layoff procedure and should be allowed. An improperly implemented layoff would be the subject of a grievance.

3. Budget Advisory Meetings FY 2008-09 <\$3,151> FY 2009-10 <\$2,938>

The draft audit report states the "committee is made up of members from each school site whose purpose is to look into the district's financial situation. Based on the outcome of the meetings, the committee recommends changes to the Superintendent. As reimbursement is limited to training sessions held for supervisory and management personnel on a negotiated contract, the costs claimed are not allowable."The District concedes this adjustment.

4. Reallocation Meetings FY 2008-09 <\$3,320>

The draft audit report states the "committee meets to ensure that the pay rates for each position are comparable to pay rates of similar positions in other districts. As reimbursement is limited to training sessions held for supervisory and management personnel on a negotiated contract, the costs claimed are not allowable." This committee enforces the content of the contract and the staff time should be allowed. Compensation parity is a condition of the contract.

5. Contract Interpretation <\$1,658>

FY 2008-09 <\$143> FY 2009-10 <\$86> FY 2010-11 <\$316> FY 2011-12 <\$1,113>

The draft audit report states time claimed for staff to participate in telephone conferences with attorneys about probation periods for new hires, retiree health benefits, reemployment rights, and personnel matters is not claimable, because "reimbursement is limited to training sessions held for supervisory and management personnel on a negotiated contract, the costs claimed are not allowable." This staff time is for the proper and uniform enforcement of the content of the contract terms and the staff time should be allowed. The enumerated issues are the subject of the contract and would be the subject of a grievance if improperly implemented.

Ineligible Costs <\$2,140>

- 1. Fact-finding Panel FY 2008-09 <\$2,140>

The draft audit report states the 18 hours claimed to participate in fact-finding on May 6, 2009 and May 22, 2009 is not claimable because the Assistant Superintendent of Business Services is not the fact-finding panel member representative. The response to this is the same as that above for B. 2. The staff time should be allowed.

Productive Hourly Rates \$242

- 2. Substitutes FY 2008-09 and FY 2009-10
District Representatives FY 2010-11 and FY 2011-12

As stated in (A. 21. and 22.) the draft audit report uses the 21% benefit rate allowed by the parameters and guidelines. The District agrees with this adjustment.

FINDING 2 Unallowable Contract Services <\$37,236>

The District claimed \$286,392 in contract services during the audit period. The draft audit report found that \$249,156 is allowable and \$37,236 is unallowable, because the District claimed "unsupported and overstated costs."

FY 2008-09 <\$4,919> FY 2009-10 <\$1,880> FY 2010-11 <\$13,403> FY 2011-12 <\$17,034>

A. COMPONENT G3-COST OF NEGOTIATIONS <\$7,534>

The District claimed \$129,710 in contract services for this component. The draft audit report found that \$122,176 is allowable and \$7,534 is unallowable because the District claimed "ineligible, unsupported, and overstated costs."

Ineligible Costs <\$7,485>

FY 2008-09 <\$1,083> FY 2009-10 <\$58> FY 2010-11 <\$3,008> FY 2011-12 <\$3,385>

- 1. Layoffs FY 2010-11 <\$2,848> FY 2011-12 <\$2,349>

The draft audit report states that attorney costs to participate in discussions with staff regarding layoffs is "unallowable because the district had negotiated procedures for implementing layoffs; therefore, the costs claimed were implementing terms and conditions of a previously negotiated activity." As stated above, the District disagrees with this reason for adjustment since the process of negotiating layoff procedures and contract enforcement of those procedures are reimbursable costs.

2. Ineligible Meal Costs <\$1,998>

FY 2008-09 <\$1,034> FY 2009-10 <\$58> FY 2010-11 <\$160> FY 2011-12 <\$746>

The draft audit report states that meal costs incurred by the attorney during travel to the District to participate in negotiations is not claimable for travel lasting less than 24 hours. The rationale for this adjustment is the state personnel travel guidelines. The attorneys are not state or district employees. Those guidelines have not been properly adopted as regulations for mandate reimbursement and the Controller has no basis to limit third-party meal costs reimbursed by districts.

3. General Legal Guidance FY 2011-12 <\$243>

The draft audit report states that the costs claimed for the attorneys to provide general legal guidance, such as on press inquiries and interference with union activities is not claimable since "reimbursement is limited to negotiations." The District disagrees with this misapplied interpretation of the Rodda Act, but concedes the amount as de minimus.

4. Ineligible Mileage FY 2011-12 <\$47>

The draft audit report states that mileage costs for the attorney to travel to the District on January 23, 2012, to meet with a District employee is not claimable because "the district did not provide any documentation to support that the meeting was for either an at-table negotiation session or a negotiation planning session." There being no additional information at this time, the District concedes the adjustment as de minimus.

Unsupported Costs <\$49>

5. Mileage Cost FY 2008-09 <\$49>

The draft audit report states that there is no documentation to support the mileage costs for the attorney to travel to the District on February 10, 2009, to participate in a negotiation planning session. There being no additional information at this time, the District concedes the adjustment as de minimus.

B. COMPONENT G4-IMPASSE PROCEEDINGS <\$830>

The District claimed \$47,880 in contract services for this component. The draft audit report found that \$47,050 is allowable and \$830 is unallowable because the District "overstated the reimbursable hourly rate of contract services."

Overstated Costs <\$830>

1. School Services of California

The draft audit report states that the rate claimed for some consultant/attorney staff time should be claimed at \$95 per hour for 20.75 of the 32.75 hours claimed. The District agrees.

C. COMPONENT G6-CONTRACT ADMINISTRATION <\$28,872>

The District claimed \$95,479 in contract services for this component. The draft audit report found that \$66,607 is allowable and \$28,872 is unallowable because the District "claimed ineligible costs."

Ineligible Costs <\$28,872>

1. Charter Schools

The District cannot ascertain from the information provided by the audit report what amount was disallowed for charter school issues, nor the specific issues discussed. The draft audit categorically disallows the time since charter schools are not reimbursable. The District is not a "charter school" and is a reimbursable entity that has employees located at charter schools which are covered by the District collective bargaining contract. The District disagrees with the adjustment.

2. Layoffs

The District cannot ascertain from the information provided by the audit report what amount was disallowed for layoff issues, nor the specific issues discussed. The draft report states the District has already negotiated procedures for implementing layoffs and the costs incurred for implementing terms and conditions of a previously negotiated activity are not allowable. As stated above, the District disagrees with this reason for adjustment since the process of negotiating layoff procedures and enforcement of those procedures are reimbursable costs.

3. General Legal Guidance

The District cannot ascertain from the information provided by the audit report what amount was disallowed for "general issues," nor the specific issues discussed. The draft report states that any "general legal guidance provided to the district not related to a collective bargaining-related grievance is not allowable." The District disagrees with the adjustment since the audit report does not identify the subject matter it is disallowing.

FINDING 3 Misstated Indirect Costs

<\$1,157>

The District claimed \$15,673 in indirect costs during the audit period. The draft audit report found that \$14,516 is allowable and \$1,157 is unallowable. The majority of the amount disallowed is a result the direct cost reductions in Findings 1 and 2. The District does not dispute this adjustment.

Statute of Limitations to Complete the Audit

The District asserts that all four annual claims are beyond the statute of limitations to complete the audit. Statutes of 2004, Chapter 313, operative January 1, 2005, amended Government Code section 17558.5, subdivision (a), to state:

A reimbursement claim for actual costs filed by a local agency or school district pursuant to this chapter 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.

The final audit report has not yet been issued. It is uncontested that an audit is complete only when the final audit report is issued. The 2005 version of Section 17558.5 requires the audit to be completed within two years of commencement. The Commission on State Mandates determined on March 27, 2015, (CSM 09-4425-I-17 and CSM 10-4425-I-18, Sierra Joint Community College District, Collective Bargaining) that for purposes of measuring the statute of limitations, the audit commences no later than the date that the District is on notice that an audit is in progress.

To the extent an entrance conference letter exists and was sent to the claimant, that letter provides verification to a claimant that an audit is in progress, and that the claimant may be required to produce documentation to support its claims. In this way, the entrance conference letter serves the goals of finality and predictability, and ensures that a claimant will not prematurely dispose of needed evidence to support its claim.

Here, the District has no record of an entrance letter. Instead, auditor Erika Hardoya sent an e-mail to the District dated October 29, 2013, with a list of the documents required for the audit as well as additional instruction on the audit process. As a result of the Sierra Joint CCD decision, this e-mail becomes the

Mr. Jim Spano

November 20, 2015

most relevant documentation that places the District on notice that an audit is in progress. Since the final audit report has not been issued, the Controller has already missed the two-year statute of limitations to finish the audit. Therefore, the entirety of the audit findings for all fiscal years are void.

Public Records Request

The District requests that the Controller provide the District any and all written instructions, memoranda, or other writings in effect and applicable to the audit procedures and findings for audits of this mandate program. Government Code Section 6253, subdivision (c), requires the state agency that is the subject of the request, within ten days from receipt of a request for a copy of records, to determine whether the request, in whole or in part, seeks copies of disclosable public records in possession of the agency and promptly notify the requesting party of that determination and the reasons therefore. Also, as required, when so notifying the District, the agency must state the estimated date and time when the records will be made available.

Sincerely,

A handwritten signature in blue ink, appearing to read "Oscar Esquivel". The signature is fluid and cursive, with the first name being the most prominent.

Oscar Esquivel, Assistant Superintendent
Chula Vista Elementary School District

**State Controller's Office
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