MT. SAN ANTONIO COMMUNITY COLLEGE DISTRICT

Audit Report

COLLECTIVE BARGAINING PROGRAM

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

July 1, 2002, through June 30, 2007

JOHN CHIANG
California State Controller

August 2010

JOHN CHIANG
California State Controller

August 10, 2010

David K. Hall, Ph.D., President
Board of Trustees
Mt. San Antonio Community College District
1100 N. Grand Avenue
Walnut, CA 91789

Dear Dr. Hall:

The State Controller's Office audited the costs claimed by Mt. San Antonio Community College District for the legislatively mandated Collective Bargaining Program (Chapter 961, Statutes of 1975, and Chapter 1213, Statutes of 1991) for the period of July 1, 2002, through June 30, 2007.

The district claimed $716,067 for the mandated program. Our audit disclosed that $198,315 is allowable and $517,752 is unallowable. The costs are unallowable primarily because the district claimed ineligible and unsupported costs and understated Winton Act base-year cost offsets. The State paid the district $195,756. Allowable costs claimed exceed the amount paid by $2,559.

If you disagree with the audit findings, you may file an Incorrect Reduction Claim (IRC) with the Commission on State Mandates (CSM). The IRC must be filed within three years following the date that we notify you of a claim reduction. You may obtain IRC information at the CSM's Web site at www.csm.ca.gov/docs/IRCForm.pdf.

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

Sincerely,

Original signed by

JEFFREY V. BROWNFIELD
Chief, Division of Audits

JVB/sk

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Audit Report

Summary

The State Controller's Office (SCO) audited the costs claimed by Mt. San Antonio Community College District for the legislatively mandated Collective Bargaining Program (Chapter 961, Statutes of 1975, and Chapter 1213, Statutes of 1991) for the period of July 1, 2002, through June 30, 2007.

The district claimed $716,067 for the mandated program. Our audit disclosed that $198,315 is allowable and $517,752 is unallowable. The costs are unallowable primarily because the district claimed ineligible and unsupported costs and understated Winton Act base-year cost offsets. The State paid the district $195,756. Allowable costs claimed exceed the amount paid by $2,559.

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 Act. In addition, the legislation established organizational rights of employees and representational rights of employee organizations, and recognized exclusive representatives relating to collective bargaining.

On July 17, 1978, the Board of Control (now the Commission on State Mandates [CSM]) 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, requiring school districts to publicly disclose major provisions of a collective bargaining effort before the agreement becomes binding.

On August 20, 1998, the CSM determined that this legislation also imposed a state mandate upon school districts reimbursable under Government Code section 17561. Costs of publicly disclosing major provisions of collective bargaining agreements that districts incurred after July 1, 1996, are allowable.

Claimants are allowed to claim increased costs. For claim 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 1974-75), as adjusted by the implicit price deflator. For components G4 through G7, increased costs represent actual costs incurred.

The seven allowable claim components are as follows:

G1–Determining bargaining units and exclusive representatives
G2–Election of unit representatives
G3–Costs of negotiations
G4–Impasse proceedings
G5–Collective bargaining agreement disclosure
G6–Contract administration
G7–Unfair labor practice costs

The program's parameters and guidelines establish the state mandate and define reimbursement criteria. The CSM adopted the parameters and guidelines on October 22, 1980, and last amended it on January 27, 2000. In compliance with Government Code section 17558, the SCO issues claiming instructions for mandated programs, to assist local agencies and school districts in claiming reimbursable costs.

Objective, Scope, and Methodology

We conducted the audit to determine whether costs claimed represent increased costs resulting from the Collective Bargaining Program for the period of July 1, 2002, through June 30, 2007.

Our audit scope included, but was not limited to, determining whether costs claimed were supported by appropriate source documents, were not funded by another source, and were not unreasonable and/or excessive.

We conducted this performance audit under the authority of Government Code sections 12410, 17558.5, and 17561. We did not audit the district's financial statements. We conducted the 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.

We asked the district's representative to submit a written representation letter regarding the district's accounting procedures, financial records, and mandated cost claiming procedures as recommended by generally accepted government auditing standards. However, the district did not submit a representation letter.

Conclusion

Our audit disclosed instances of noncompliance with the requirements outlined above. These instances are described in the accompanying Summary of Program Costs (Schedule 1) and in the Findings and Recommendations section of this report.

For the audit period, Mt. San Antonio Community College District claimed $716,067 for costs of the Collective Bargaining Program. Our audit disclosed that $198,315 is allowable and $517,752 is unallowable.

For the fiscal year (FY) 2002-03 through FY 2006-07 claim, the State paid the district $195,756. Our audit disclosed that $517,752 is allowable. The State will pay allowable costs claimed that exceed the amount paid, totaling $2,559, contingent upon available appropriations.

Views of Responsible Official

We issued a draft audit report on June 4, 2010. Linda Baldwin, Associate Vice President for Fiscal Services, responded by letter dated July 7, 2010 (Attachment), agreeing with the audit results for Finding 5, disagreeing with the results for Findings 1 and 2, and providing no response to the results in Findings 3 and 4. This final audit report includes the district's response.

Restricted Use

This report is solely for the information and use of Mt. San Antonio Community College District, the California Community Colleges Chancellor's Office, 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
Chief, Division of Audits

August 10, 2010

Schedule 1—
Summary of Program Costs
July 1, 2002, through June 30, 2007

Cost Elements	Actual Costs Claimed	Allowable per Audit	Audit Adjustment	Reference [1]
July 1, 2002, through June 30, 2003				
Direct costs:				
Component activities G1 through G3:				
Salaries and benefits	$ 122,544	$ 42,378	$ (80,166)	Finding 1
Materials and supplies	3,392	3,083	(309)	Finding 2
Contracted services	24,062	25,534	1,472	Finding 3
Subtotal	149,998	70,995	(79,003)	
Base year direct costs adjusted by implicit price deflator	(11,474)	(11,897)	(423)	Finding 4
Increased direct costs, G1 through G3	138,524	59,098	(79,426)	
Component activities G4 through G7:				
Salaries and benefits	4,522	4,433	(89)	Finding 1
Increased direct costs, G4 through G7	4,522	4,433	(89)	
Total increased direct costs, G1 through G7	143,046	63,531	(79,515)	
Indirect costs	52,710	17,591	(35,119)	Finding 5
Total program costs	$ 195,756	81,122	$ (114,634)	
Less amount paid by the State		(195,756)		
Allowable costs claimed in excess of (less than) amount paid		$ (114,634)		
July 1, 2003, through June 30, 2004				
Direct costs:				
Component activities G1 through G3:				
Salaries and benefits	$ 58,338	$ 10,328	$ (48,010)	Finding 1
Materials and supplies	5,392	—	(5,392)	Finding 2
Contracted services	3,971	745	(3,226)	Finding 3
Subtotal	67,701	11,073	(56,628)	
Base year direct costs adjusted by implicit price deflator	—	(12,331)	(12,331)	Finding 4
Increased direct costs, G1 through G3	67,701	—	(67,701)	
Component activities G4 through G7:				
Salaries and benefits	1,430	1,587	157	Finding 1
Contracted services	4,766	1,512	(3,254)	Finding 3
Increased direct costs, G4 through G7	6,196	3,099	(3,097)	
Total increased direct costs, G1 through G7	73,897	3,099	(70,798)	
Indirect costs	26,478	603	(25,875)	Finding 5
Total program costs	$ 100,375	3,702	$ (96,673)	
Less amount paid by the State		—		
Allowable costs claimed in excess of (less than) amount paid		$ 3,702		

Schedule 1 (continued)

Cost Elements	Actual Costs Claimed	Allowable per Audit	Audit Adjustment	Reference [1]
July 1, 2004, through June 30, 2005				
Direct costs:				
Component activities G1 through G3:				
Salaries and benefits	$ 83,105	$ 16,136	$ (66,969)	Finding 1
Materials and supplies	1,502	—	(1,502)	Finding 2
Contracted services	18,771	14,531	(4,240)	Finding 3
Subtotal	103,378	30,667	(72,711)	
Base year direct costs adjusted by implicit price deflator	—	(12,884)	(12,884)	Finding 4
Increased direct costs, G1 through G3	103,378	17,783	(85,595)	
Component activities G4 through G7:				
Contracted services	7,663	7,663	—	
Increased direct costs, G4 through G7	7,663	7,663	—	
Total increased direct costs, G1 through G7	111,041	25,446	(85,595)	
Indirect costs	37,481	3,556	(33,925)	Finding 5
Total program costs	$ 148,522	29,002	$ (119,520)	
Less amount paid by the State		—		
Allowable costs claimed in excess of (less than) amount paid		$ 29,002		
July 1, 2005, through June 30, 2006				
Direct costs:				
Component activities G1 through G3:				
Salaries and benefits	$ 127,101	$ 63,380	$ (63,721)	Finding 1
Materials and supplies	443	—	(443)	Finding 2
Contracted services	26,797	10,261	(16,536)	Finding 3
Subtotal	154,341	73,641	(80,700)	
Base year direct costs adjusted by implicit price deflator	—	(14,023)	(14,023)	Finding 4
Increased direct costs, G1 through G3	154,341	59,618	(94,723)	
Component activities G4 through G7:				
Salaries and benefits	4,564	1,732	(2,832)	Finding 1
Contracted services	1,050	942	(108)	Finding 3
Increased direct costs, G4 through G7	5,614	2,674	(2,940)	
Total increased direct costs, G1 through G7	159,955	62,292	(97,663)	
Indirect costs	50,202	20,156	(30,046)	Finding 5
Total program costs	$ 210,157	82,448	$ (127,709)	
Less amount paid by the State		—		
Allowable costs claimed in excess of (less than) amount paid		$ 82,448		

Schedule 1 (continued)

Cost Elements	Actual Costs Claimed	Allowable per Audit	Audit Adjustment	Reference [1]
July 1, 2006, through June 30, 2007				
Direct costs:				
Component activities G1 through G3:				
Salaries and benefits	$ 17,003	$ 9,682	$ (7,321)	Finding 1
Materials and supplies	10	10	—	
Contracted services	37,779	6,544	(31,235)	Finding 3
Subtotal	54,792	16,236	(38,556)	
Base year direct costs adjusted by implicit price deflator	—	(14,572)	(14,572)	Finding 4
Increased direct costs, G1 through G3	54,792	1,664	(53,128)	
Component activities G4 through G7:				
Increased direct costs, G4 through G7	—	—	—	
Total increased direct costs, G1 through G7	54,792	1,664	(53,128)	
Indirect costs	6,465	377	(6,088)	Finding 5
Total program costs	$ 61,257	2,041	$ (59,216)	
Less amount paid by the State		—		
Allowable costs claimed in excess of (less than) amount paid		$ 2,041		
Summary: July 1, 2002, through June 30, 2007				
Direct costs:				
Component activities G1 through G3:				
Salaries and benefits	$ 408,091	$ 141,904	$ (266,187)	
Materials and supplies	10,739	3,093	(7,646)	
Contracted services	111,380	57,615	(53,765)	
Subtotal	530,210	202,612	(327,598)	
Base year direct costs adjusted by implicit price deflator	(11,474)	(64,449)	(52,975)	
Increased direct costs, G1 through G3	518,736	138,163	(380,573)	
Component activities G4 through G7:				
Salaries and benefits	10,516	7,752	(2,764)	
Contracted services	13,479	10,117	(3,362)	
Increased direct costs, G4 through G7	23,995	17,869	(6,126)	
Total increased direct costs, G1 through G7	542,731	156,032	(386,699)	
Indirect costs	173,336	42,283	(131,053)	
Total program costs	$ 716,067	198,315	$ (517,752)	
Less amount paid by the State		(195,756)		
Allowable costs claimed in excess of (less than) amount paid		$ 2,559		

[1] See the Findings and Recommendations section.

Findings and Recommendations

FINDING 1—Overstated salaries and benefits

The district overstated salaries and benefits by $268,951 for the audit period.

For claimed negotiations and negotiation-planning hours, the district provided collective bargaining agreements, sign-in sheets, employees' time logs, payroll records, and district-prepared worksheets. For claimed contract administration, the district provided employees' mandated time logs and attorney invoices. We made the audit adjustment based on the following issues:

- The district claimed $241,146 in ineligible costs for time spent performing activities that are not identified as reimbursable costs in the program's parameters and guidelines. The significant ineligible costs related to individual preparation or planning for negotiations and secretarial tasks.
- The district claimed $312 in overstated productive hourly rate (PHR) for fiscal year (FY) 2005-06.
- For FY 2005-06 and FY 2006-07, the district provided sign-in sheets for collective bargaining sessions. However, the district erroneously omitted $10,864 of eligible costs from its reimbursement claims related to negotiation for five management staff members.

The following table summarizes the overstated salaries and benefits claimed:

	Fiscal Year					
Reimbursable Component	2002-03	2003-04	2004-05	2005-06	2006-07	Total
G3-Cost of negotiations:						
Ineligible costs:						
Individual prep time	$ (63,539)	$ (45,106)	$ (50,282)	$ (56,083)	$ (16,500)	$(231,510)
Secretarial tasks	—	—	(9,636)	—	—	(9,636)
Unsupported costs	(16,627)	(2,904)	(7,051)	(9,236)	1	(35,817)
Incorrect PHR calculation	—	—	—	72	—	72
Unclaimed eligible costs	—	—	—	1,526	9,178	10,704
Total component G3	(80,166)	(48,010)	(66,969)	(63,721)	(7,321)	(266,187)
G6-Contract administration:						
Unsupported costs	(79)	—	—	(2,461)	—	(2,540)
Incorrect PHR calculation	(10)	(3)	—	(371)	—	(384)
Unclaimed eligible costs	—	160	—	—	—	160
Total component G6	(89)	157	—	(2,832)	—	(2,764)
Audit adjustment	$ (80,255)	$ (47,853)	$ (66,969)	$ (66,553)	$ (7,321)	$(268,951)

The program's parameters and guidelines state that the claimant must support the level of costs claimed and that the claimant will only be reimbursed for the "increased costs" incurred as a result of compliance with the mandate.

Government Code section 17514 states that "costs mandated by the State" means any increased costs, which a school district is required to incur. Section 17560 requires school districts to file an annual

reimbursement claim that details the costs actually incurred for the fiscal year. Section 17561(d)(2) states that the SCO may audit the records of any school district to verify the actual amount of the mandated costs.

The parameters and guidelines require the claimant to show the classification of the employees involved, the amount of time spent, and their hourly rate.

Additionally, the parameters and guidelines require the district to show the costs of salaries and benefits for employer representatives participating in negotiations and employer representatives and employees participating in negotiation planning sessions.

Recommendation

We recommend that the district ensure that all claimed costs are allowable under the program's parameters and guidelines and are supported by documentary evidence that relates claimed costs to performance of mandated activities.

District's Response

The district disagrees with SCO's draft audit finding that individual preparation time or planning for negotiations are ineligible costs. The district states that the SCO violated Government Code section 11340 (the Administrative Procedures Act), created an underground regulation, and attempted to supersede the authority of the Commission on State Mandates because its interpretation of reimbursable negotiation planning sessions exceeds the requirements of the programs parameters and guidelines.

The parameters and guidelines state, "Show the costs of salaries and benefits for employer representatives participating in negotiations. Costs for maximum of five public school representatives per unit, per negotiation session will be reimbursed. Show the costs of salaries and benefits for employer representatives and employees participating in negotiation planning sessions."

The district states that there is no reference in the parameters and guidelines to the number of employees that must be present for the activity to be reimbursable. The only reference to a number of employees that can be claimed pertains to the maximum number of participants in negotiation sessions only.

The district states that SCO's justification for the disallowance of all individual time spent conducting necessary and reimbursable negotiation preparation activities is based solely on the definition of the work "session." The district cited that Merriam Webster and Dictionary.com did not define the word "session" as solely containing two or more people.

SCO's Comment

The finding and recommendation remain unchanged.

The district disagrees with our interpretation of the allowable activity of negotiation planning sessions. The district believes that our interpretation of what constitutes allowable costs under the Negotiations cost component is in error. The district believes that all costs associated with the preparation for negotiations are reimbursable. The district correctly quotes parameters and guidelines section G.3.b. regarding negotiation planning sessions.

Parameters and guidelines section G.3. (Negotiations), does not contain any mention of negotiation preparation as a reimbursable activity. However, the term "preparation" is included in sections G.1.c.2 and G.1.c.6 of the parameters and guidelines for allowable costs associated with the determination of the exclusive representative. We conclude that since the term "preparation" is not included in section G.3., negotiation preparation is not a reimbursable activity.

The term "negotiation planning session" that appears in parameters and guidelines section G.3.b. is not defined. However, the word "session" implies a meeting or gathering. *Webster's New World Dictionary* (copyright © 2010) 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 since 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.

FINDING 2—Overstated materials and supplies

The district overstated materials and supplies by $7,646 for the audit period. We made the audit adjustment based on the following issues:

- The district claimed $4,000 in ineligible negotiation costs for FY 2003-04 for a two-year subscription to the online collective bargaining database of the Community College League of California. The subscription cost is not directly related to a mandated collective bargaining activity.
- The district did not provide support for $3,646 in printing costs.

The following table summarizes the overstated materials and supplies claimed:

	Fiscal Year				
Reimbursable Component	2002-03	2003-04	2004-05	2005-06	Total
G3-Cost of negotiations:					
Ineligible costs:					
Online subscription	$ —	$ (4,000)	$ —	$ —	$ (4,000)
Unsupported costs	(309)	(1,392)	(1,502)	(443)	(3,646)
Audit adjustment	$ (309)	$ (5,392)	$ (1,502)	$ (443)	$ (7,646)

The parameters and guidelines state, "Public school employers will be reimbursed for the 'increased costs' as a result of compliance with the mandate."

The parameters and guidelines related to services and supplies state that "only expenditures which can be identified as a direct cost as a result of the mandate can be claimed."

Government Code section 17514 states that "costs mandated by the State" means any increased costs, which a school district is required to incur. Section 17560 requires school districts to file an annual reimbursement claim that details the costs actually incurred for the fiscal year. Section 17561(d)(2) states that the SCO may audit the records of any school district to verify the actual amount of the mandated costs.

Recommendation

We recommend that the district claim only those costs that are reimbursable under the mandated program.

District's Response

The district states that the costs for the online collective bargaining database through the Community College League of California should be allowed as this cost is solely due to collective bargaining.

SCO's Comment

The finding and recommendation remain unchanged.

The district disagrees with SCO's draft audit finding that the two-year subscription to the online collective bargaining database through the Community College League of California is an ineligible cost for the mandate. This expenditure was not incurred as a direct result of the mandate.

FINDING 3—Overstated contract services

The district overstated contract services by $57,127 for the audit period. We made the audit adjustment based on the following issues:

- The district claimed $28,374 in ineligible costs for activities that are not identified as reimbursable under the parameters and guidelines, such as attorney's fees related to general personnel issues and employer-initiated disciplinary actions.
- The district claimed $30,252 in unsupported costs. The district did not provide any documentation supporting that mandated activities occurred (e.g., attorney's invoices).
- The district did not claim $1,499 in eligible cost of negotiations for FY 2002-03 due to a mathematical error in the computation of attorneys' time spent on negotiations.

The following table summarizes the overstated contract services claimed:

Reimbursable Component	Fiscal Year 2002-03	2003-04	2004-05	2005-06	2006-07	Total
G3-Cost of negotiations:						
Ineligible costs	$ (27)	$ —	$ (7,466)	$(16,536)	$ (1,091)	$(25,120)
Unsupported costs	—	—	—	—	(30,144)	(30,144)
Reclassify to correct fiscal year	—	(3,226)	3,226	—	—	—
Unclaimed eligible costs	1,499	—	—	—	—	1,499
Total component G3	1,472	(3,226)	(4,240)	(16,536)	(31,235)	(53,765)
G6-Contract administration:						
Ineligible costs	—	(3,254)	—	—	—	(3,254)
Unsupported costs	—	—	—	(108)	—	(108)
Total component G6	—	(3,254)	—	(108)	—	(3,362)
Audit adjustment	$ 1,472	$ (6,480)	$ (4,240)	$(16,644)	$(31,235)	$(57,127)

The parameters and guidelines state that the claimant must support the level of costs claimed and that the claimant will only be reimbursed for the "increased costs" incurred as a result of compliance with the mandate.

Government Code section 17514 states that "costs mandated by the State" means any increased costs, which a school district is required to incur. Section 17560 requires school districts to file an annual reimbursement claim that details the costs actually incurred for the fiscal year. Section 17561(d) (2) states that the SCO may audit the records of any school district to verify the actual amount of the mandated costs.

Recommendation

We recommend that the district ensure that all claimed costs are allowable under the program's parameters and guidelines and supported by documentary evidence that relates claimed costs to the performance of mandated activities.

District's Response

The district did not respond to this audit finding.

SCO's Comment

The finding and recommendation remain unchanged.

FINDING 4—Understated Winton Act base-year cost offset

The district understated the cost of the base-year Winton Act activities offset by $54,233 for the audit period, resulting in an overstatement of claimed costs. We made the audit adjustment based on the following issues:

- The district used an incorrect implicit price deflator (IPD) for FY 2002-03 that resulted in an understatement of the cost of the Winton Act activities offset by $423.
- The district did not offset its FY 2003-04 through FY 2006-07 claims for reimbursement of Rodda Act negotiations costs by the costs of Winton Act activities adjusted by the IPD.

The following table summarizes the understated Winton Act base-year cost offset claimed:

Winton Act Base-Year Costs	Fiscal Year 2002-03	2003-04	2004-05	2005-06	2006-07	Total
Base year, FY 1974-75	$ (3,615)	$ (3,615)	$ (3,615)	$ (3,615)	$ (3,615)	
Implicit price deflator	× 3.291	× 3.411	3.564	× 3.879	× 4.031	
Audited Winton Act base-year costs	(11,897)	(12,331)	(12,884)	(14,023)	(14,572)	$(65,707)
Claimed Winton Act base-year costs	11,474	—	—	—	—	(11,474)
Audit adjustment	$ (423)	$(12,311)	$(12,884)	$(14,023)	$(14,572)	$(54,233)

The parameters and guidelines for the program state that public school employers will be reimbursed for the "increased costs" incurred as a result of compliance with the mandate. Determination of the increased negotiations costs (reimbursable activity/component G3) requires the costs of claimed Rodda Activities to be offset (reduced) by the cost of the base-year Winton Act activities. The Winton Act base year is generally FY 1974-75. Winton Act base-year costs are adjusted by the IPD prior to offset against the current-year Rodda costs.

Recommendation

We recommend that the district ensure that all Winton Act base-year costs are adjusted by the correct IPD as listed in the SCO's annual claiming instructions and are offset against the district's Rodda costs claims.

District's Response

The district states that, in Schedule 1—Summary of Program Costs, the SCO listed Base Year Direct Costs (Winton Act Costs) as "Finding 5" and Indirect Costs as "Finding 4"; however, in the text of these two findings SCO reversed the citations. The SCO referenced the Winton Act base-year costs as Finding 4 and overstated indirect cost as Finding 5. The district states that the SCO should correct this error in the final audit report.

SCO's Comment

The finding and recommendation remain unchanged. We corrected the inconsistent citations in Schedule 1 of the final audit report.

FINDING 5—Overstated indirect costs

The district overstated indirect costs by $131,053 for the audit period. We made the audit adjustment based on the following issues:

- The district claimed costs using the provisional, rather than the federally approved, indirect cost rates for FY 2003-04 and FY 2004-05. Specifically, the district used the 44.3% provisional indirect cost rates for FY 2003-04 and FY 2004-05, instead of the approved rate of 38.0%

- The district applied the indirect cost rates to the costs of Rodda activities. The district should have applied the indirect costs to the costs of Rodda activities less the costs of Winton activities, as adjusted by the IPD.

- The district applied the indirect cost rates incorrectly to "salaries and benefits and materials and supplies", instead of "salaries and benefits," consistent with the approved federal rate agreements for the audit period.

The parameters and guidelines for the program state that claimants will be reimbursed for the increased costs incurred as a result of compliance with the mandate only.

The parameters and guidelines also state that community college districts must use one of the following three alternatives:

- A federally-approved rate based on OMB Circular A-21;
- The State Controller's FAM-29C which uses the CCFS-311; or
- Seven percent (7%)

The following table summarizes the audited and claimed indirect rate:

	Fiscal Year				
	2002-03	2003-04	2004-05	2005-06	2006-07
Allowable indirect cost rate	44.30%	38.00%	38.00%	38.00%	38.00%
Less claimed indirect cost rate	44.30%	44.30%	44.30%	38.00%	38.00%
Difference (overstated)/understated	—	(6.30)%	(6.30)%	—	—

The following table summarizes the understated indirect costs:

	Fiscal Year					
	2002-03	2003-04	2004-05	2005-06	2006-07	Total
Allowable increased direct salaries and benefits	$ 39,709	$ 1,587	$ 9,357	$ 53,043	$ 992	$ 104,688
Allowable indirect cost rate	×44.30%	×38.00%	×38.00%	×38.00%	×38.00%	
Allowable indirect costs	17,591	603	3,556	20,156	377	$ 42,283
Less claimed indirect costs	(52,710)	(26,478)	(37,481)	(50,202)	(6,465)	(173,336)
Audit adjustment	$(35,119)	$(25,875)	$(33,925)	$(30,046)	$ (6,088)	$(131,053)

Recommendation

We recommend that the district properly apply its indirect cost rates to claimed increased Rodda costs that are net of the adjusted base-year direct Winton Act costs.

District's Response

The district states that SCO should not penalize the district for following the SCO's guidelines for completing Form 1 of the Collective Bargaining Program. The district believes it did not omit indirect costs on materials and supplies because it did not follow the claiming instructions. Instead, the district believes that it followed the claiming instructions which instructed it in error to include materials and supplies prior to computing indirect costs. The SCO subsequently corrected the Form 1 instructions after identifying the error.

SCO's Comment

The finding and recommendation remain unchanged.

The claiming instructions did not instruct the district to exclude materials and supplies prior to calculating indirect costs using a federally approved rate. The district should have calculated indirect costs on the base identified in the federal approval letter.

OTHER ISSUE—SCO authority to audit FY 2002-03 and FY 2003-04

The district's response included comments regarding an inappropriate audit window.

District's Response

The district requests that the SCO remove FY 2002-03 and FY 2003-04 from the final audit report due to its lack of audit authority. The Legislature appropriated funding for the Collective Bargaining Program for every year pursuant to Government Code section 17561. The district states that the SCO's arbitrary decision not to issue very small prorated payments for FY 2002-03 and FY 2003-04 is a violation of Government Code section 17567, stating that the SCO has created an underground regulation by failing to comply with Government Code section 11340 (the Administrative Procedures Act).

SCO's Comment

The audit scope remains unchanged.

The period for which claims are subject to audit by the SCO is governed by Government Code section 17558.5, subdivision (a), which states:

> 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.

The language of the statute requires a two-part test. The first part of the test is whether or not funds were appropriated for the mandated program. The second part of the test is whether or not a payment was made to the claimant for the program for the fiscal year for which the claim is filed. Once both tests are satisfied, then the audit window begins and will start the latter of the date that the claim is filed or last amended, or on the initial payment date. In this case, although funds were appropriated for FY 2002-03 and FY 2003-04 claims, no payment was made to the claimant for the program for these two years.

Attachment—
District's Response to
Draft Audit Report

MT. SAC
Mt. San Antonio College

1100 North Grand Avenue
Walnut, CA 91789-1399
909-594-5611
www.mtsac.edu

July 7, 2010

State Controller's Office
Division of Audits
P.O. Box 942850
Sacramento, CA 64250-5874

Attn: Jim L. Spano, Audit Bureau Chief

Dear Jim,

Thank you again, for allowing Mt. San Antonio College to have an extension to respond to the recently completed audit of our Mandated Costs - Collective Bargaining Program.

Below is Mt. SAC's response to the Mandated Costs – Collective Bargaining Program audit for the period July 1, 2002 through June 30, 2007. We have concerns regarding the following areas highlighted below:

Objective, Scope, and Methodology

Inappropriate Audit Window

The State Controller's Office (SCO), who is in charge of auditing State Mandated Programs, is also the same entity that initiates the beginning of the audit window by issuing payment. Despite the fact that the Legislature has provided funding for Collective Bargaining every year, the State Controller's Office has arbitrarily decided not to issue payment. As a result, the State Controller's Office has violated Government Code Section 17567. In fact, the first sentence of Government Code Section 17567 has the same directive to the State Controller's Office regarding proper issuing of payment when an appropriation is made by the Legislature, such as in Fiscal Years 2002-03 and 2003-04. The first sentence of Government Code Section 17567 reads as follows:

> "*In the event that the amount appropriated for reimbursement purposes pursuant to Section 17561 is not sufficient to pay all of the claims approved by the Controller, the Controller shall prorate claims in proportion to the dollar amount of approved claims timely filed and on hand at the time of proration.*"

Since the State Controller's Office has violated Government Code 17567 and attempted to improperly extend the "Audit Window" to Mt. San Antonio Community College District's Collective Bargaining claims, we are asking the State Controller's Office remove the first two years of this Draft Audit (Fiscal Years 2002-03 and 2003-04) from the Final Report, as they are not eligible to be legally audited. As a result of the State Controller's Office failing to comply with Government Code Section 11340 (the Administrative Procedures Act), thus the State Controller's Office has created an Underground Regulation.

Lastly, this issue was recently brought to light by the SCO's own staff. In June, John Hiber, Chief Operating Officer described in a letter to Local Government Agencies of the requirement of the SCO to issue payment, even though doing so is not cost-effective, (see attached letter). Thus, the SCO is required to make these very small payments in order to comply with Government Code section 17567.

BOARD OF TRUSTEES
Dr. Manuel Baca • Rosanne M. Bader • Judy Chen Haggerty, *Esq.* • Fred Chyr • Dr. David K. Hall
COLLEGE PRESIDENT / CEO – Dr. John S. Nixon

Finding 1

Claim Preparation Time

The SCO has created a standard that does not exist in the Parameters & Guidelines of the program "Collective Bargaining." According to the SCO Auditor Manager, the term, "Negotiation Preparation Sessions" has been defined by the SCO to mean that at least two District employees must be simultaneously involved with the Negotiation Preparation for the District to be reimbursed for their costs.

Below is the section of the Parameters & Guidelines that identifies reimbursable costs for Negotiation Planning:

"Show the costs of salaries and benefits for employer representatives and employees participating in negotiation planning sessions. Contracted services for employer representatives will be reimbursed."

As you can clearly see, there is no reference in the Parameters & Guidelines (P's & G's) to the number of employees that must be present for the activity to be reimbursable. In fact, the only reference to a number of employees in the entire activity component on Collective Bargaining is under Negotiations (3.a.). In this instance, the reference to a number of employees involves the maximum number of employees that can be claimed in Negotiations. Please see the excerpt below:

"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.****"*

It is interesting to note that in the example above, the P's & G's have defined the maximum number of participants in negotiation sessions only. Conversely, the P's & G's for Collective Bargaining do not define a minimum number of participants for Negotiation Sessions or Negotiation Planning Sessions to be eligible. In fact, as clearly stated above negotiations sessions are more limiting to reimbursement than negotiation planning sessions. What is ironic regarding SCO audit practice for this program is their allowance of individual district employees involved in negotiation sessions. If nothing else, this disparity in audit treatment displays the SCO's lack of continuity in their effort to audit negotiation preparation sessions.

Additionally, according to the SCO Audit Manager, the foundation for this disallowance is based solely on the definition of the word "session." According to an internal SCO legal interpretation, the SCO has used this interpretation as justification for the disallowance of all individual time spent conducting necessary and reimbursable negotiation preparation activities.

In the two (2) attached documents are definitions for the word "session" from separate sources, (see attached definitions). The first source is from Merriam Webster (www.merriam-webster.com). The second source is from Dictionary.com. In total, there are 15 definitions of the word "session." In none of the definitions is "session" defined as solely containing a minimum of two or more people. In fact, the most common uses of the word session in the fifteen (15) different definitions is a period of time with six (6) entries, followed by an organization/entity (English Justices, Presbyterian Congregation) with four (4) entries.

As a result, the State Controller's Office interpretation of reimbursable negotiation planning sessions exceeds the requirements of the Parameters & Guidelines and attempts to supersede

the authority of the Commission on State Mandates. As a result, the SCO has violated Government Code section 11340 (the Administrative Procedures Act) and has created an Underground Regulation.

Finding 2

We believe the costs for the Online Collective Bargaining Database through the Community College League of California should be allowed, as this cost is solely due to collective bargaining.

Finding 4 and Finding 5

In the Schedule 1 Summary of Program Costs, the State Controller's Office listed Base Year Direct Costs (Winton Act Costs) as "Finding 5" and Indirect Costs as "Finding 4". Unfortunately, in the text of the Audit Report the citations for these two Findings have been reversed. The Winton Act base-year costs are identified as Finding 4 (not Finding 5) and Overstated Indirect Costs is listed as "Finding 5" instead of Finding 4. We feel that this error should be corrected in the final report.

Finding 5

Although we do not disagree with the findings of the State Controller's Office on the issue of overstated indirect costs, Mt. SAC did not incorrectly apply indirect costs to materials and supplies based on the directions as prescribed by the State Controller's Office in their Claiming Instructions for the Collective Bargaining program. Instead, it appears the State Controller's Office identified an error in their Claiming Instructions to District and other Local Educational Agencies for the proper identification and compilation of eligible indirect costs.

Although this does not have substantive effect of the Audit Findings, this does explain why Mt. San Antonio CCD filed for Indirect Costs for materials and supplies, which were identified as eligible for inclusion in the SCO Claiming Instructions. The SCO has recently changed the Form 1, so the district should not be penalized for following the SCO's own guidelines for completing Form 1 of the Collective Bargaining program.

Mt. San Antonio College would appreciate your consideration and review of the above items of concern. Please give me a call, if you would like to discuss our concerns in more detail.

Sincerely,

Linda M. Baldwin

Linda M. Baldwin
Associate Vice President, Fiscal Services

cc: Michael D. Gregoryk, Vice President Administrative Services
Annette Loria, Vice President Human Resources
Rosa Royce, Assistant Director Fiscal Services
Harmeet Barkschat, Mandate Resource Services
Andy Nichols, Nichols Consulting

Main Entry: **ˈses·sion**
Pronunciation: \ˈse-shən\
Function: *noun*
Etymology: Middle English, from Anglo-French, from Latin *session-, sessio,* literally, act of sitting, from *sedēre* to sit — more at SIT
Date: 14th century
1 : a meeting or series of meetings of a body (as a court or legislature) for the transaction of business <morning session>
2 *plural* **a** (1) : a sitting of English justices of peace in execution of the powers conferred by their commissions (2) : an English court holding such sessions **b** : any of various courts similar to the English sessions
3 : the period between the first meeting of a legislative or judicial body and the prorogation or final adjournment
4 : the ruling body of a Presbyterian congregation consisting of the elders in active service
5 : the period during the year or day in which a school conducts CLASSES
6 : a meeting or period devoted to a particular activity <a recording session>
— **ses·sion·al** \ˈsesh-nəl, ˈse-shə-nᵊl\ *adjective*

ses·sion [**sesh**-uhn] Show IPA

–noun

1. the sitting together of a court, council, legislature, or the like, for conference or the transaction of business: *Congress is now in session.*
2. a single continuous sitting, or period of sitting, of persons so assembled.
3. a continuous series of sittings or meetings of a court, legislature, or the like.
4. the period or term during which such a series is held.
5. **sessions,** (in English law) the sittings or a sitting of justices in court, usually to deal with minor offenses, grant licenses, etc.
6. a single continuous course or period of lessons, study, etc., in the work of a day at school: *two afternoon sessions a week.*
7. a portion of the year into which instruction is organized at a college or other educational institution.
8. the governing body of a local Presbyterian church, composed of the pastor who moderates and the elders.
9. a period of time during which a group of persons meets to pursue a particular activity: *A few of the kids got together for a study session.*

Origin:
1350–1400; ME < ML *sessiōn-* (s. of *sessiō*) law-court sitting, L: sitting, equiv. to *sess(us)* (ptp. of *sedēre* to sit[1]) + *-ōn-* -ion

—Related forms
ses·sion·al, *adjective*
pre·ses·sion, *noun*

JOHN CHIANG

California State Controller

June 4, 2010

Dear Payee:

The enclosed payment represents a prorated share of a $1,000 appropriation made by the Legislature for reimbursement of state mandated cost claims for fiscal year 2007-2008, for the program indicated on the remittance advice.

Please note that any accounts receivable were offset, pursuant to Government Code section 17561 (d), which may have resulted in a "zero" payment.

While the State Controller recognizes that processing these payments is not cost effective for our office or yours, Government Code section 17567 requires the Controller to prorate reimbursement payments to claimants if appropriated funds, pursuant to Government Code section 17561, are not sufficient to pay all of the claims approved by the Controller.

Questions may be directed to Jill Kanemasu at (916) 322-9891 or me at (916) 552-8080.

Sincerely,

JOHN HIBER
Chief Operating Officer

300 Capitol Mall, Suite 1850, Sacramento, CA 95814 ♦ P.O. Box 942850, Sacramento, CA 94250 ♦ (916) 445-2636 ♦ Fax: (916) 322-4404
777 S. Figueroa Street, Suite 4800, Los Angeles, CA 90017 ♦ (213) 833-6010 ♦ Fax: (213) 833-6011
www.sco.ca.gov

STATE OF CALIFORNIA

WARRANT NUMBER 64-316164

THE TREASURER OF THE STATE WILL PAY OUT OF THE

FUND NO. 0001 FUND NAME GENERAL FUND

IDENTIFICATION NO. S34015 6100

MO. 06 DAY 14 YR. 2010

90-1342/1211

64316164

DOLLARS CENTS $xxxxxxx1.00

TO: 316164
--- TREASURER
DEL PASO HEIGHTS SCHOOL DIST
3222 WINONA WAY
NORTH HIGHLANDS CA 95660

JOHN CHIANG
CALIFORNIA STATE CONTROLLER

⑆121113423⑆ 64316164⑈

DETACH ON DOTTED LINE
KEEP THIS PORTION FOR YOUR RECORDS

64-316164

ISSUE DATE: 06/14/2010

ISSUE DATE: 06/14/2010 CLAIM SCHEDULE NBR: MA94424A

REIMBURSEMENT OF STATE MANDATED COSTS
ANY QUESTIONS PLS CONTACT ELLEN SOLIS (916) 323-0698
ACL : 498/83 PROG : NOTICE OF TRUANCY CH 498/83

2007/2008 ACTUAL PAYMENT	CLAIMED AMT:	10,092.00
TOTAL ADJUSTMENTS:		.00
TOTAL APPROVED CLAIMED AMT:		10,092.00
LESS PRIOR PAYMENTS:		.00
PRORATA PERCENT:	.005663	
PRORATA BALANCE DUE:		10,091.00-
APPROVED PAYMENT AMOUNT:		1.00
PAYMENT OFFSETS -NONE		
	NET PAYMENT AMOUNT:	1.00

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

http://www.sco.ca.gov

S08-MCC-039