

FOOTHILL-DE ANZA COMMUNITY COLLEGE DISTRICT

Second Reissued Audit Report

COLLECTIVE BARGAINING AND COLLECTIVE BARGAINING AGREEMENT DISCLOSURE PROGRAM

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

July 1, 1999, through June 30, 2002



BETTY T. YEE
California State Controller

July 2015



BETTY T. YEE
California State Controller

July 31, 2015

Pearl Cheng, President
Board of Trustees
Foothill-De Anza Community College District
12345 El Monte Road
Los Altos Hills, CA 94022-4599

Dear Ms. Cheng:

The State Controller's Office audited the costs claimed by the Foothill-De Anza Community College 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, 1999, through June 30, 2002.

This second reissued final report supersedes our previous report dated October 9, 2012. The previous report identified \$40,544 in unsupported salaries, benefits, and related indirect costs. On May 29, 2015, the Commission on State Mandates (Commission) issued a decision in response to the district's incorrect reduction claim filed for the Collective Bargaining and Collective Bargaining Agreement Disclosure Program. In its decision, the Commission concluded that \$40,544 in adjustments for salaries, benefits, and related indirect costs met the documentation requirements of the parameters and guidelines. In compliance with the Commission's decision, we have reinstated the previously unsupported costs. As a result, allowable costs increased by \$40,544, from \$586,455 to \$626,999.

The district claimed \$843,067 for the mandated program. Our audit found that \$626,999 is allowable and \$216,068 is unallowable. The costs are unallowable primarily because the district claimed ineligible costs. The State paid the district \$394,372. The State will pay allowable costs claimed that exceed the amount paid, totaling \$232,627, contingent upon available appropriations.

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
Chief, Division of Audits

JVB/as

cc: Linda M. Thor, Ed.D., Chancellor
 Foothill-De Anza Community College District
Kevin McElroy, Vice Chancellor, Business Services
 Foothill-De Anza Community College District
Joni Hayes Lamprey, Director, Budget Operations
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Second Reissued Audit Report

Summary

The State Controller's Office (SCO) audited the costs claimed by the Foothill-De Anza Community College 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, 1999, through June 30, 2002.

The district claimed \$843,067 for the mandated program. Our audit found that \$626,999 is allowable and \$216,068 is unallowable. The costs are unallowable primarily because the district claimed ineligible costs. The State paid the district \$394,372. The State will pay allowable costs claimed that exceed the amount paid, totaling \$232,627, 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 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 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 representative
- G2-Election of unit representative
- G3-Costs 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 and local agencies 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 and Collective Bargaining Agreement Disclosure Program for the period of July 1, 1999, through June 30, 2002.

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.

Conclusion

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

For the audit period, the Foothill-De Anza Community College District claimed \$843,067 for costs of the Collective Bargaining and Collective Bargaining Agreement Disclosure Program. Our audit found that \$626,999 is allowable and \$216,068 is unallowable. The State paid the district \$394,372. The State will pay allowable costs claimed that exceed the amount paid, totaling \$232,627, contingent upon available appropriations.

Views of Responsible Officials

We notified Kevin McElroy, Vice Chancellor, Business Services, of the current revisions to the audit findings via email on June 23, 2015. We did not receive a response from the district.

Reason for Reissuance

We issued a draft audit report on March 12, 2004. Michael Brandy, former Vice Chancellor-Business Services, responded by letter dated April 28, 2004, disagreeing with the audit results. We issued our original final audit report on July 2, 2004. The district filed an Incorrect Reduction Claim (IRC) with the Commission on September 9, 2005.

On October 9, 2012, we reissued the report in light of an appellate court decision in *Clovis Unified School District et. al. v. John Chiang, State Controller*. Based on the court decision, we identified allowable costs that were supported by electronic calendars, email messages, and internal memoranda. As a result, allowable costs increased by \$192,084, from \$394,371 to \$586,455.

On May 29, 2015, the Commission issued a decision in response to the district's filed IRC. In its decision, the Commission concluded that \$40,544 in adjustments for salaries, benefits, and related indirect costs met the documentation requirements of the parameters and guidelines. In compliance with the Commission's decision, we have reinstated the previously unsupported costs. As a result, allowable costs increased by \$40,544, from \$586,455 to \$626,999.

This second reissued final report supersedes our original final audit report dated July 2, 2004, and the previous reissued final audit report dated October 9, 2012.

Restricted Use

This report is solely for the information and use of the Foothill-De Anza 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

July 31, 2015

Second Revised Schedule— Summary of Program Costs July 1, 1999, through June 30, 2002

Cost Elements	Actual Costs Claimed	Allowable per Audit	Audit Adjustments	Reference ¹
<u>July 1, 1999, through June 30, 2000</u>				
Direct costs:				
Components G1 through G3:				
Salaries and benefits	\$ 42,058	\$ 40,542	\$ (1,516)	Finding 1
Contract services	57,504	30,099	(27,405)	Finding 2
Subtotal	99,562	70,641	(28,921)	
Less adjusted base-year direct costs	(15,398)	(15,398)	-	
Increased direct costs, G1 through G3	84,164	55,243	(28,921)	
Components G4 through G7:				
Salaries and benefits	45,074	45,074	-	
Contract services	58,218	56,363	(1,855)	Finding 2
Increased direct costs, G4 through G7	103,292	101,437	(1,855)	
Total increased direct costs, G1 through G7	187,456	156,680	(30,776)	
Indirect costs	29,886	23,863	(6,023)	Finding 3
Total program costs	<u>\$ 217,342</u>	180,543	<u>\$ (36,799)</u>	
Less amount paid by the State		(118,258)		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 62,285</u>		
<u>July 1, 2000, through June 30, 2001</u>				
Direct costs:				
Components G1 through G3:				
Salaries and benefits	\$ 43,411	\$ 41,494	\$ (1,917)	Finding 1
Contract services	20,210	20,210	-	
Subtotal	63,621	61,704	(1,917)	
Less adjusted base-year direct costs	(16,533)	(16,533)	-	
Increased direct costs, G1 through G3	47,088	45,171	(1,917)	
Components G4 through G7:				
Salaries and benefits	74,213	73,915	(298)	Finding 1
Contract services	77,287	53,460	(23,827)	Finding 2
Increased direct costs, G4 through G7	151,500	127,375	(24,125)	
Total increased direct costs, G1 through G7	198,588	172,546	(26,042)	
Indirect costs	36,605	27,124	(9,481)	Finding 3
Total program costs	<u>\$ 235,193</u>	199,670	<u>\$ (35,523)</u>	
Less amount paid by the State		(105,582)		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 94,088</u>		

Second Revised Schedule (continued)

Cost Elements	Actual Costs Claimed	Allowable per Audit	Audit Adjustments	Reference ¹
<u>July 1, 2001, through June 30, 2002</u>				
Direct costs:				
Components G1 through G3:				
Salaries and benefits	\$ 64,758	\$ 61,807	\$ (2,951)	Finding 1
Contract services	21,701	21,465	(236)	Finding 2
Subtotal	86,459	83,272	(3,187)	
Less adjusted base-year direct costs	(16,768)	(16,768)	-	
Increased direct costs, G1 through G3	69,691	66,504	(3,187)	
Components G4 through G7:				
Salaries and benefits	53,752	53,269	(483)	Finding 1
Contract services	229,973	90,616	(139,357)	Finding 2
Increased direct costs, G4 through G7	283,725	143,885	(139,840)	
Total increased direct costs, G1 through G7	353,416	210,389	(143,027)	
Indirect costs	37,116	36,397	(719)	Finding 3
Total program costs	<u>\$ 390,532</u>	246,786	<u>\$ (143,746)</u>	
Less amount paid by the State		(170,532)		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 76,254</u>		
<u>Summary: July 1, 1999, through June 30, 2002</u>				
Direct costs:				
Components G1 through G3:				
Salaries and benefits	\$ 150,227	\$ 143,843	\$ (6,384)	
Contract services	99,415	71,774	(27,641)	
Subtotal	249,642	215,617	(34,025)	
Less adjusted base-year direct costs	(48,699)	(48,699)	-	
Increased direct costs, G1 through G3	200,943	166,918	(34,025)	
Components G4 through G7:				
Salaries and benefits	173,039	172,258	(781)	
Contract services	365,478	200,439	(165,039)	
Increased direct costs, G4 through G7	538,517	372,697	(165,820)	
Total increased direct costs, G1 through G7	739,460	539,615	(199,845)	
Indirect costs	103,607	87,384	(16,223)	
Total program costs	<u>\$ 843,067</u>	626,999	<u>\$ (216,068)</u>	
Less amount paid by the State		(394,372)		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 232,627</u>		

¹ See the Second Revised Findings and Recommendations section.

Second Revised Findings and Recommendations

**FINDING 1—
Unallowable salaries
and benefits**

The district claimed unallowable salaries and benefits totaling \$7,165. Salaries and benefits are unallowable as follows:

Component G3–Negotiations

- The district claimed duplicate costs for part-time teachers totaling \$625 (6.25 hours) in FY 2001-02.
- The district did not support the productive hourly rate claimed for part-time teachers. The district claimed part-time teacher costs using productive hourly rates of \$79.87, \$89.41, and \$100.08 for FY 1999-2000, FY 2000-01, and FY 2001-02, respectively. The district provided documentation that supported rates of \$70.51, \$77.87, and \$87.66 for the three fiscal years. As a result, unallowable costs totaled \$1,516 in FY 1999-2000, \$1,917 in FY 2000-01, and \$2,326 in FY 2001-02.

Component G6–Administration/Grievances

- The district claimed duplicate costs for part-time teachers totaling \$250 (2.5 hours) in FY 2001-02.
- The district’s records did not support productive hourly rates claimed for part-time teachers. Unallowable costs totaled \$298 in FY 2000-01, and \$233 in FY 2001-02.

The following table summarizes the audit adjustment for salaries and benefits:

Elements/Components	Fiscal Year			Total
	1999-2000	2000-01	2001-02	
Salaries and benefits:				
G1 through G3	\$ (1,516)	\$ (1,917)	\$ (2,951)	\$ (6,384)
G4 through G7	-	(298)	(483)	(781)
Audit adjustment	<u>\$ (1,516)</u>	<u>\$ (2,215)</u>	<u>\$ (3,434)</u>	<u>\$ (7,165)</u>

The program’s parameters and guidelines state that public school employers will be reimbursed for the increased costs incurred as a result of compliance with the mandate. Claims must show the costs of salaries and benefits for employer representatives participating in negotiations, negotiation planning sessions, and adjudication of contract disputes. Claims must also indicate the cost of substitutes for release time of exclusive bargaining unit representatives during negotiations and adjudication of contract disputes. Claims must show the classification of employees involved, amount of time spent, and their hourly rates.

Recommendation

Commencing in FY 2012-13, the district elected to participate in a block grant program, pursuant to Government Code section 17581.7, 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 only those costs that are reimbursable under the parameters and guidelines.

District's Response

In our original audit report, published July 2, 2004, the district contested our audit adjustments identified for costs supported by electronic calendars, email messages, and internal memoranda. The district filed an Incorrect Reduction Claim with the Commission on September 9, 2005.

SCO's Comments

On October 9, 2012, we reissued the report in light of an appellate court decision in *Clovis Unified School District et. al. v. John Chiang, State Controller*. Based on the court decision, we identified allowable costs that were supported by electronic calendars, email messages, and internal memoranda. As a result, allowable salaries and benefits increased by \$165,488, from \$115,733 to \$281,221.

On May 29, 2015, the Commission issued a decision in response to the district's incorrect reduction claim filed. In its decision, the Commission concluded that \$40,544 in adjustments for salaries, benefits, and related indirect costs met the documentation requirements of the parameters and guidelines. In compliance with the Commission's decision, we have reinstated the previously unsupported salaries and benefits. As a result, allowable salaries and benefits increased by \$34,880, from \$281,221 to \$316,101.

FINDING 2— Unallowable contract service costs claimed

The district claimed unallowable contract services costs of \$192,680. Contract service costs claimed are unallowable as follows:

Component G3–Negotiations

- The district claimed \$27,405 in FY 1999-2000 for costs related to a personnel matter that was not related to collective bargaining.
- The district claimed \$236 (1.75 hours) in FY 2001-02 for services performed but not charged by the contractor that rendered the services.

Component G6–Administration/Grievances

- The district claimed \$1,484 in FY 1999-2000, \$23,827 in FY 2000-01, and \$133,453 in FY 2001-02 for matters not related to collective bargaining. The district's Vice Chancellor for Human Resources and Equal Opportunity confirmed that \$129,707 claimed was not related to collective bargaining; the auditor identified the remaining costs after reviewing all other claimed grievance files.

- The district did not provide supporting documentation for \$337 claimed in FY 1999-2000 and \$135 in FY 2001-02 to show that the costs were related to collective bargaining.
- The district claimed \$34 (0.25 hours) in FY 1999-2000 and \$2,019 (14.95 hours) in FY 2001-02 for unallowable hours due to mathematical errors or hours documented but not charged by the firm rendering services.
- The district claimed 100% of arbitration fees totaling \$6,600 in FY 2001-02; however, only 50% of arbitration costs (\$3,300) is reimbursable. The district also claimed unallowable arbitration cancellation fees of \$450.

The following table summarizes the audit adjustment for contract services:

Elements/Components	Fiscal Year			Total
	1999-2000	2000-01	2001-02	
Contract services:				
G1 through G3	\$ (27,405)	\$ —	\$ (236)	\$ (27,641)
G4 through G7	(1,855)	(23,827)	(139,357)	(165,039)
Audit adjustment	<u>\$ (29,260)</u>	<u>\$ (23,827)</u>	<u>\$ (139,593)</u>	<u>\$ (192,680)</u>

The parameters and guidelines state that public school employers will be reimbursed for the increased costs incurred as a result of compliance with the mandate. The parameters and guidelines require the district to separately show the name of professionals or consultants, specify the functions the consultants performed relative to the mandate, specify the length of appointment, and provide itemized costs for such services. The parameters and guidelines also state that only the public school employer’s portion of arbitrators’ fees for adjudicating grievances, representing 50% of costs, will be reimbursed.

Recommendation

Commencing in FY 2012-13, the district elected to participate in a block grant program, pursuant to Government Code section 17581.7, 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 only those costs that are reimbursable under the parameters and guidelines and properly supported by source documentation.

District’s Response

The district stated in its September 9, 2005 Incorrect Reduction Claim filing that it does not dispute this finding.

**FINDING 3—
Overstated indirect costs**

The district overstated indirect costs by \$16,223 for the audit period. The district understated indirect costs because it did not apply the indirect cost rate to total increased direct costs. However, the district also overstated indirect costs because it overstated the allowable indirect cost rates.

The district claimed indirect costs based on an indirect cost rate proposal (ICRP) prepared by an outside consultant using FY 1998-99 district costs. The district did not develop indirect cost rates based on costs incurred in the fiscal years within the audit period. In addition, the district did not obtain federal approval for its ICRP. For the audit period, the district claimed a 36.48% indirect cost rate.

During audit fieldwork, the district submitted revised ICRPs for each fiscal year within the audit period. The district prepared the revised ICRPs using the methodology allowed by the SCO claiming instructions. The indirect cost rates resulting from the revised ICRPs did not support the indirect cost rate claimed. The district's revised ICRPs supported indirect cost rates of 15.23% for FY 1999-2000, 15.72% for FY 2000-01, and 17.3% for FY 2001-02.

The district applied the claimed indirect cost rate to increased direct costs for salaries and benefits only. However, the indirect cost rates calculated using the revised methodology are applicable to both salaries and benefits, and contract services, resulting in understated indirect costs claimed. The following table summarizes the audit adjustment for indirect costs:

	Fiscal Year			Total
	1999-2000	2000-01	2001-02	
Allowable increased direct costs, G1 through G7	\$ 156,680	\$ 172,546	\$ 210,389	
Allowable indirect cost rate	x 15.23%	x 15.72%	x 17.30%	
Allowable indirect costs	23,863	27,124	36,397	\$ 87,384
Less claimed indirect costs	(29,886)	(36,605)	(37,116)	(103,607)
Audit adjustment	\$ (6,023)	\$ (9,481)	\$ (719)	\$ (16,223)

The parameters and guidelines state that for allowable overhead costs, community college districts must use one of the following three alternatives: (1) a federally-approved rate based on Office of Management and Budget (OMB) Circular A-21; (2) the State Controller's form FAM-29C, which is based on total expenditures that the district reports to the California Community Colleges Chancellor's Office in its Annual Financial and Budget Report (CCFS-311); or (3) seven percent.

Recommendation

Commencing in FY 2012-13, the district elected to participate in a block grant program, pursuant to Government Code section 17581.7, 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 indirect costs in accordance with the parameters and guidelines.

District's Response

The district stated in its September 9, 2005 Incorrect Reduction Claim filing that it does not dispute this finding.

SCO's Comments

We are revising this finding to allow additional related indirect costs solely because of the Commission's May 29, 2015 decision in response to Finding 1. As a result of the Commission's decision, allowable indirect costs increased by \$5,664, from \$81,720 to \$87,384.

**State Controller's Office
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