STATE OF CALIFORNIA

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October 31, 2006

Mr. Keith Petersen
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And Affected State Agencies and Interested Parties (see enclosed mailing list)

RE: **Adopted Statewide Cost Estimate**
Integrated Waste Management, 00-TC-07
Santa Monica and South Lake Tahoe Community College Districts, Co-Claimants
Public Resources Code Sections 40148, 40196.3, 42920-42928
Public Contract Code Sections 12167 and 12167.1
Statutes 1999, Chapter 764; Statutes 1992, Chapter 1116
State Agency Model Integrated Waste Management Plan (February 2000)

Dear Mr. Petersen:

On October 26, 2006, the Commission on State Mandates adopted the statewide cost estimate of $10,785,532 for the above-named program. This amount will be included in our next Report to the Legislature.

Please call Cathy Cruz Jefferson at (916) 323-8218 if you have questions.

Sincerely,

Paula Higashi

PAULA HIGASHI
Executive Director

Enclosure: Statewide Cost Estimate

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MAILED: _____ FAXED: ✓
DATE: 11/1/02 INITIAL: LD
CHRON: _____ FILE: ✓
WORKING BINDER: _____

Adopted: October 26, 2006

STATEWIDE COST ESTIMATE

Public Resources Code Sections 40148, 40196.3, 42920-42928
Public Contract Code Sections 12167 and 12167.1

Statutes 1999, Chapter 764 (AB 75)
Statutes 1992, Chapter 1116 (AB 3521)

State Agency Model Integrated Waste Management Plan (February 2000)

Integrated Waste Management (00-TC-07)

Santa Monica and Lake Tahoe Community College Districts, Claimants

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Summary of the Mandate

On March 25, 2004, the Commission on State Mandates (Commission) adopted its Statement of Decision finding that Public Resources Code sections 40148, 40196.3, 42920-42928; Public Contract Code sections 12167 and 12167.1; and the State Agency Model Integrated Waste Management Plan (February 2000) require new activities, as specified below, which constitute new programs or higher levels of service for community college districts within the meaning of article XIII B, section 6, of the California Constitution, and impose costs mandated by the state pursuant to Government Code section 17514.

The claimant filed the test claim on March 9, 2001. The Commission adopted the Statement of Decision on March 25, 2004, and the parameters and guidelines on March 30, 2005. Eligible claimants were required to file initial reimbursement claims with the State Controller's Office (SCO) by October 4, 2005.

Reimbursable Activities

The Commission approved the following reimbursable activities for this program:

A. <u>One-Time Activities</u> *(Reimbursable starting January 1, 2000)*

1. Develop the necessary district policies and procedures for the implementation of the integrated waste management plan.
2. Train district staff on the requirements and implementation of the integrated waste management plan (one-time per employee). Training is limited to the staff working directly on the plan.

B. <u>Ongoing Activities</u> *(Reimbursable starting January 1, 2000)*

1. Complete and submit to the Board the following as part of the State Agency Model Integrated Waste Management Plan (Pub. Resources Code, § 42920, subd. (b)(3) & State Agency Model Integrated Waste Management Plan, February 2000.):
    a. state agency or large state facility information form;
    b. state agency list of facilities;

c. state agency waste reduction and recycling program worksheets that describe program activities, promotional programs, and procurement activities, and other questionnaires; and

d. state agency integrated waste management plan questions.

NOTE: Although reporting on promotional programs and procurement activities in the model plan is reimbursable, implementing promotional programs and procurement activities is not.

2. Respond to any Board reporting requirements during the approval process. (Pub. Resources Code, § 42920, subd. (b)(3) & State Agency Model Integrated Waste Management Plan, February 2000.)

3. Consult with the Board to revise the model plan, if necessary. (Pub. Resources Code, § 42920, subd. (b)(3) & State Agency Model Integrated Waste Management Plan, February 2000.)

4. Designate one solid waste reduction and recycling coordinator ("coordinator") for each college in the district to perform new duties imposed by chapter 18.5 (Pub. Resources Code, §§ 42920 – 42928). The coordinator shall implement the integrated waste management plan. The coordinator shall act as a liaison to other state agencies (as defined by section 40196.3) and coordinators. (Pub. Resources Code, § 42920, subd. (c).)

5. Divert at least 25 percent of all solid waste from landfill disposal or transformation facilities by January 1, 2002, and at least 50 percent of all solid waste from landfill disposal or transformation facilities by January 1, 2004, through source reduction, recycling, and composting activities. Maintain the required level of reduction, as approved by the Board. (Pub. Resources Code, §§ 42921 & 42922, subd. (i).)

C. Alternative Compliance *(Reimbursable from January 1, 2000 – December 31, 2005)*

1. Seek either an alternative requirement or time extension if a community college is unable to comply with the January 1, 2002 deadline to divert 25 percent of its solid waste, by doing the following: (Pub. Resources Code, §§ 42927 & 42923 subds. (a) & (c).)

   a. Notify the Board in writing, detailing the reasons for its inability to comply.

   b. Request of the Board an alternative to the January 1, 2002 deadline.

   c. Provide evidence to the Board that the college is making a good faith effort to implement the source reduction, recycling, and composting programs identified in its integrated waste management plan.

   d. Provide information that describes the relevant circumstances that contributed to the request for extension, such as lack of markets for recycled materials, local efforts to implement source reduction, recycling and composting programs, facilities built or planned, waste disposal patterns, and the type of waste disposed of by the community college.

   e. Submit a plan of correction that demonstrates that the college will meet the requirements of Section 42921 [the 25 and 50 percent diversion requirements] before the time extension expires, including the source reduction, recycling, or

composting steps the community college will implement, a date prior to the expiration of the time extension when the requirements of Section 42921 will be met, the existing programs that it will modify, any new programs that will be implemented to meet those requirements, and the means by which these programs will be funded.

2. Seek either an alternative requirement or time extension if a community college is unable to comply with the January 1, 2004 deadline to divert 50 percent of its solid waste, by doing the following: (Pub. Resources Code, §§ 42927 & 42922, subds. (a) & (b).)

   a. Notify the Board in writing, detailing the reasons for its inability to comply.

   b. Request of the Board an alternative to the 50-percent requirement.

   c. Participate in a public hearing on its alternative requirement.

   d. Provide the Board with information as to:

      (i) the community college's good faith efforts to implement the source reduction, recycling, and composting measures described in its integrated waste management plan, and demonstration of its progress toward meeting the alternative requirement as described in its annual reports to the Board;

      (ii) the community college's inability to meet the 50 percent diversion requirement despite implementing the measures in its plan;

      (iii) how the alternative source reduction, recycling, and composting requirement represents the greatest diversion amount that the community college may reasonably and feasibly achieve; and,

      (iv) the circumstances that support the request for an alternative requirement, such as waste disposal patterns and the types of waste disposed by the community college.

D. Accounting System *(Reimbursable starting January 1, 2000)*

Developing, implementing, and maintaining an accounting system to enter and track the college's source reduction, recycling and composting activities, the cost of those activities, the proceeds from the sale of any recycled materials, and such other accounting systems which will allow it to make its annual reports to the state and determine waste reduction. Note: only the pro-rata portion of the costs incurred to implement the reimbursable activities can be claimed.

E. Annual Report *(Reimbursable starting January 1, 2000)*

Annually prepare and submit, by April 1, 2002, and by April 1 each subsequent year, a report to the Board summarizing its progress in reducing solid waste. The information in the report must encompass the previous calendar year and shall contain, at a minimum, the following as outlined in section 42926, subdivision (b): (Pub. Resources Code, §§ 42926, subd. (a) & 42922, subd. (i).)

1. calculations of annual disposal reduction;

2. information on the changes in waste generated or disposed of due to increases or

Staff notes the following:

a. *Three out of the eight community college districts did not report any offsetting revenues.* Section VII. of the parameters and guidelines state the following:

> Reimbursement for this mandate from any source, including but not limited to, service fees collected, federal funds, and other state funds allocated to any service provided under this program, shall be identified and deducted from this claim. Offsetting revenue shall include the revenues cited in Public Resources Code section 42925 and Public Contract Code sections 12167 and 12167.1.
>
> Subject to the approval of the California Integrated Waste Management Board, revenues derived from the sale of recyclable materials by a community college that do not exceed two thousand dollars ($2,000) annually are continuously appropriated for expenditure by the community college for the purpose of offsetting recycling program costs. Revenues exceeding two thousand dollars ($2,000) annually may be available for expenditure by the community college only when appropriated by the Legislature. To the extent so approved or appropriated and applied to the college, these amounts are a reduction to the recycling costs mandated by the state to implement Statutes 1999, chapter 764.
>
> In addition, revenue from a building-operating fee imposed pursuant to Education Code section 76375, subdivision (a) if received by a claimant and the revenue is applied to this program, shall be deducted from the costs claimed.

The districts that did not offset revenues or other reimbursements include Coast Community College District, Gavilan Joint Community College District, and Rancho Santiago Community College District. Coast claimed a total of $592,398 for six fiscal years; Gavilan Joint claimed a total of $368,229 for six fiscal years; and Rancho Santiago claimed a total of $494,944 for six fiscal years.

On March 30, 2005, the Commission adopted the staff analysis on the proposed parameters and guidelines, which found that there was insufficient legal authority to support a requirement to track cost savings that may result from avoiding disposal costs as a result of this program. Staff explained that Public Resources Code section 42925's reference to "cost savings" actually means "revenues" received and redirected via Public Contract Code sections 12167 and 12167.1 Further, the Board would have claimants reduce disposal costs from the claims submitted. As explained in the staff analysis:

> The problem with this approach is that the test claim statutes enacted a new waste diversion program in 2000 that was not previously reimbursed. "Disposal" costs were not previously reimbursed by the state, nor are they required to be reimbursed under the test claim statutes. Rather, it is "diversion" costs that are reimbursed under this program. Because there was no prior state-mandated program for diversion or disposal upon which to calculate savings, there can be no offsetting savings for these costs.

> In addition, Public Resources Code section 42925, subdivision (a), states that the cost savings must be redirected to fund the integrated waste plan only, "to the extent feasible." Thus, the Legislature's direction to redirect cost savings is not mandated. Section 42925 allows any savings to be redirected to other campus programs if the community college finds that it is not "feasible" to use those savings to implement the waste management plan.

Usually, under section VII. Offsetting Revenues and Reimbursements of the parameters and guidelines, there is a standard provision that states, "Any offsetting savings the claimant experiences in the same program as a result of the same statutes or executive orders found to contain the mandate shall be deducted from the costs claimed." Staff notes that all the cost savings identified by the Board during the parameters and guidelines phase (e.g., reduced disposal) were not rooted in the costs that are mandated by the test claim legislation, so they are not "in the same program as a result of the same statutes or executive orders found to contain the mandate." Therefore, the Board's request for additional information on offsetting savings was not included because the Commission found that it was inconsistent with the test claim's statutory scheme and the analysis of offsetting savings. As shown above, staff added to the standard provision in section VII. of the parameters and guidelines by identifying specific offsetting revenues.

In its comments dated March 30, 2006, the Board argued that its request for additional information on offsetting savings in the parameters and guidelines was deemed unnecessary, and that a "stronger reference" to ensure that cost savings were properly identified were not included in the parameters and guidelines. Thus, the Board requested a parameters and guidelines amendment to include "additional information as a method to accurately capture offsetting savings." The Board provided a summary of the additional expenses and offsetting savings, stating that:

> the failure to provide either a stronger explanation of offsetting savings that must be included or a format/table to fill out to help determine offsetting savings, has resulted in the inaccurate claims that have been presented and which inevitably led to an inaccurate Statewide Cost Estimate. The only reasonable and efficient way to remedy this situation is to amend…the Parameters and Guidelines to ensure that the necessary information is provided.

The DOF concurred with the Board's summary of additional expenses and offsetting savings.

Staff notes that in general, the Board's comments focused on its request to amend the parameters and guidelines. However, because the reimbursement claims for fiscal years 1999-2000 through 2004-2005 have already been submitted, the Board's suggestion to add additional information to the parameters and guidelines regarding offsetting savings

will not affect these claims.[2] Thus, staff was unable to improve the proposed statewide cost estimate for the initial years based on the Board's comments.

The Board's request to amend the parameters and guidelines was sent to affected state agencies and interested parties on April 10, 2006, for review and comment. As of September 2006, no comments have been received. This matter will be heard and determined at a later hearing, and if adopted, would be effective on July 1, 2005.

b. *Five out of the eight community college districts claimed one-time activities over multiple fiscal years.* The parameters and guidelines provided one-time reimbursement for the development of necessary district policies and procedures for the implementation of the integrated waste management plan, and for training of district staff on the requirements and implementation of the integrated waste management plan (one-time per employee). Training was limited to the staff working directly on the plan. However, Table 2 below shows the "one-time" costs claimed by five of the eight community college districts reviewed.

TABLE 2. ONE-TIME ACTIVITIES CLAIMED OVER MULTIPLE FISCAL YEARS

District	Activity	1999-2000	2000-2001	2001-2002	2002-2003	2003-2004	2004-2005
Gavilan Joint	*Policies*	$ 185	$ 1,987	$ 2,499	$ 1,531	$ 1,876	$ 1,938
	Training	$ 189	$ 410	$ 431	$ 474	$ 516	$ 476
Grossmont	*Policies*	-	$ 620	-	-	-	-
	Training	$ 693	$ 561	$ 1,731	$ 863	$ 793	$ 1,374
Los Rios	*Policies*	-	$ 1,337		$ 1,300	-	-
	Training	-	$ 152	$ 308	-	-	-
Palomar	*Policies*	-	-	-	-	-	-
	Training	$ 7,087	$18,872	$20,368	$22,471	$23,115	$25,499
Santa Monica	*Policies*	-	-		$ 1,538	$ 1,846	$ 10,461
	Training	-	-	$ 6,190	$ 9,051	$ 10,646	$ 1,130

The claims did not include enough information as to whether the costs claimed for training were in fact for new employees only. A representative of the Palomar Community College District indicated that "groundskeepers and maintenance technicians [reported] 20 to 50 hours of training each year" and guessed that the time related to "operation of equipment relevant to source reduction...." The representative also indicated that one recycling coordinator reported 400 hours of training, "which might cover organized training events for district employee[s]." Overall, the representative believed that the district's training time was unique and quantitatively above average.

The Board commented that the costs associated with the reimbursable one-time activities

[2] Government Code section 17557, subdivision (c), states that "[a] parameters and guidelines amendment filed more than 90 days after the claiming deadline for initial claims...and on or before January 15 following a fiscal year, shall establish eligibility for that fiscal year."

should be relatively small because:

the Board has already developed and provided access to many model policies and procedures that can be easily and with little or no time or cost be adapted for and utilized by Community College Districts. Likewise, the Board provides free training and support to recycling coordinators. In a recent training session, conducted by the Community Colleges, which Board staff was invited to, more than 15 college campuses and District offices were able to completely prepare and finalize for submittal, the regional annual report within a total of 5 hours.

Staff notes that other districts may have also claimed one-time activities over multiple fiscal years.

Therefore, based on the foregoing observations, staff finds that the 142 actual claims filed by 27 community college districts only represent an estimated cost of the program for fiscal years 1999-2000 through 2004-2005.

2. *The actual amount claimed will increase when late or amended claims are filed.* Only 27 of the 72 community college districts in California have filed reimbursement claims for this program. Many of the largest community college districts, including the Los Angeles Community College District, have not filed reimbursement claims. Thus, if reimbursement claims are filed by any of the remaining districts, the amount of reimbursement claims may exceed the statewide cost estimate. For this program, late claims may be filed until October 2006.

3. *The SCO may reduce any reimbursement claim for this program.* If the SCO audits this program and deems any reimbursement claim to be excessive or unreasonable, it may be reduced. Therefore, the total amount of reimbursement for this program may be lower than the statewide cost estimate.

Methodology

Fiscal Years 1999-2000 through 2004-2005

The proposed statewide cost estimate for fiscal years 1999-2000 through 2004-2005 is based on the 142 actual reimbursement claims filed with the SCO for these years. However, staff notes that the claims are unaudited and may be inaccurate for the reasons stated above.

Fiscal Years 2005-2006 and 2006-2007

Staff estimated fiscal year 2005-2006 costs by multiplying the 2004-2005 estimate by the implicit price deflator for 2004-2005 (3.5%), as forecast by the Department of Finance. Staff estimated fiscal year 2006-2007 costs by multiplying the 2005-2006 estimate by the implicit price deflator for 2005-2006 (3.1%). Staff estimated fiscal year 2007-2008 costs by multiplying the 2006-2007 estimate by the implicit price deflator for 2006-2007 (6.4%).

The proposed statewide cost estimate includes nine fiscal years for a total of $10,785,532. This averages to $1,198,392 annually in costs for the state.

Following is a breakdown of estimated total costs per fiscal year:

TABLE 3. BREAKDOWN OF ESTIMATED TOTAL COSTS PER FISCAL YEAR

Fiscal Year	Number of Claims Filed with SCO	Estimated Cost
1999-2000	21	$ 478,106
2000-2001	25	788,658
2001-2002	23	1,003,710
2002-2003	25	1,109,250
2003-2004	25	1,203,354
2004-2005	24	1,463,719
2005-2006 (estimated)	N/A	1,514,949
2006-2007 (estimated)	N/A	1,561,912
2007-2008 (estimated)	N/A	1,661,874
TOTAL	**143**	**$ 10,785,532**

Commission on State Mandates

Original List Date:	3/20/2001	Mailing Information:	Notice of Adopted SCE
Last Updated:	9/18/2006		
List Print Date:	11/01/2006		**Mailing List**
Claim Number:	00-TC-07		
Issue:	Integrated Waste Management		

TO ALL PARTIES AND INTERESTED PARTIES:

Each commission mailing list is continuously updated as requests are received to include or remove any party or person on the mailing list. A current mailing list is provided with commission correspondence, and a copy of the current mailing list is available upon request at any time. Except as provided otherwise by commission rule, when a party or interested party files any written material with the commission concerning a claim, it shall simultaneously serve a copy of the written material on the parties and interested parties to the claim identified on the mailing list provided by the commission. (Cal. Code Regs., tit. 2, § 1181.2.)

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