



DEPARTMENT OF
FINANCE

ARNOLD SCHWARZENEGGER, GOVERNOR

915 L STREET ■ SACRAMENTO CA ■ 95814-3706 ■ WWW.DOF.CA.GOV

February 25, 2008

Ms. Paula Higashi
Executive Director
Commission on State Mandates
980 Ninth Street, Suite 300
Sacramento, CA 95814

RECEIVED

FEB 28 2008

**COMMISSION ON
STATE MANDATES**

Dear Ms. Higashi:

As requested in your letter December 14, 2007, the Department of Finance has reviewed the test claim submitted by the San Diego County Office of Education and the Sweetwater Union High School Districts (co-claimants) asking the Commission to determine whether specified costs incurred under various statutes and codes are reimbursable state mandated costs (Claim No. 07-TC-06, "Williams Case Implementation II").

This test claim references statutory and regulatory changes resulting from the enactment of Chapter 704, Statutes of 2006 (AB 607) and supplements Test Claim No. 05-TC-04, Williams Case Implementation (Williams Case I). AB 607 made various clean-up and technical changes to provisions of the Williams settlement addressing County Office of Education (COE) funding and reporting procedures, a statutory definition of "good repair", the Emergency Repair Program, the Uniform Complaint Process, and instructional materials sufficiency solutions. AB 607 also modified the methods of repayment by school districts for any funds owed to the state for State School Facilities Program (SFP) projects. Finally, AB 607 authorized the remaining unencumbered balance of funds appropriated to COEs for review and monitoring of schools and for conducting and reporting on site visits to remain available for expenditure through June 30, 2008. AB 607 did not create any new programs, rather, as noted above, it simply modified or added to the requirements of programs established by legislation implementing the Williams settlement and claimed to be reimbursable state mandated activities under Williams Case I.

Consistent with our position on the Williams Case I claims, we have concluded that the activities and requirements cited in this test claim do not constitute a state reimbursable mandate. We base this conclusion on the findings noted below, which merely duplicate the comments submitted in our letter dated August 18, 2006, in response to Williams Case I. However, as Williams Case I is still pending before the Commission, we reserve the right to modify our comments for Williams Case II in light of any decision rendered by the Commission for Williams Case I. Additionally, since many of the activities and issues contained in Williams Case I and Williams Case II overlap, we suggest the Commission consider consolidating the two test claims.

We first note that participation in voluntary and discretionary state programs, which may require certain conditions of participation, does not constitute a state mandate. In *Department of Finance v. Commission on State Mandates* (2003) 30 Cal.4th 727, the California Supreme Court confirmed the merits of the argument that where a local government entity voluntarily participates in a statutory program, the state may require the entity to comply with reasonable conditions without providing additional funds to reimburse the entity for the increased level of activity. Consistent with this ruling, Williams settlement activities imposed on the following voluntary programs should not constitute a reimbursable mandate:

- The School Facilities Emergency Repair Program, the School Facilities Program, the Lease Purchase Program, the Deferred Maintenance Program, and the State Relocatable Classroom Program.
- The Pupil Textbook and Instructional Materials Incentive Account.

In addition, Section 17556(e) of the Government Code provides that the Commission on State Mandates shall not find a reimbursable mandate if an appropriation in a Budget Act or other bill provides for offsetting savings to local agencies or school districts that result in no net costs, or includes additional revenue that was specifically intended to fund the costs of the state mandate in an amount sufficient to fund the cost of the state mandate. Consistent with this code section, the following programs receive(d) funding for Williams Settlement activities, and therefore, these activities should not constitute a reimbursable mandate:

- Chapter 899, Statutes of 2004 (SB 6) provided \$25 million for the School Facilities Needs Assessment Grant Program.
- Though the Emergency Repair Program is a voluntary program, funding is also provided to fully fund school facilities emergency repair projects. The annual budget provides \$100 million or 50 percent of the unappropriated balance of the Proposition 98 Reversion Account, whichever amount is greater. The following amounts have been provided by the Budget Act for the Emergency Repair Program: \$196 million in 2005-06, \$137 million in 2006-07, and \$200 million in 2007-08.
- Funding was provided in Section 23 of Chapter 900, Statutes of 2004 (SB 550) for superintendents to visit schools ranked in deciles 1 to 3, to report all instance of non-compliance with the instructional materials sufficiency requirements, to observe the sufficiency of textbooks, and to certify to the Superintendent of Public Instruction that school districts have corrected audit exceptions or that an acceptable plan of correction was submitted. Ongoing funding for these audits is included in Item 6110-266-0001 of the annual Budget Act.

As required by the Commission's regulations, we are including a "Proof of Service" indicating that the parties included on the mailing lists which accompanied your December 14, 2007 letter have been provided with copies of this letter via either United States Mail or, in the case of other state agencies, Interagency Mail Service.

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If you have any questions regarding this letter, please contact Lenin Del Castillo at (916) 445-0328.

Sincerely,

A handwritten signature in black ink, appearing to read 'N. Schweizer', with a stylized flourish at the end.

Nicolas Schweizer
Assistant Program Budget Manager

Attachment

Attachment A

DECLARATION OF LENIN DEL CASTILLO
DEPARTMENT OF FINANCE
CLAIM NO. 07-TC-06

1. I am currently employed by the State of California, Department of Finance (Finance), am familiar with the duties of Finance, and am authorized to make this declaration on behalf of Finance.
2. We concur that the sections relevant to this claim are accurately quoted in the test claim submitted by claimants and, therefore, we do not restate them in this declaration.

I certify under penalty of perjury that the facts set forth in the foregoing are true and correct of my own knowledge except as to the matters therein stated as information or belief and, as to those matters, I believe them to be true.

2/25/08

at Sacramento, CA

Lenin Del Castillo

Lenin Del Castillo

PROOF OF SERVICE

Test Claim Name: Williams Case Implementation II
Test Claim Number: 07-TC-06

I, the undersigned, declare as follows:

I am employed in the County of Sacramento, State of California, I am 18 years of age or older and not a party to the within entitled cause; my business address is 915 L Street, X Floor, Sacramento, CA 95814.

On February 25, 2008, I served the attached recommendation of the Department of Finance in said cause, by facsimile to the Commission on State Mandates and by placing a true copy thereof: (1) to claimants and nonstate agencies enclosed in a sealed envelope with postage thereon fully prepaid in the United States Mail at Sacramento, California; and (2) to state agencies in the normal pickup location at 915 L Street, X Floor, for Interagency Mail Service, addressed as follows:

A-16
Ms. Paula Higashi, Executive Director
Commission on State Mandates
980 Ninth Street, Suite 300
Sacramento, CA 95814
Facsimile No. 445-0278

B-8
State Controller's Office
Division of Accounting & Reporting
Attention: William Ashby
3301 C Street, Room 500
Sacramento, CA 95816

B-29
Legislative Analyst's Office
Attention Mr. Paul Warren
925 L Street, Suite 1000
Sacramento, CA 95814

Ms. Lora Duzyk
San Diego County Office of Education
6401 Linda Vista Road
San Diego, CA 92111-7309

Ms. Dianne L. Russo
Sweetwater Union High School District
1130 Fifth Ave.
Chula Vista, CA 91911-2896

Mr. Keith B. Petersen
SixTen and Associates
5252 Balboa Avenue, Suite 900
San Diego, CA 92117

Mr. Arthur Palkowitz
San Diego Unified School District
4100 Normal Street, Room 3159
San Diego, CA 92103-8363

Ms. Ginny Brummels
State Controller's Office (B-08)
Division of Accounting and Reporting
3301 C Street, Suite 500
Sacramento, CA 95816

Ms. Sandy Reynolds
Reynolds Consulting Group, Inc.
P.O. Box 894059
Temecula, CA 92589

Ms. Harmeet Barkschat
Mandate Resource Services
5325 Elkhorn Blvd. #307
Sacramento, CA 95842

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Mr. Rob Cook
State Allocation Board
Office of Public School Construction
1130 K Street, Suite 400
Sacramento, CA 95814

Mr. David E. Scribner
Scribner Consulting Group, Inc.
3840 Rosin Court, Suite 190
Sacramento, CA 95834

Ms. Beth Hunter
Centration, Inc.
8316 Red Oak Street, Suite 101
Rancho Cucamonga, CA 91730

Shields Consulting Group, Inc.
Attention: Steve Shields
1536 36th Street
Sacramento, CA 95816

Steve Smith Enterprises, Inc.
Attention: Steve Smith
4633 Whitney Avenue, Suite A
Sacramento, CA 95821

E-8
Department of Education
Fiscal and Administrative Services Division
Attention: Gerald Shelton
1430 N Street, Suite 2213
Sacramento, CA 95814

Cost Recovery Systems, Inc.
Attention: Annette Chinn
705-2 East Bidwell Street, #294
Folsom, CA 95630

Education Mandated Cost Network
Attn: Mr. Robert Miyashiro
Director of Management Consulting
School Services of California, Inc.
1121 L Street, Suite 1060
Sacramento, CA 95814

Education Mandated Cost Network
Attn: Michael Johnston, Chair
Assistant Superintendent, Business
Clovis USD
School Services of California, Inc.
1121 L Street, Suite 1060
Sacramento, CA 95814

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on February 25, 2008 at Sacramento, California.



Annette Waite