

RECEIVED
July 25, 2016
Commission on
State Mandates

July 22, 2016

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

Dear Ms. Halsey:

The Department of Finance (Finance) has reviewed the test claim submitted by the City of Glendora (claimant) for Claim No. 15-TC-01, "Local Agency Employee Organizations: Impasse Procedures." Commencing on page 5 of the test claim, the claimant identified various alleged activities as new state reimbursable activities.

Prior laws specified that if a public agency and an employee organization fail to reach agreement, the two parties may agree on the appointment of a mediator at a shared cost. If the parties reached an impasse, the public agency may implement its last, best, and final offer. Public Employment Relations Board (PERB) previously oversaw the fact-finding process for higher education and public education employers and employee organizations. The following comments are submitted for your review:

- 1) Alleged activities 2, 3, 5, and 6 on page 5 of the test claim are not new requirements. While the claimant identifies these as new activities, the requirements referenced by the claimant were required by prior law and are therefore, not a new program or higher level of service.
- 2) Alleged activities 1, 9, and 10 are discretionary for the following reasons:
 - "The agency must notice impasse hearing if delay in factfinding request." The test claim statute does not require the local agency to provide notice of any hearings. Additionally, as detailed below, this alleged activity may arise from a discretionary action and would also be discretionary and not reimbursable.
 - "The agency must hold a public impasse hearing, if it chooses to impose its last, best offer." The test claim statute does not require the agency to implement its last, best, and final offer. Rather the test claim statute allows the agency to implement the last, best, and final offer if no agreement is reached. Since the agency is not required to implement the last, best, and final offer, this alleged activity is discretionary and not reimbursable.
 - "The agency shall meet and confer with union and submit/resubmit last, best offer." As mentioned above, because the agency is not required to implement the last, best, and final offer, activities that arise from the discretionary action taken by the agency are also discretionary and not reimbursable.

- 3) Alleged activities 4 and 8 on page 5 of the test claim are not reimbursable because they are not new or increased programs or levels of service. The Commission has previously found that a "program" is defined as a new requirement that carries out the governmental function of providing public services, or a law that imposes unique requirements on local agencies to implement a state policy. The "activities" identified by the claimant are straight costs that the test claim legislation indicates are to be borne by the local agency. These costs alone are not reimbursable.

As a result of our review, Finance has concluded that the test claim statutes do not result in a reimbursable state mandate for nine of the ten activities identified by the claimant. If the Commission reaches the same conclusion at its hearing on the matter, the nature and extent of and specific activities required can be addressed in the parameters and guidelines, which will be developed for the program. Furthermore, Finance may submit additional comments when relevant information becomes available.

If you have any questions regarding this letter, please contact Mary Halterman, Principal Program Budget Analyst, at (916) 445-3274.

Sincerely,



Justyn Howard
Program Budget Manager

Attachments

Attachment A

DECLARATION OF DANIELLE BRANDON
DEPARTMENT OF FINANCE
CLAIM NO. 15-TC-01

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. 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.

July 22, 2016

At Sacramento, CA

Danielle M. Brandon

Danielle Brandon

Attachment B

DECLARATION OF MARY HALTERMAN
DEPARTMENT OF FINANCE
CLAIM NO. 15-TC-01

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. 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.

7/22/16

At Sacramento, CA

Mary Halterman

Mary Halterman

DECLARATION OF SERVICE BY EMAIL

I, the undersigned, declare as follows:

I am a resident of the County of Sacramento and I am over the age of 18 years, and not a party to the within action. My place of employment is 980 Ninth Street, Suite 300, Sacramento, California 95814.

On July 25, 2016, I served the:

DOF Comments

Local Public Employee Organizations: Impasse Procedures, 15-TC-01

Government Code Sections 3505.4, 3505.5, and 3505.7;

Statutes 2011, Chapter 680 (AB 646)

City of Glendora, Claimant

By making it available on the Commission's website and providing notice of how to locate it to the email addresses provided on the attached mailing list.

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 July 25, 2016 at Sacramento, California.



Lorenzo Duran
Commission on State Mandates
980 Ninth Street, Suite 300
Sacramento, CA 95814
(916) 323-3562

COMMISSION ON STATE MANDATES

Mailing List

Last Updated: 7/13/16

Claim Number: 15-TC-01

Matter: Local Agency Employee Organizations: Impasse Procedures

Claimant: City of Glendora

TO ALL PARTIES, INTERESTED PARTIES, AND INTERESTED PERSONS:

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, § 1181.3.)

Socorro Aquino, *State Controller's Office*

Division of Audits, 3301 C Street, Suite 700, Sacramento, CA 95816

Phone: (916) 322-7522

SAquino@sco.ca.gov

Harmeet Barkschat, *Mandate Resource Services, LLC*

5325 Elkhorn Blvd. #307, Sacramento, CA 95842

Phone: (916) 727-1350

harmeet@calsdrc.com

Lacey Baysinger, *State Controller's Office*

Division of Accounting and Reporting, 3301 C Street, Suite 700, Sacramento, CA 95816

Phone: (916) 324-0254

lbaysinger@sco.ca.gov

Cindy Black, *City Clerk, City of St. Helena*

1480 Main Street, St. Helena, CA 94574

Phone: (707) 968-2742

cityclerk@cityofstheleena.org

Danielle Brandon, *Budget Analyst, Department of Finance*

915 L Street, Sacramento, CA 95814

Phone: (916) 445-3274

danielle.brandon@dof.ca.gov

Keith Bray, *General Counsel, CSBA Director, ELA, California School Boards Association*

3251 Beacon Boulevard, West Sacramento, CA 95691

Phone: (916) 669-3270

kbray@csba.org

Mike Brown, *School Innovations & Advocacy*

5200 Golden Foothill Parkway, El Dorado Hills, CA 95762
Phone: (916) 669-5116
mikeb@sia-us.com

Allan Burdick,
7525 Myrtle Vista Avenue, Sacramento, CA 95831
Phone: (916) 203-3608
allanburdick@gmail.com

J. Bradley Burgess, *MGT of America*
895 La Sierra Drive, Sacramento, CA 95864
Phone: (916) 595-2646
Bburgess@mgtamer.com

Gwendolyn Carlos, *State Controller's Office*
Division of Accounting and Reporting, 3301 C Street, Suite 700, Sacramento, CA 95816
Phone: (916) 323-0706
gcarlos@sco.ca.gov

Daniel Carrigg, Deputy Executive Director/Legislative Director, *League of California Cities*
1400 K Street, Suite 400, Sacramento, CA 95814
Phone: (916) 658-8222
Dcarrigg@cacities.org

Annette Chinn, *Cost Recovery Systems, Inc.*

Claimant Representative
705-2 East Bidwell Street, #294, Folsom, CA 95630
Phone: (916) 939-7901
achinnrc@aol.com

Carolyn Chu, Senior Fiscal and Policy Analyst, *Legal Analyst's Office*
925 L Street, Sacramento, CA 95814
Phone: (916) 319-8326
Carolyn.Chu@lao.ca.gov

Michael Coleman, *Coleman Advisory Services*
2217 Isle Royale Lane, Davis, CA 95616
Phone: (530) 758-3952
coleman@muni1.com

J. Felix De La Torre, General Counsel, *Public Employment Relations Board (D-12)*
1031 18th Street, Sacramento, CA 95811
Phone: (916) 322-3198
fdelatorre@perb.ca.gov

Marieta Delfin, *State Controller's Office*
Division of Accounting and Reporting, 3301 C Street, Suite 700, Sacramento, CA 95816
Phone: (916) 322-4320
mdelfin@sco.ca.gov

Executive Director, *California Peace Officers' Association*
555 Capitol Mall, Suite 1495, Sacramento, CA 95814
Phone: (916) 263-0541
cpoa@cpoa.org

Donna Ferebee, *Department of Finance*
915 L Street, Suite 1280, Sacramento, CA 95814
Phone: (916) 445-3274

donna.ferebee@dof.ca.gov

Susan Geanacou, *Department of Finance*
915 L Street, Suite 1280, Sacramento, CA 95814
Phone: (916) 445-3274
susan.geanacou@dof.ca.gov

Dillon Gibbons, Legislative Representative, *California Special Districts Association*
1112 I Street Bridge, Suite 200, Sacramento, CA 95814
Phone: (916) 442-7887
dillong@csda.net

Mary Halterman, Principal Program Budget Analyst, *Department of Finance*
Local Government Unit, 915 L Street, Sacramento, CA 95814
Phone: (916) 445-3274
Mary.Halterman@dof.ca.gov

Sunny Han, Project Manager, *City of Huntington Beach*
2000 Main Street, Huntington Beach, CA 92648
Phone: (714) 536-5907
Sunny.han@surfcity-hb.org

Dorothy Holzem, Legislative Representative, *California State Association of Counties*
1100 K Street, Suite 101, Sacramento, CA 95814
Phone: (916) 327-7500
dholzem@counties.org

Amy Howard, Legislative Director, *California Professional Firefighters*
1780 Creekside Oaks Drive, Suite 200, Sacramento, CA 95833
Phone: (916) 921-9111
ahoward@cpf.org

Justyn Howard, Program Budget Manager, *Department of Finance*
915 L Street, Sacramento, CA 95814
Phone: (916) 445-1546
justyn.howard@dof.ca.gov

Mark Ibele, *Senate Budget & Fiscal Review Committee*
California State Senate, State Capitol Room 5019, Sacramento, CA 95814
Phone: (916) 651-4103
Mark.Ibele@sen.ca.gov

Edward Jewik, *County of Los Angeles*
Auditor-Controller's Office, 500 W. Temple Street, Room 603, Los Angeles, CA 90012
Phone: (213) 974-8564
ejewik@auditor.lacounty.gov

Jill Kanemasu, *State Controller's Office*
Division of Accounting and Reporting, 3301 C Street, Suite 700, Sacramento, CA 95816
Phone: (916) 322-9891
jkanemasu@sco.ca.gov

Anne Kato, *State Controller's Office*
Division of Accounting and Reporting, 3301 C Street, Suite 700, Sacramento, CA 95816
Phone: (916) 324-5919
akato@sco.ca.gov

Anita Kerezi, *AK & Company*
3531 Kersey Lane, Sacramento, CA 95864

Phone: (916) 972-1666
akcompany@um.att.com

Jay Lal, *State Controller's Office (B-08)*

Division of Accounting & Reporting, 3301 C Street, Suite 700, Sacramento, CA 95816

Phone: (916) 324-0256
JLal@sco.ca.gov

Hortensia Mato, *City of Newport Beach*

100 Civic Center Drive, Newport Beach, CA 92660

Phone: (949) 644-3000
hmato@newportbeachca.gov

Molly McGee Hewitt, Executive Director, *California Association of School Business Official*

1001 K Street, 5th Floor, Sacramento, CA 95814

Phone: (916) 447-3783
molly@casbo.org

Steven McGinty, *Department of Industrial Relations*

Division of Administration, 320 W. Fourth St., Suite 600, Los Angeles, CA 90013

Phone: (213) 576-7725
smcginty@dir.ca.gov

Michelle Mendoza, *MAXIMUS*

17310 Red Hill Avenue, Suite 340, Irvine, CA 95403

Phone: (949) 440-0845
michellemendoza@maximus.com

Dennis Meyers, *California School Boards Association*

3251 Beacon Boulevard, West Sacramento, CA 95691

Phone: (916) 508-2272
dmeyers@csba.org

Meredith Miller, Director of SB90 Services, *MAXIMUS*

3130 Kilgore Road, Suite 400, Rancho Cordova, CA 95670

Phone: (972) 490-9990
meredithcmiller@maximus.com

Robert Miyashiro, *Education Mandated Cost Network*

1121 L Street, Suite 1060, Sacramento, CA 95814

Phone: (916) 446-7517
robertm@sscal.com

Geoffrey Neill, Senior Legislative Analyst, Revenue & Taxation, *California State Association of Counties (CSAC)*

1100 K Street, Suite 101, Sacramento, CA 95814

Phone: (916) 327-7500
gneill@counties.org

Andy Nichols, *Nichols Consulting*

1857 44th Street, Sacramento, CA 95819

Phone: (916) 455-3939
andy@nichols-consulting.com

Arthur Palkowitz, *Artiano Shinoff & Holtz, APC*

2488 Historic Decatur Road, Suite 200, San Diego, CA 92106

Phone: (619) 232-3122
apalkowitz@sashlaw.com

Keith Petersen, *SixTen & Associates*
P.O. Box 340430, Sacramento, CA 95834-0430
Phone: (916) 419-7093
kbsixten@aol.com

Jai Prasad, *County of San Bernardino*
Office of Auditor-Controller, 222 West Hospitality Lane, 4th Floor, San Bernardino, CA 92415-0018
Phone: (909) 386-8854
jai.prasad@atc.sbcounty.gov

Mark Rewolinski, *MAXIMUS*
808 Moorefield Park Drive, Suite 205, Richmond, VA 23236
Phone: (949) 440-0845
markrewolinski@maximus.com

Nick Romo, Policy Analyst, *League of California Cities*
1400 K Street, Suite 400, Sacramento, CA 95814
Phone: (916) 658-8254
nromo@cacities.org

Carla Shelton, *Commission on State Mandates*
980 9th Street, Suite 300, Sacramento, CA 95814
Phone: (916) 327-6490
carla.shelton@csm.ca.gov

Jim Spano, Chief, Mandated Cost Audits Bureau, *State Controller's Office*
Division of Audits, 3301 C Street, Suite 700, Sacramento, CA 95816
Phone: (916) 323-5849
jspano@sco.ca.gov

Dennis Speciale, *State Controller's Office*
Division of Accounting and Reporting, 3301 C Street, Suite 700, Sacramento, CA 95816
Phone: (916) 324-0254
DSpeciale@sco.ca.gov

Amy Tang-Paterno, Educational Fiscal Services Consultant, *California Department of Education*
Government Affairs, 1430 N Street, Suite 5602, Sacramento, CA 95814
Phone: (916) 322-6630
ATangPaterno@cde.ca.gov

Jolene Tollenaar, *MGT of America*
2251 Harvard Street, Suite 134, Sacramento, CA 95815
Phone: (916) 443-411
jolene_tollenaar@mgtamer.com

Evelyn Tseng, *City of Newport Beach*
100 Civic Center Drive, Newport Beach, CA 92660
Phone: (949) 644-3127
etseng@newportbeachca.gov

Renee Wellhouse, *David Wellhouse & Associates, Inc.*
3609 Bradshaw Road, H-382, Sacramento, CA 95927
Phone: (916) 797-4883
dwa-renee@surewest.net

Jennifer Whiting, Assistant Legislative Director, *League of California Cities*
1400 K Street, Suite 400, Sacramento, CA 95814

Phone: (916) 658-8249
jwhiting@cacities.org

Patrick Whittell, General Counsel, *League of California Cities*
1400 K Street, Suite 400, Sacramento, CA 95814

Phone: (916) 658-8281
pwhitnell@cacities.org

Hasmik Yaghobyan, *County of Los Angeles*

Auditor-Controller's Office, 500 W. Temple Street, Room 603, Los Angeles, CA 90012

Phone: (213) 974-9653

hyaghobyan@auditor.lacounty.gov