

February 7, 2024

Heather Halsey
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RECEIVED
February 15, 2024
**Commission on
State Mandates**

Response to Test Claim 23-TC-01, Heating, Ventilation, and Air Conditioning (HVAC) Program

Dear Heather Halsey:

The Department of Finance has reviewed Test Claim 23-TC-01, submitted to the Commission on State Mandates (Commission) by the Hesperia Unified School District (Claimant) alleging state-mandated, reimbursable costs associated with Chapter 777, Statutes 2022 (AB 2232). The test claim statute requires schools in the State to ensure that facilities have heating, ventilation, and air conditioning (HVAC) systems that meet specified minimum ventilation rate requirements. Existing HVAC systems not capable of safely and efficiently providing the minimum ventilation rate must meet the minimum ventilation rates in effect when the building permits for the systems were issued.

Finance is concerned with some of the mandatory activities and claimed costs listed by the Claimant. On page 9, the Claimant states the following, emphasis added:

“For the period **January 1, 2023, to June 30, 2023**, the Claimant's actual increased costs of the labor to replace and install the MERV 13 air filters were **\$27,443.12**. For the period **January 1, 2023, to June 30, 2023**, the Claimant's actual increased cost for purchasing the MERV 13 air filters were **\$66,236.22**.”

“**For the period July 1, 2023, to June 30, 2024**, the Claimant's estimated increased cost of the labor to replace and install the MERV 13 air filters is **\$81,669.06**. The Claimant hired two employees to perform the replacing and installing the MERV 13 air filters every three months. **For the period July 1, 2023, to June 30, 2024**, the Claimant's estimated increased cost for purchasing the MERV 13 air filters is **\$100,119.04**.”

To the extent that AB 2232 establishes new responsibilities, it appears that activities and claimed costs are overstated in the test claim. We specifically note the following concerns related to cost estimates provided by the Claimant on pages 7, 8, and 9:

1. Although AB 2232 requires schools to meet specified minimum ventilation rate requirements, it does not require schools to hire additional staff. The Claimant indicates a need for two additional full-time employees; however, AB 2232 does not require schools to employ additional staff. Nevertheless, the Claimant must provide sufficient justification that hiring additional personnel is required pursuant to Education Code section 17660 and 17661.

Additionally, it is unclear whether the newly added employees will only supervise and maintain the HVAC systems during their 40-hour work week or if they will also be responsible for additional tasks not required by the test claim statute. This lack of clarity may result in excessive costs which need to be addressed and clarified. The Claimant states that four established positions already cover HVAC maintenance and filter replacement. Therefore, it is not clear why there is a need for two additional full-time Supervisor positions. Further, any local educational agency opting to receive resources to support school facilities construction through the Leroy F. Greene School Facilities Act of 1998 or its predecessor program, the State School Building Lease-Purchase Law of 1976, are already required to keep those facilities at all times in good repair, working order, and condition. At a minimum, the Claimant should provide the following information to justify the claimed costs:

- Documented evidence of the labor hours needed to replace the MERV 13 filter, which would be part of the annual HVAC inspection report required by Section 5142 of Title 8 of the California Code of Regulations.
 - The total number of HVAC systems within its district.
 - Duty Statements for the existing positions and the two additional positions that highlight any extra duties these positions are expected to perform, in addition to maintaining the MERV 13 filters.
 - Documentation that the identified facilities are not already subject to the good repair, working order, and condition requirements of the Leroy F. Greene School Facilities Act of 1998 or its predecessor program, the State School Building Lease-Purchase Law of 1976.
2. The Claimant included purchases for products not aligned with the requirements in AB 2232. The bill requires public schools to install filtration that achieves specified minimum efficiency reporting values (MERV) levels which can be accomplished by replacing existing filters with MERV 13 filters. However, the Claimant provided a purchase receipt for multiple Ply Panels, and it is not clear why these panels were purchased, as AB 2232 does not require the purchase of Ply Panels. Reimbursement for these products should be denied because they are not required by the plain language of the test claim statute and are not reasonably necessary to implement the test claim statute.

Finance believes the Commission should deny reimbursement for these costs because they are not required by the plain language of the test claim statute, and there is not substantial evidence that they are reasonably necessary to carry out any required activity.

If you have any questions regarding this letter, please contact Michelle Nguyen, Principal Program Budget Analyst, at (916) 445-0328 x2754.

Sincerely,

Chris Ferguson

Chris Ferguson
Program Budget Manager

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 February 15, 2024, I served the:

- **Current Mailing List dated January 19, 2024**
- **Finance's Comments on the Test Claim filed February 15, 2024**

Heating, Ventilation, and Air Conditioning (HVAC) Program, 23-TC-01
Statutes 2022, Chapter 777, Sections 1, 2 (AB 2232);
Education Code Sections 17660, 17661, Effective January 1, 2023
Hesperia Unified School District, 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 February 15, 2024 at Sacramento, California.



David Chavez
Commission on State Mandates
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COMMISSION ON STATE MANDATES

Mailing List

Last Updated: 1/19/24

**Claim
Number:** 23-TC-01

Matter: Heating, Ventilation, and Air Conditioning (HVAC) Program

Claimant: Hesperia Unified School District

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.)

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