

ITEM 10
INCORRECT REDUCTION CLAIM
PROPOSED STATEMENT OF DECISION

Statutes of 1984, Chapter 1459
Statutes of 1975, Chapter 486

Mandate Reimbursement Process I
Fiscal Year 1995-1996
01-4485-I-01

Redwood City Elementary School District, Claimant

EXECUTIVE SUMMARY

The sole issue before the Commission is whether the Proposed Statement of Decision accurately reflects any decision made by the Commission at the March 24, 2011 hearing on the above named incorrect reduction claim.¹

Recommendation

Staff recommends that the Commission adopt the Proposed Statement of Decision that accurately reflects the staff recommendation on the incorrect reduction claim. Minor changes, including those to reflect the hearing testimony and the vote count will be included when issuing the final Statement of Decision.

However, if the Commission's vote on Item 9 modifies the staff analysis, staff recommends that the motion on adopting the Proposed Statement of Decision reflect those changes, which would be made before issuing the final Statement of Decision. In the alternative, if the changes are significant, it is recommended that adoption of a Proposed Statement of Decision be continued to the May 26, 2011 Commission hearing.

¹ California Code of Regulations, title 2, section 1188.1, subdivision (a).

BEFORE THE
COMMISSION ON STATE MANDATES
STATE OF CALIFORNIA

IN RE INCORRECT REDUCTION CLAIM
ON:

Statutes of 1984, Chapter 1459

Statutes of 1975, Chapter 486

Fiscal Year 1995-1996

Redwood City Elementary School District,
Claimant

Case No.: 01-4485-I-01

Mandate Reimbursement Process I

STATEMENT OF DECISION
PURSUANT TO GOVERNMENT CODE
SECTION 17500 ET SEQ.; TITLE 2,
CALIFORNIA CODE OF
REGULATIONS, DIVISION 2,
CHAPTER 2.5, ARTICLE 7

*(Proposed for Adoption on
March 24, 2011)*

STATEMENT OF DECISION

The Commission on State Mandates (Commission) heard and decided this incorrect reduction claim during a regularly scheduled hearing on March 24, 2011. [Witness list will be included in the final Statement of Decision.]

The law applicable to the Commission's determination of a reimbursable state-mandated program is article XIII B, section 6 of the California Constitution, Government Code section 17500 et seq., and related case law.

The Commission [adopted/modified] the staff analysis to [approve/deny] the incorrect reduction claim at the hearing by a vote of [vote count will be included in the final Statement of Decision].

BACKGROUND AND SUMMARY OF FINDINGS

This incorrect reduction claim challenges a reduction made by the State Controller's Office to the claimant's reimbursement claim for costs incurred in the 1995-1996 fiscal year for the *Mandate Reimbursement Process I* program. Under that program, local agencies and school districts are eligible to claim reimbursement for the costs to prepare and submit successful test claims, reimbursement claims, and incorrect reduction claims for the state-mandated costs recoverable under article XIII B, section 6 of the California Constitution.

The dispute here involves the costs incurred in fiscal year 1995-1996 to prepare and submit reimbursement claims for state-mandated costs. The parameters and guidelines authorize reimbursement to prepare and submit reimbursement claims as follows:

All costs incurred during the period of this claim for the preparation and submission of successful reimbursement claims to the State Controller are recoverable by the local agencies and school districts. Allowable costs include, but are not limited to, the following: salaries and benefits, service and supplies, contracted services, training and overhead.

Following a desk audit, the State Controller's Office reduced the reimbursement claim in the amount of \$11,122.00 based on "excessive time."

The claimant seeks a determination from the Commission pursuant to Government Code section 17551, subdivision (d), that the State Controller's Office incorrectly reduced the claim and requests that the Controller reinstate the \$11,122.00 reduced.

On February 1, 2011, the State Controller's Office filed comments on the draft staff analysis asserting that it reinstated the full amount reduced and paid the entire claim on June 11, 2002, "per claim schedule MA13655A." On February 4, 2011, the Controller's Office also filed with the Commission a letter dated December 11, 2001 to the claimant, which states that "we reviewed the claim and concur that the following amount [\$11,122.00, the amount the claimant alleges was incorrectly reduced] is due to the school district" The Controller's Office requests that the Commission and the claimant withdraw the incorrect reduction claim.

The Commission does not have the authority to withdraw an incorrect reduction claim. Only the claimant has that authority and can withdraw an incorrect reduction claim by written application any time before a decision is adopted or by oral application at the time of the hearing. (Cal. Code Regs., tit. 2, § 1185.6.) The claimant has not filed an application to withdraw this claim.

In addition, the Controller's letters contain only hearsay assertions of payment, but there is no admissible evidence of payment. Hearsay evidence may be used for purposes of supplementing or explaining other evidence, but hearsay evidence shall not be sufficient itself to support a finding. (Cal. Code Regs., tit. 2, § 1187.5, subd. (a).) The December 11, 2001 letter to the claimant acknowledges that payment is due, but says nothing about whether payment was made. The February 2011 letters assert that payment was made in June 2002 by "claim schedule MA13655A."

However, the Controller's assertion of fact that the claim was paid in full eight years ago is not supported by any documentary evidence of payment authenticated by a declaration signed under penalty of perjury by a person who is authorized and competent to authenticate such records and who has information or belief about the payment, as required by section 1185.1 of the Commission's regulations. A true and correct copy (authenticated by the State Controller's Office by declaration signed under penalty of perjury) of an official record held by the State Controller's Office showing that payment was made to the claimant for this mandated program for fiscal year 1995-1996 in the amount of \$11,122.00, would satisfy this evidentiary requirement. Nor has a percipient witness from the Controller's Office with personal knowledge that the payment was made (either by the witness completing the paperwork required for the payment to be made, or by the witness being present when payment was made to the claimant on June 11, 2002) provided sworn testimony or documentation signed under penalty of perjury.

Thus, until there is evidence in the record that the claim has been paid or the claimant has withdrawn the incorrect reduction claim, the Commission is required to determine the merits of the claim.

On the merits, the Commission finds that the reduction of costs by the State Controller's Office for fiscal year 1995-1996 is not based on the parameters and guidelines adopted by the Commission, and not supported by the evidence in the record for the actual costs incurred by the claimant for the *Mandate Reimbursement Process I* program. Therefore, the Commission finds that the State Controller's reduction of costs in this case is incorrect.

The State Controller's Office reduced the claim in the amount of \$11,122.00 following a desk audit because of "excessive time" purportedly spent by the claimant's employees performing the reimbursable activities to prepare and submit reimbursement claims.

The claimant submitted a letter dated September 22, 1998, confirming a telephone conversation with the State Controller's Office explaining that the Controller's "findings were based on statistics generated from reimbursement claims submitted by other school districts, not from the actual cost incurred [by the claimant] in performing this mandated program." The Controller's Office has not rebutted this letter and, thus, it is presumed that the Controller's reduction of the claimant's costs to prepare and submit reimbursement claims is based on statistics generated from the reimbursement claims filed by other school district claimants; i.e., the average time it took other districts to perform the reimbursable activities.

By using average costs or statistics generated from the reimbursement claims of other eligible claimants, the State Controller's Office is applying a "uniform cost allowance" or "allocation formula" to the claimant's reimbursement claim. A "uniform cost allowance" or "allocation formula" is a reimbursement methodology based on a unit cost or a standard formula adopted by the Commission for the reimbursement of state-mandated costs, and is used in lieu of requiring documentation for actual costs incurred.²

The State Controller's Office, however, does not have the authority to apply a uniform cost allowance or allocation formula when auditing reimbursement claims if such formulas or uniform cost allowances are not included in the parameters and guidelines adopted by the Commission.³

Moreover, the reduction by the State Controller's Office is not supported by the evidence in the record that does support the actual costs incurred and claimed by the claimant for the *Mandate Reimbursement Process I* program. In accordance with the parameters and guidelines and claiming instructions, the claimant identified in the reimbursement claim each employee's name, position, hourly rate, hours worked on the reimbursable activities, and salary and benefit amounts for the time it took to prepare and submit reimbursement claims for fiscal year 1995-1996. The reimbursement claim was certified by the claimant under penalty of perjury. In addition, documentation in the form of employee time logs for fiscal year 1995-1996 (titled "mandated costs log sheet") signed by the employee performing the reimbursable tasks was submitted and made available to the State Controller's Office. The time logs identify the task performed by the employee, the date, and the time spent performing the task. The tasks identified in the time logs are consistent with preparing and submitting reimbursement claims for the state-mandated costs for the programs identified in the reimbursement claim. In addition, receipts and agendas for in-service mandates training, an activity that is eligible for reimbursement, were submitted.

Accordingly, the Commission finds that the State Controller's Office incorrectly reduced the costs incurred by the claimant in fiscal year 1995-1996 to prepare and submit reimbursement claims for state-mandated programs to the State Controller's Office under the *Mandate Reimbursement Process I* program.

² See current definition in Government Code sections 17557 and 17518.5.

³ Government Code sections 17557 and 17558.

COMMISSION FINDINGS

I. Background

This is an incorrect reduction claim filed by claimant, Redwood City Elementary School District. The claimant filed a reimbursement claim for the *Mandate Reimbursement Process I* program for fiscal year 1995-1996 in the total amount of \$38,214.00 to prepare and submit reimbursement claims to the State Controller's Office for the reimbursement of state-mandated costs. The State Controller's Office reduced the claim by \$11,122.00 for "excessive time." The claimant seeks a determination from the Commission pursuant to Government Code section 17551, subdivision (d), that the State Controller's Office incorrectly reduced the claim and requests that the Controller reinstate the \$11,122.00 reduced.

The Mandate Reimbursement Process I Program

In 1986, the Commission approved a test claim on the *Mandate Reimbursement Process I* program, and determined that the statutory process in Government Code section 17500 and following (as originally added in 1984) for the determination of, and reimbursement for, state-mandated costs pursuant to article XIII B, section 6 of the California Constitution, imposed a reimbursable state-mandated program.

The parameters and guidelines adopted by the Commission recognize that "since local costs would not have been incurred for test claims and reimbursement claims but for the implementation of state-imposed mandates, all resulting costs are recoverable." Thus, the parameters and guidelines authorize reimbursement for the costs to prepare and file successful test claims, reimbursement claims, and incorrect reduction claims.⁴

The dispute here involves the costs to prepare and submit reimbursement claims for state-mandated programs. Under the parameters and guidelines, claimants are eligible to claim reimbursement for these costs as follows:

C. Reimbursable Activities – Reimbursement Claims

All costs incurred during the period of this claim for the preparation and submission of successful reimbursement claims to the State Controller are recoverable by the local agencies and school districts. Allowable costs include, but are not limited to, the following: salaries and benefits, service and supplies, contracted services, training and overhead.

The parameters and guidelines also provide instructions for preparing reimbursement claims for the costs incurred as follows:

VI. Claim Preparation

A. Supporting Data

All claims must be submitted in a timely fashion and contain sufficient documentation to support the amounts for which reimbursement is sought. A list of mandates causing the claiming costs should be included, but it is not

⁴ The parameters and guidelines have been amended many times to reflect state budget acts that limited reimbursement for independent contractor costs for preparation and submission of reimbursement claims.

necessary to show the claiming costs for each documentation to support the amounts for which reimbursement is mandate[d].

For auditing purposes, all costs claimed must be traceable to source documents or worksheets that show evidence of and the validity of such costs. These documents must be kept of file for a period of no less than 3 years from the date of the final payment of the claim pursuant to this mandate, and made available on the request of the State Controller.

B. Salaries and Benefits

Employee costs should be supported by the following: employee name, position (job title), productive hourly rate, hours worked, salary and benefit amounts, and a description of the tasks performed as they relate to this mandate.

C. Service and Supplies

Identify any direct costs for materials that have been consumed or expended specifically for this mandate. Indirect costs may be included in the overhead calculation.

D. Contract Services

Costs incurred for contract services and/or legal counsel that assist in the preparation, submission and/or presentation of claims are recoverable. Provide copies of the invoices and/or claims that were paid.

E. Training

Include the costs of classes designed to assist the claimant in identifying and correctly preparing State-required documentation for specific reimbursable mandates. Such costs include, but are not limited to, salaries and benefits, transportation, registration fees, per diem, and related costs incurred because of this mandate.

The claiming instructions issued by the State Controller's Office for the *Mandate Reimbursement Process I* program similarly provide that "All costs incurred for the preparation and submission of successful reimbursement claims to the State Controller's Office are claimable." The claiming instructions further allow reimbursement for "Classes for Claim Preparation" as follows:

The costs of attending classes designed to assist the claimant in identifying and correctly preparing the required documentation for a specific mandate are reimbursable. Allowable costs include, but are not limited to, salaries and benefits, transportation, registration fees and per diem.

Please note that costs of preparing and submitting reimbursement claims should be claimed in the fiscal year in which costs were incurred rather than in the fiscal year of the program cost.

For example, the initial filing deadline for Chapter 1117/84, Airport Land Use, for the increased costs incurred in the 1985/86 through 1988/89 fiscal years was May 15, 1990. The costs would be incurred in the 1989/90 fiscal year to prepare

and to file reimbursement claims for all four fiscal years. Therefore, the costs should be identified in the 1989/90 Mandate Reimbursement Process claim.

Reimbursement Claim Filed by Claimant and Reduction by State Controller's Office

In November 1996, the claimant filed a reimbursement claim with the State Controller's Office for actual costs incurred in fiscal year 1995-1996 for filing reimbursement claims on 13 state-mandated programs in the total amount of \$38,214.00. The claimant sought reimbursement for the following costs:

- Salary and benefits for 74 school district employees to prepare the reimbursement claims for the 15 state-mandated programs in the amount of \$34,597.00. These employees include accountants, controller, principals, vice principals, attendance clerks, administrative assistants, resource teachers, office assistants, office managers, purchasing agents, superintendents, directors, custodians, transportation manager, secretaries, payroll specialists, dispatcher/driver, and support services;
- Supplies: "postage and paper, copying and binders" in the amount of \$125.00;
- Cost of attending School Services of California "Mandated Cost Claim Classes" in the amount of \$50.00;
- Registration fee for the school district's controller to attend "Mandated/Cost Academy class" on the Collective Bargaining program in the amount of \$159.00; and
- Annual fee and supply costs to the accountant for mandated cost preparation in the amounts of \$675.00 and \$384.00, respectively.

The reimbursement claim was certified and signed by the claimant under penalty of perjury.

On September 9, 1998, the State Controller's Office issued a notice of adjustment to the claimant following a desk audit, reducing the reimbursement claim by a sum of \$11,122.00 for "excessive time."

On September 22, 1998, the claimant sent a letter to the State Controller's Office with documentation to support the reimbursement claim. The letter states the following:

On our phone conversation on September 17, 1998, you explained that your findings were based on statistics generated from reimbursement claims submitted by other school districts, not from the actual cost incurred in performing this mandated program. As a result, your office reduced our reimbursement claim without requesting any supporting documentation from us. We have been diligently collecting the information on a regular basis. We have conducted in-service training in order to collect and file a more accurate claim. We have filed for a number of retroactive claims. We have responded to every single request for documentation from your office. All of these activities involve a great deal of time. The claiming instructions indicated that "All costs incurred for the preparation and submission of successful reimbursement claims to the State Controller's Office are claimable." Our claims were prepared based on the actual time records and other supporting documentation.

The documentation supporting the claim includes log and time sheets prepared by the claimant's employees that record the activity performed to claim reimbursement for the state-mandated

programs identified in the reimbursement claim, the date, and the time spent on the activity; notice, agendas, and sign-in sheets for in-service training on claiming mandated costs; purchase orders for supplies; and an invoice and agreement for mandated cost claims services from School Services of California.

On October 23, 1998, the claimant sent a second letter to the State Controller's Office requesting a response on the matter. The claimant received no response from the State Controller's Office.

II. Position of the Parties

Claimant

The claimant alleges that its reimbursement claim complied with the parameters and guidelines and claiming instructions for the *Mandate Reimbursement Process I* program. The claimant further argues that it properly claimed reimbursement for the actual costs incurred, and that the reduction by the State Controller's Office is arbitrary, capricious, and contrary to law. The claimant describes its process for preparing and filing reimbursement claims as follows:

According to the Adjustment Letter from the SCO dated September 8, 1998, \$11,122.00 was disallowed due to excessive time. This allegation is not valid since the District documented the total time spent to prepare the reimbursement claims. The Redwood City Elementary School District on an annual basis would perform the following regimen to obtain data in order to file its SB90 reimbursement claims:

On a monthly basis, a staff member from the District Office would visit the 15 school sites to meet and collect mandate information from various personnel (Principal, Vice-Principal, Office Manager, Attendance Clerk, Nurse, and Outreach Specialist). Each school site visit would take no less than 1 hour but not more than two hours to gather the necessary information. This also included travel time. Before a site visit occurred, there was a coordination effort between the District office staff and the staff at the school site to schedule a meeting date. Once at the site, the District office staff member would interview the appropriate personnel and review the requirement of each applicable mandate.

During the 1995-1996 fiscal year, school districts were eligible to file approximately 19 mandates. If the site incurred costs for a mandate, the District office member would make sure the time was valid and documented and that the supporting material would be available in case of an audit.

At the end of the fiscal year, the District Office staff would go through all of the log sheets accumulated from the sites and separate the information for each mandate into a file. For each mandate, the SB90 coordinator had to tally the individual time for each applicable reimbursable component.

The same process was carried out in meeting with district office staff. Additional time was spent attending SB90 workshops, creating data collection forms for school sites, creating master claim forms in excel to mimic the Office of State Controller's forms, gathering information on district salaries and then calculating the productively hourly rate [sic] along with benefits.

During the 1995-1996 fiscal year, there were three new claims due to the State for a first-time filing. ...

In addition to the annual claims due November 30, 1996, the District worked on researching the new requirements of the mandate, determined whether or not the District was in compliance and if so, which was the case, begin a process of gathering the necessary information and implementing a methodology to keep track of current time. Once the information was gathered, time was spent to prepare the claims for each of the eligible fiscal years.

All of the district staff time related to SB90 has been documented ...

The claimant requests that the Controller reinstate the full costs reduced in the amount of \$11,122.00.

State Controller's Office

On February 1, 2011, the State Controller's Office filed comments, which state that the Controller paid the claim in full on June 11, 2002, and requests that the Commission withdraw the incorrect reduction claim as follows.

The State Controller's Office (SCO) reinstated the full costs in the amount of \$11,122 and the claim was paid in full.

On June 11, 2002, the SCO made the payment of \$11,122 per claim schedule MA13655A, the amount of the warrant was \$8,078 because \$3,044 was an offset for an account receivable. Since the obligation was satisfied, the SCO is requesting that you withdraw the subject IRC from the Commission as soon as possible because this IRC is on the agenda for the March 24, 2011 hearing.

On February 4, 2011, the State Controller's Office filed a letter it sent to the claimant indicating that the claim was paid on June 11, 2001, and requesting the claimant to withdraw the incorrect reduction claim. Attached to the letter is another letter sent to the claimant on December 11, 2001, which states that the Controller's Office "reviewed the claim and concur that the following amount is due to the school district:"

III. Findings

Government Code section 17561, subdivision (b), authorizes the State Controller's Office to audit the claims filed by local agencies and school districts and to reduce any claim for reimbursement of state mandated costs that the State Controller's Office determines is excessive or unreasonable.

Government Code Section 17551, subdivision (d), requires the Commission to hear and decide a claim that the State Controller's Office has incorrectly reduced payments to the local agency or school district. That section states the following:

The commission, pursuant to the provisions of this chapter, shall hear and decide upon a claim by a local agency or school district filed on or after January 1, 1985, that the Controller has incorrectly reduced payments to the local agency or school district pursuant to paragraph (2) of subdivision (b) of Section 17561.

If the Commission determines that a reimbursement claim has been incorrectly reduced, section 1185.7 of the Commission's regulations requires the Commission to send the Statement of Decision to the State Controller's Office and request that the costs in the claim be reinstated.

A. The State Controller's Office incorrectly reduced the costs incurred by the claimant in fiscal year 1995-1996 to prepare and submit reimbursement claims for state-mandated programs to the State Controller's Office under the *Mandate Reimbursement Process I* Program.

State Controller's Assertion that the Claim Has Been Paid in Full

On February 1, 2011, the State Controller's Office filed comments on the draft staff analysis asserting that it reinstated the full amount reduced and paid the entire claim on June 11, 2002, "per claim schedule MA13655A." The Controller's Office therefore requests that the Commission withdraw this incorrect reduction claim. On February 4, 2011, the Controller's Office also filed with the Commission a letter dated December 11, 2001 to the claimant, which states that "we reviewed the claim and concur that the following amount [\$11,122.00, the amount the claimant alleges was incorrectly reduced] is due to the school district" The Controller's Office requests that the claimant withdraw the incorrect reduction claim.

First, the Commission does not have the authority to withdraw an incorrect reduction claim. Only the claimant has that authority and can withdraw an incorrect reduction claim by written application any time before a decision is adopted or by oral application at the time of the hearing. (Cal. Code Regs., tit. 2, § 1185.6.) The claimant has not filed an application to withdraw this claim.

In addition, the Controller's letters contain only hearsay assertions of payment, but there is no evidence of payment. Hearsay evidence may be used for purposes of supplementing or explaining other evidence, but hearsay evidence shall not be sufficient itself to support a finding. (Cal. Code Regs., tit. 2, § 1187.5, subd. (a).) The December 11, 2001 letter to the claimant acknowledges that payment is due, but says nothing about whether payment was made. The February 2011 letters assert that payment was made in June 2002 by "claim schedule MA13655A."

However, the Controller's assertion of fact that the claim was paid in full eight years ago is not supported by any documentary evidence of payment authenticated by a declaration signed under penalty of perjury by a person who is authorized and competent to authenticate such records and who has information or belief about the payment, as required by section 1185.1 of the Commission's regulations. A true and correct copy (authenticated by the State Controller's Office by declaration signed under penalty of perjury) of an official record held by the State Controller's Office showing that payment was made to the claimant for this mandated program for fiscal year 1995-1996 in the amount of \$11,122.00, would satisfy this evidentiary requirement. Nor has a percipient witness from the Controller's Office with personal knowledge that the payment was made (either by the witness completing the paperwork required for the payment to be made, or by the witness being present when payment was made to the claimant on June 11, 2002) provided sworn testimony or documentation signed under penalty of perjury.

Thus, until there is evidence in the record that the claim has been paid or the claimant has withdrawn the incorrect reduction claim, the Commission is required to determine the merits of the claim.

Merits of Incorrect Reduction Claim

The dispute here involves the costs incurred by the claimant to prepare and submit reimbursement claims for state-mandated costs. Under the parameters and guidelines for the *Mandate Reimbursement Process I* program, claimants are eligible to claim reimbursement for “all costs incurred for the preparation and submission of successful reimbursement claims,” including the time spent in mandates training, as follows:

C. Reimbursable Activities – Reimbursement Claims

All costs incurred during the period of this claim for the preparation and submission of successful reimbursement claims to the State Controller are recoverable by the local agencies and school districts. Allowable costs include, but are not limited to, the following: salaries and benefits, service and supplies, contracted services, training and overhead.

The State Controller’s Office reduced the claim in the amount of \$11,122.00 following a desk audit because of “excessive time” purportedly spent by the claimant’s employees performing the reimbursable activities. Of the total amount claimed by the claimant for fiscal year 1995-1996 (\$38,214.00), 90 percent is for the salaries and benefits of school district employees “preparing and submitting” reimbursement claims for state-mandated programs and for training (\$34,597.00). There is no evidence in the record of which employee’s time the Controller’s Office determined is excessive, or what activities performed by the claimant’s employees took too long.

However, the claimant submitted a letter dated September 22, 1998, confirming a telephone conversation with the State Controller’s Office explaining that the Controller’s “findings were based on statistics generated from reimbursement claims submitted by other school districts, not from the actual cost incurred [by the claimant] in performing this mandated program.” The Controller’s Office has not rebutted this letter and, thus, it is presumed that the Controller’s reduction of the claimant’s costs to prepare and submit reimbursement claims is based on statistics generated from the reimbursement claims filed by other school district claimants; i.e., the average time it took other districts to perform the reimbursable activities.

For the reasons below, the Commission finds that the reduction by the State Controller’s Office is not based on the parameters and guidelines adopted by the Commission, and not supported by the evidence in the record for the actual costs incurred by the claimant for the *Mandate Reimbursement Process I* program. Therefore, the Commission finds that the State Controller’s reduction of costs in this case is incorrect.

The parameters and guidelines require that reimbursement claims for the costs incurred by a claimant’s employees be based on actual costs. Section V of the parameters and guidelines states that “all costs incurred during the period of this claim for the preparation and submission of successful reimbursement claims to the State Controller are recoverable by the local agencies and school districts” and allowable costs include, “but are not limited to,” “salaries and benefits, service and supplies, contracted services, training and overhead.” Section VI of the parameters and guidelines provides that source documents that evidence the validity of the actual costs be made available upon request of the State Controller’s Office. The parameters and guidelines do not provide for reimbursement based on the average time it takes the employees of all eligible

claimants to prepare and submit reimbursement claims, or any other statistical method based on the claiming data of other claimants.

Nevertheless, by using statistics generated from the reimbursement claims of other eligible claimants, the State Controller's Office is applying a "uniform cost allowance" or "allocation formula" to the claimant's reimbursement claim. A "uniform cost allowance" or "allocation formula" is a reimbursement methodology based on a unit cost or a standard formula adopted by the Commission for the reimbursement of state-mandated costs, and is used in lieu of requiring documentation for actual costs incurred.⁵

The State Controller's Office, however, does not have the authority to apply a uniform cost allowance or allocation formula when auditing reimbursement claims if such formulas or uniform cost allowances are not included in the parameters and guidelines adopted by the Commission.

The authority to adopt a uniform cost allowance or other reimbursement methodology belongs to the Commission. At the time the Commission adopted the original parameters and guidelines for the *Mandate Reimbursement Process I* program, and when the Commission amended the parameters and guidelines for fiscal year 1995-1996, Government Code section 17557 provided that "in adopting parameters and guidelines, the Commission may adopt an allocation formula or uniform allowance which would provide for reimbursement of each local agency or school district of a specified amount each year." Today, the Legislature has clarified the Commission's authority to adopt a "reasonable reimbursement methodology" that "shall be based on general allocation formulas, uniform cost allowances, and other approximations of local costs." The reasonable reimbursement methodology must be based on cost information from a representative sample of eligible claimants and consider the variation of costs among local agencies and school districts to implement the mandate in a cost-efficient manner.⁶ Pursuant to Government Code section 17558, the claiming instructions prepared by the Controller's Office are required to be derived from the parameters and guidelines adopted by the Commission.

Since the Controller's audit and reduction of costs to prepare and submit reimbursement claims is based on the statistical time data of other claimants, the audit and reduction does not comply with the parameters and guidelines that require reimbursement based on the actual time and costs incurred by the claimant.

Moreover, the reduction by the State Controller's Office is not supported by the evidence in the record that does support the actual costs incurred and claimed by the claimant for the *Mandate Reimbursement Process I* program. In accordance with the parameters and guidelines and claiming instructions, the claimant identified in the reimbursement claim each employee's name, position, hourly rate, hours worked on the reimbursable activities, and salary and benefit amounts for the time it took to prepare and submit reimbursement claims for fiscal year 1995-1996. The reimbursement claim was certified by the claimant under penalty of perjury. In addition, documentation in the form of employee time logs for fiscal year 1995-1996 (titled "mandated costs log sheet") signed by the employee performing the reimbursable tasks was

⁵ See current definition in Government Code section 17518.5.

⁶ Government Code sections 17557, subdivision (b), and 17518.5 (as last amended by Stats. 2007, ch. 329.).

submitted and made available to the State Controller's Office. The time logs identify the task performed by the employee, the date, and the time spent performing the task. The tasks identified in the time logs are consistent with preparing and submitting reimbursement claims for the state-mandated costs for the programs identified in the reimbursement claim. In addition, receipts and agendas for in-service mandates training, an activity that is eligible for reimbursement, were submitted.

Accordingly, the Commission finds that the State Controller's Office incorrectly reduced the costs incurred by the claimant in fiscal year 1995-1996 to prepare and submit reimbursement claims for state-mandated programs to the State Controller's Office under the *Mandate Reimbursement Process I* program.

CONCLUSION

The Commission concludes that the State Controller's Office incorrectly reduced the costs incurred by Redwood City Elementary School District in the amount of \$11,122.00 for fiscal year 1995-1996 for the *Mandate Reimbursement Process I* program. The State Controller's Office is hereby requested to reinstate the amount reduced.

