

MONTEREY COUNTY OFFICE OF EDUCATION

Audit Report

MIGRANT EDUCATION PROGRAM

July 1, 2013, through June 30, 2014



BETTY T. YEE
California State Controller

October 2015



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California State Controller

October 30, 2015

Veronica Aguila, Director
California Department of Education
English Learner Support Division
Migrant Education Program
1430 N Street, Suite 2204
Sacramento, CA 95814-5901

Dear Ms. Aguila:

The State Controller's Office, pursuant to an Interagency Agreement with the California Department of Education (CDE), conducted an audit of the Monterey County Office of Education's (MCOE) Migrant Education Region's (the region) Migrant Education Program (MEP) for the period of July 1, 2013, through June 30, 2014.

The purpose of the audit was to determine whether the region complied with the United States Department of Education Office of Migrant Education's MEP requirements; specifically, that the region maintains proper internal controls to ensure that the program-related costs were incurred for eligible and approved increased costs, and the accounts and records substantiate that the funds were expended for these allowable increased costs.

The audit determined that the region could strengthen its internal controls to ensure its compliance with applicable federal and state laws and regulations, and that MEP funds are expended for allowable, approved, and increased costs. While the region maintains adequate internal controls, the audit found three instances of non-compliance. Specifically, in submitting its expenditure reports to the CDE, the region included unallowable late fee charges of \$218 for vehicle fuel. In addition, the region did not provide sufficient oversight to its sub-recipient districts by ensuring that districts adhere to "supplement, not supplant" provision as required by federal regulations. Specifically, Salinas City Elementary School District used the MEP funds to provide services to migrant students before expending other federal and state funds in the amount of \$57,355. The region also did not comply with state and federal procurement requirements for MEP service contracts; it did not maintain sufficient records as required by Title 34, *Code of Federal Regulations*, section 80.36.

If you have any questions, please contact Andrew Finlayson, Chief, State Agency Audits Bureau, by telephone at (916) 324-6310.

Sincerely,

Original signed by

JEFFREY V. BROWNFIELD, CPA
Chief, Division of Audits

JVB/as

Attachment

cc: Nancy Kotowski, Superintendent
Monterey County Office of Education
Celina Torres, Education Administrator I
English Learner Support Division
California Department of Education
Kevin Chan, Director
Audits and Investigations Division
California Department of Education

Contents

Audit Report

Summary	1
Background	1
Objectives, Scope, and Methodology	3
Conclusion	3
Views of Responsible Official	4
Restricted Use	4
Schedule 1—Summary of Reported, Audited, and Questioned Costs	5
Findings and Recommendations	6
Attachment—Auditee’s Response	

Audit Report

Summary

The State Controller's Office (SCO) conducted an audit of the Monterey County Office of Education's (the region) Migrant Education Program (MEP) for the period of July 1, 2013, through June 30, 2014.

The purpose of the audit was to determine whether the region complied with the United States Department of Education Office of Migrant Education's (OME) MEP requirements; specifically, that the region maintains proper internal controls to ensure that the program-related costs were incurred for eligible and approved increased costs, and the accounts and records substantiate that the funds were expended for these allowable increased costs.

The audit determined that the region could strengthen its internal controls to ensure its compliance with applicable federal and state laws and regulations, and that MEP funds are expended for allowable, approved, and increased costs. While the region maintains adequate internal controls, the audit found three instances of non-compliance. Specifically, in submitting its expenditure reports to the CDE, the region included unallowable late fee charges of \$218 for vehicle fuel. In addition, the region did not provide sufficient oversight to its sub-recipient districts by ensuring that districts adhere to "supplement, not supplant" provision as required by federal regulations. Specifically, Salinas City Elementary School District used the MEP funds to provide services to migrant students before expending other federal and state funds in the amount of \$57,355. The region also did not comply with state and federal procurement requirements for MEP service contracts; it did not maintain sufficient records as required by Title 34, *Code of Federal Regulations*, section 80.36.

Background

The Migrant Education Program is authorized under the No Child Left Behind Act and is funded by Title I, Part C, with the mission of providing supplementary services to ensure that migrant children meet the same academic standards that non-migrant children are expected to meet.

Funds support high quality education programs for migrant children and help ensure that those children who relocate are not penalized in any manner by disparities among states in curriculum, graduation requirements, or state academic content and student academic achievement standards. Funds also ensure that migrant children are provided with appropriate education services (including supportive services) that address their special needs, and receive full and appropriate opportunities to meet the same state academic content and student academic achievement standards that non-migrant children are expected to meet. Federal funds are allocated by formula to state educational agencies, based on each state's per-pupil expenditure for education and counts of eligible migrant children, ages 3 through 21, residing within the state.

The allowable MEP efforts are identified, formulated, and developed in concert with the CDE and State's 23 MEP Regions/Subgrantees. The Regions/Subgrantees include county offices of education and/or school districts. At the state level, the CDE also administers and monitors the federal pass-through MEP funds for the MEP subgrantees and recipients.

The region provides, administers, and directly oversees MEP services for six districts, while sub-granting MEP funds to seven other districts through a District Service Agreement. These sub-recipient districts are responsible for directly providing and administering MEP services for their students and are subject to regional oversight. The region may also fund a consortium of school districts, typically with an enrollment of fewer than 200 migrant students, in which MEP services are provided through a Memorandum of Understanding. The region and sub-recipient districts offer migrant instructional services to eligible migrant students through various extended day settings: after school instruction, Saturday schools, home tutorial programs, and summer school. Other services include mobile dental services to migrant students, health advocacy, pre-college outreach programs, and education-based field trips.

In the audited fiscal year (FY) 2013-14, the region reported expenditures in the amount of \$9,674,539, out of which \$4,589,941 were for the funds transferred to the seven sub-recipient districts.

The OME conducted a review of the MEP program and issued the review in September 2011. The California State Auditor audited the administration of the federally funded migrant education program administered by the CDE and issued its audit report in February 2013. The reviews did not identify any specific administrative oversight concerns of the region or its subrecipients.

As a result of these reviews, the CDE requested that the SCO assess its administrative oversight efforts¹ and conduct this performance audit of the MEP subgrantees.

The SCO's authority to conduct this audit is given by:

- Interagency Agreement No. CN 140308 effective February 1, 2015, between the SCO and the CDE, which provides that the SCO will conduct an independent management review of the CDE's administrative oversight efforts, including technical assistance provided to MEP subgrantees, and an independent management review of MEP subgrantee fiscal administrative and reporting practices over MEP funding.
- Government Code section 12410, which states, "The Controller shall superintend the fiscal concerns of the state. The Controller shall audit all claims against the state, and may audit the disbursement of any state money, for correctness, legality, and for sufficient provisions of law for payment"

¹ This assessment will be covered in a separate management letter to the CDE.

Objectives, Scope, and Methodology

The purpose of the audit was to determine whether the region complied with the OME MEP requirements; specifically, that the region maintains proper internal controls to ensure that the region's efforts and program-related costs were incurred for eligible and approved MEP program activities, and that accounting records and source documents substantiate that the MEP funds were expended for approved allowable increased costs for the audit period of July 1, 2013, through June 30, 2014.

Audit methodologies included, but were not limited to the following:

- Reviewing applicable state and federal requirements related to the MEP, including the California Migrant Education Program Fiscal Handbook;
- Reviewing prior audits and single audit reports, and written policies and procedures relating to the region's MEP;
- Reviewing the region's MEP regional application, and budget and quarterly expenditure reports;
- Conducting inquiries with region personnel, and reviewing and assessing related internal controls; and
- Obtaining and reviewing supporting documentation to ensure that MEP expenditures for increased costs were necessary, reasonable, and allowable.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Conclusion

The audit determined that the region could strengthen its internal controls to ensure its compliance with applicable federal and state laws and regulations, and that MEP funds are expended for allowable, approved, and increased costs. While the region maintains adequate internal controls, the audit found three instances of non-compliance. Specifically, in submitting its expenditure reports to the CDE, the region included unallowable late fee charges of \$218 for vehicle fuel. In addition, the region did not provide sufficient oversight to its sub-recipient districts by ensuring that districts adhere to "supplement, not supplant" provision as required by federal regulations. Specifically, Salinas City Elementary School District used the MEP funds to provide services to migrant students before expending other federal and state funds in the amount of \$57,355. The region also did not comply with state and federal procurement requirements for MEP service contracts; it did not maintain sufficient records as required by Title 34, *Code of Federal Regulations*, section 80.36.

**Views of
Responsible
Official**

We conducted an exit conference on September 29, 2015, and discussed our audit results with the representative of the Monterey County Office of Education and the region. During the conference, Ernesto Vela, MEP Director II, agreed with our findings. Dr. Vela confirmed his concurrence with our findings in a letter issued on October 21, 2015, and indicated that he looks forward to the final report.

Restricted Use

This report is solely for the information and use of the MCOE, the United States Department of Education, the California Department of Education, and the SCO. It is not intended to be and should not be used by anyone other than these specified parties. The restriction is not intended to limit distribution of this report, which is a matter of public record.

Original signed by

JEFFREY V. BROWNFIELD, CPA
Chief, Division of Audits

October 30, 2015

Schedule 1— Summary of Reported, Audited, and Questioned Costs July 1, 2013, through June 30, 2014 (includes 5th Quarter*)

Object Code	Description	Reported Costs	Audited Costs	Questioned Costs	Reference
Certificated Personnel Salaries					
1100	Teachers	\$ 978,087	\$ 978,087	\$ -	
1200	Pupil Support Services	\$ 236,877	\$ 236,877	\$ -	
1300	Supervisor/Administrators	\$ 662,518	\$ 662,518	\$ -	
1900	Other Certificated Salaries	\$ 299,943	\$ 299,943	\$ -	
	Subtotal	\$ 2,177,425	\$ 2,177,425	\$ -	
Classified Salaries					
2100	Instructional Aides	\$ 741,489	\$ 741,489	\$ -	
2200	Support Services Salaries	\$ 904,407	\$ 904,407	\$ -	
2300	Supervisor/Administrators	\$ 22,929	\$ 22,929	\$ -	
2400	Clerical, Technical and Office Staff	\$ 550,914	\$ 550,914	\$ -	
2900	Other Classified Salaries	\$ 620,764	\$ 620,764	\$ -	
	Subtotal	\$ 2,840,503	\$ 2,840,503	\$ -	
Benefits					
3000-3900	Employee Benefits	\$ 2,043,501	\$ 2,043,501	\$ -	
	Subtotal	\$ 2,043,501	\$ 2,043,501	\$ -	
Books and Supplies:					
4100	Textbooks Curricula Materials	\$ 4,000	\$ 4,000	\$ -	
4200	Books & Reference Materials	\$ 104,987	\$ 104,987	\$ -	
4300	Materials & Supplies	\$ 544,337	\$ 544,119	\$ 218	Finding 1
4400	Noncapitalized Equipment	\$ 53,039	\$ 53,039	\$ -	
4700	Food	\$ 51,226	\$ 51,226	\$ -	
	Subtotal	\$ 757,589	\$ 757,371	\$ 218	
Services and Other Operating Expenditures					
5100	Subagreements for Services	\$ 25,000	\$ 25,000	\$ -	
5200	Travel & Conference	\$ 88,272	\$ 88,272	\$ -	
5300	Dues & Memberships	\$ 1,004	\$ 1,004	\$ -	
5400	Insurance	\$ 6,720	\$ 6,720	\$ -	
5500	Operations & Housekeeping Services	\$ -	\$ -	\$ -	
5600	Rentals, Leases, Repairs & Noncapitalized Improvements	\$ 69,736	\$ 69,736	\$ -	
5700	Transfers of Direct Costs	\$ 165,308	\$ 165,308	\$ -	
5800	Professional and Consulting Services and Expenses	\$ 817,132	\$ 759,777	\$ 57,355	Finding 2
5900	Communications	\$ 33,365	\$ 33,365	\$ -	
	Subtotal	\$ 1,206,537	\$ 1,149,182	\$ 57,355	
	Subtotal	\$ 9,025,555	\$ 8,967,982	\$ 57,573	
	Indirect Cost	\$ 648,983	\$ 648,983	\$ -	
	Total	\$ 9,674,538	\$ 9,616,965	\$ 57,573	

*Note: The 5th Quarter is the first quarter of a subsequent fiscal year, during which the region is allowed to spend the MEP funds that were not spent in a preceding fiscal year.

Findings and Recommendations

**FINDING 1—
Unallowable late
fees charges**

In performing a substantive testing of expenses in selected Materials and Supplies Accounts (Object Code 4300) of the region’s Migrant Education Program (MEP), we noted an instance whereas the region included late fee charges for vehicle fuel purchases in July of 2013, when it billed the CDE for reimbursement of expenditures. The region was reimbursed by the CDE for the unallowable expense of \$218 as a result. The region did not pay for its fuel invoice in a timely manner due to the multiple levels of approval, which resulted in a delayed payment and, consequently, late fee charges.

Section 16. Fines and penalties, of Title 2, *Code of Federal Regulations* (2 CFR 225), Part 225, Appendix B, states:

Fines, penalties, damages, or other settlements resulting from violations (or alleged violations) of , failure of the governmental unit to comply with, Federal, State, local, or Indian tribal laws and regulations are unallowable except when incurred as a result of compliance with specific provisions of the Federal award or written instructions by the awarding agency authorizing in advance such payments.

Recommendation

In order to ensure compliance with the standards prescribed by 2 CFR 225, the region should exclude any expenses associated with late fee charges.

**FINDING 2—
District’s non-
compliance with
“Supplement, Not
Supplant”
requirement**

For Professional Consulting Services and Operating Expenditures (Object Code 5800 Account), we noted that the region did not provide sufficient oversight to Salinas City Elementary School District (the district). The district, a subrecipient of MEP funds, had charged \$57,355 of the MEP funds for Migrant Arts Academy and the Element of Life Project activities, whereas the district had other available Federal and state funds, specifically, the English Learners fund.

In addition, in allocating the MEP funds to the above activities, the district did not provide adequate documentation to support its methodology of allocating funds to the services for migrant students.

By not adhering to “supplement, not supplant” requirement when it allocated the MEP funds to services for migrant students, the district used the MEP funds in the amount of \$57,355 for the services that should have been provided with non-MEP funds. By not using a measurable methodology of allocating the MEP funds to the services for migrant students, the district may have lacked adequate services to these students.

The region did not effectively monitor the district's expenditures or did not provide oversight and technical assistance to the district's MEP staff to ensure the district's compliance with “supplement, not supplant” requirement and its use of an adequate allocation methodology.

2 CFR 225, Appendix A, Section C 3(a) states:

A cost is allocable to a particular cost objective if the goods or services involved are chargeable or assignable to such cost objective in accordance with relative benefits received.

Section 1306(b) (2) of Title 1, Part C states:

Funds provided under this part shall be used to address the needs of migratory children that are not addressed by services available from other Federal or non-Federal programs, except that migratory children who are eligible to receive services under part A may receive those services through funds provided under that part, or through funds under this part that remain after the agency addresses the needs described in paragraph.

Recommendation

We recommend that the region strengthen its oversight of subrecipients to ensure that only eligible MEP activities and related costs are charged against the MEP funds. Furthermore, we recommend that the district use all other available Federal and state funds before it expends the MEP funds. We also recommend that the district develop allocation methodology based on measurable factors when determining a portion of the MEP funds to supplement services for migrant students. The final decision on the amount of \$57,355 will be determined by the CDE.

**FINDING 3—
Noncompliance
with procurement
laws and
regulations**

In reviewing the region’s procurement activities, we determined that it did not follow procurement requirements set forth in Fiscal Handbook 2007 and the criteria set forth in Title 34, *Code of Federal Regulations*, section 80.36 (34 CFR 80.36) in regards to its procurement activities. We noted the following:

- The region does not appear to obtain price or rate quotations from an adequate number of qualified sources. Out of five projects selected for review, none was selected from at least three qualified sources.
- The region lacks written criteria for reviewing proposals and assessing the technical qualifications of contracted personnel. Specifically, we were unable to determine how the region assessed technical qualifications of Develacorp, which was contracted to provide cultural and ethnic training to migrant students’ parents.
- The region does not perform a cost or price analysis with every purchase procurement of less than \$84,100, including making independent estimates before receiving proposals. Specifically, the region did not perform a cost analysis when it procured the meal services by SODEXO, a food service vendor.
- The region does not maintain detailed vendor selection records of the method of procurement, selection of contract type, contractor selection or rejection, and the basis for the contract price. All five contracts selected for a review lack sufficient records that could allow us to verify the region’s compliance with the 34 CFR 80.36

2 CFR 200.303, Internal Controls states, in part:

The non-Federal entity must:

- (a) Establish and maintain effective internal control over the Federal award that provides reasonable assurance that the non-Federal entity is managing the Federal award in compliance with Federal statutes, regulations, and the terms and conditions of the Federal award....

34 CFR 80.36(b)(9) states:

Grantees and subgrantees will maintain records sufficient to detail the significant history of a procurement. These records will include, but are not necessarily limited to the following: rationale for the method of procurement, selection of contract type, contractor selection or rejection, and the basis for the contract price.

34 CFR 80.36(c) states, in part:

Competition (1) All procurement transactions will be conducted in a manner providing full and open competition consistent with the standards of section 80.36.... (3) Grantees will have written selection procedures for procurement transactions. These procedures will ensure that all solicitations: (i) Incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured. Such description shall not, in competitive procurements, contain features which unduly restrict competition. The description may include a statement of the qualitative nature of the material, product or service to be procured, and when necessary, shall set forth those minimum essential characteristics and standards to which it must conform if it is to satisfy its intended use.... (ii) Identify all requirements which the offerors must fulfill and all other factors to be used in evaluating bids or proposals.

34 CFR 80.36(d)(1) states:

Methods of procurement to be followed- (1) Procurement by small purchase procedures. Small purchase procedures are those relatively simple and informal procurement methods for securing services, supplies, or other property that do not cost more than the simplified acquisition threshold fixed at 41 U.S.C. 403 (11) (currently set at \$100,000). If small purchase procedures are used, price or rate quotations shall be obtained from an adequate number of qualified sources.

34 CFR 80.36(d)(4) states, in part:

Procurement by noncompetitive proposals is procurement through solicitation of a proposal from only one source, or after solicitation of a number of sources, competition is determined inadequate.

(i) Procurement by noncompetitive proposals may be used only when the award of a contract is infeasible under small purchase procedures, sealed bids or competitive proposals and one of the following circumstances applies:

- (A) The item is available only from a single source;
- (B) The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation;

- (C) The awarding agency authorizes noncompetitive proposals; or
- (D) After solicitation of a number of sources, competition is determined inadequate.

34 CFR 80.36(f)(1) states:

Contract cost and price. (1) Grantees and subgrantees must perform a cost or price analysis in connection with every procurement action including contract modifications. The method and degree of analysis is dependent on the facts surrounding the particular procurement situation, but as a starting point, grantees must make independent estimates before receiving bids or proposals. A cost analysis must be performed when the offeror is required to submit the elements of his estimated cost, e.g., under professional, consulting, and architectural engineering services contracts. A cost analysis will be necessary when adequate price competition is lacking, and for sole source procurements, including contract modifications or change orders, unless price reasonableness can be established on the basis of a catalog or market price of a commercial product sold in substantial quantities to the general public or based on prices set by law or regulation. A price analysis will be used in all other instances to determine the reasonableness of the proposed contract price.

Recommendation

We recommend that the region implement policies and procedures to ensure proper and uniform application and assessment of vendor selections. Implementing policies and segregating responsibilities for identifying qualified vendors will strengthen the district's compliance with the federal and state applicable regulations. To ensure proper vendor qualification and rating, we recommend that the region:

- Maintain records sufficient to detail the history of procurement, including the rationale for the method of procurement, selection of contract type, contractor selection or rejection, and the basis for the contract price.
- Perform a cost or price analysis in connection with every procurement action.
- Establish clear process or written criteria for judging proposals, assessing technical qualifications of contracted personnel, and assessing the quality of a technical approach.

**Attachment—
Auditee's Response**



Monterey County Office of Education

Leadership, Support, and Service to Prepare All Students for Success

*Dr. Nancy Kotowski
County Superintendent of Schools*

October 21, 2015

Farkhad Askarov
Associate Management Auditor
Division of Audits
State Controller's Office
3301 C Street, Suite 710
Sacramento, CA. 95816

Dear Mr. Askarov,

I write in reference to the recent audit to our Migrant Education Program Region 16, Monterey County Office of Education. I want to thank you and your colleagues for your time, commitment, and effective communication throughout the process. It was a beneficial process for our program.

In particular, I inform you that we acknowledge the findings that you have identified for our program. It is evident to us that we lacked evidence to disprove the findings and thus, do not contest them at this time. During the exit interview, you provided clear and concise information that will allow us to make the necessary adjustments to correct the findings immediately.

In relation to the finding related to payment of late fees, we will make the necessary adjustments to our payment process to avoid such penalties. Given that the account in question is a joint account between several departments we will bring the matter forward to the departments involved and notify them of the importance of all departments on the account settle their part of the bill. Additionally, we have been advised by our business department that in such event of a late fee, we will not utilize program funds to settle them.

Related to the second finding regarding the lack of evidence describing the methodology to ensure supplemental use of funds, we will work with the identified district to ensure that such methodology and the appropriate documentation is in place. Specifically, we will require pre-approval from sub-grant districts that intend to use MEP funds to supplement other categorical programs.

Finally, in regards to the third finding regarding lack of evidence for procurement procedures, the region will work with MCOE and CDE to ensure understanding of the fiscal policies related to this item and begin to conduct cost analysis of all outside vendors and contractors.

Thank you again for your assistance. We look forward to the final report.

Sincerely,

Dr. Ernesto Vela, Director
Migrant Education Program, Region 16
Monterey County Office of Education

**State Controller's Office
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