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IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF ARIZONA

Roy and Josie Fisher, et al.,

Plaintiffs

CV 74-90 TUC DCB
(Lead Case)

v.

**DECLARATION OF KARLA
SOTO**

United States of America,

Plaintiff-Intervenor,

v.

CV 74-204 TUC DCB
(Consolidated Case)

Anita Lohr, et al.,

Defendants,

and

Sidney L. Sutton, et al.,

Defendants-Intervenors,

Maria Mendoza, et al.

Plaintiffs,

United States of America,

Plaintiff-Intervenor,

v.

Tucson Unified School District No. One, et al.

Defendants.

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1 I, Karla Soto, declare under penalty of perjury that the following statements are true:

2 1. I am the Chief Financial Officer for Defendant Tucson Unified School
3 District No. One (“TUSD”) and have held this position since January 2014. I have personal
4 knowledge of the facts stated herein.

5 2. On November 21, 2014, the Budget Expert, Dr. Vicki Balentine, submitted
6 her report on the Budget Review Criteria and Process to TUSD, the Plaintiffs, and the
7 Special Master. **See Exhibit 1 to Declaration of Samuel E. Brown (“Decl.
8 Brown”)(Balentine Email and Proposed Budget Review Criteria and Process
9 11/21/14).**

10 3. Between November 5, 2014 and December 19, 2014, my staff and I met with
11 the Budget Expert, commented on drafts of the Budget Review Criteria and Process, and
12 revised the proposed Budget Review Criteria and Process.

13 4. On December 29, 2014, TUSD’s outside counsel submitted a copy of the
14 revised Budget Criteria and Process to the Budget Expert and the Special Master, with
15 instructions to forward the document to the Plaintiffs per our joint understanding with the
16 Special Master. **See Exhibit 2 to Decl. Brown (Stanton Email and Revised Budget
17 Review Criteria and Process 12/29/14).**

18 5. On January 6, 2015, the Special Master emailed his comments on the revised
19 Budget Review Criteria and Process to the Parties, and also forwarded the revised Budget
20 Review Criteria and Process to the Plaintiffs. On January 6, 2015, TUSD’s outside counsel
21 Bill Brammer forwarded to me the Special Master’s January 6, 2015 emails. **See Exhibit 3
22 to Decl. Brown (Hawley Email Comments 1/6/15); see also Exhibit 4 to Decl. Brown
23 (Hawley Email and Revised Budget Review Criteria and Process 1/6/15).**

24 6. Between January 6, 2015 and February 4, 2015, TUSD staff finalized the
25 Budget Review Criteria and Process and finalized the Budget Form to include the USP
26 Budget Criteria. **See Exhibit 5 to Decl. Brown (Final Revised Budget Review Criteria
27 and Process 2/4/15); see also Exhibit 6 to Decl. Brown (Final Revised Sample Budget
28 Form).**

1 7. On October 22, 2014, the Court ordered TUSD to file a Notice identifying,
2 with explanation of whether by stipulation or by objection, any recommendations which
3 were ultimately not adopted by TUSD. *See* ECF #1705 at 14.

4 8. There were several recommendations included in the Budget Expert's
5 November 21, 2014 Report that were not fully adopted by TUSD, or were revised by
6 TUSD. The Budget Expert's recommendations below are taken from her November 21,
7 2014 proposed process (Ex. 1 to Decl. Brown). Below is a listing of each recommendation
8 from the Budget Expert that was not adopted, with explanations for each:

9 a. Recommendation: The tracking of 910(G) funds "shall be focused on
10 910G funds for 2013-14 and for all USP expenditures in years thereafter" (**Decl. Brown,**
11 **Ex. 1, p.2, ¶1**)

12 Revision: The tracking of 910(G) funds "shall be focused on 910G funds. For 2013-14 and
13 2014-15, the District may report through a crosswalk using the agreed-upon USP Activity
14 codes. Non-910G funds will be reported in a narrative format."

15 Explanation: By stipulation, TUSD will track and report 910(G) funds through a crosswalk
16 (cross-walking the former project-based format to the current USP Activity-based format)
17 for 2013-14 and 2014-15, and will track and report non-910(G) funds using a narrative
18 format for every year.

19 b. Recommendation: "In December, the District shall provide all District
20 formulas and regulations used or required in the allocation of funds, including weighted
21 student count, school level allocations, and FTE formulas, and Title I or other Federal and
22 State requirements, etc." (**Decl. Brown, Ex. 1, p.2, ¶2**)

23 Revision: "In February, the District shall provide all District formulas used or required in
24 the allocation of funds, including weighted student count, school level allocations, and FTE
25 formulas."

26 Explanation: By stipulation, TUSD will provide formulas, but not regulations, as described.
27 This level of information will not be available until further along in the budget process, and
28 there are no TUSD regulations used to allocate funds. By objection, TUSD will not provide

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1 the voluminous amounts of Title I or other Federal and State requirements related to
2 funding. However, TUSD staff members continue to be available to answer questions
3 related to these regulations, but the affirmative obligation to detail the hundreds of
4 regulations that govern the allocation of school district funds is unreasonable and unduly
5 burdensome.

6 c. Recommendation: For each tracked activity, TUSD shall provide
7 “aggregation of what was spent on the activity during the last budget year, broken down by
8 expenditure from 910G and any other USP related funding sources (Sample budget format
9 attached).” (**Decl. Brown, Ex. 1, p.2, ¶2 section “B”**)

10 Revision: For each tracked activity, TUSD shall provide “aggregation of what was spent on
11 the activity during the last budget year (2013-14), broken down by expenditure from
12 910G.”

13 Explanation: It is not feasible (using TUSD’s current manual-driven systems) to provide
14 aggregation of 2013-14 expenditures for “any other USP related funding sources.”
15 Additionally, such task is complicated by the fact that TUSD developed the 2013-14 USP
16 Budget using 15 projects, but has since “cross-walked” the 910(G) funds with the newly-
17 created 65 activities. The cross-walking process for 910(G) funds took several weeks, and
18 replicating that process for the non-910(G) funds is not feasible within the current budget
19 process timeline. **See Decl. Brown at Ex. 4** (Special Master comment on the cross-walking
20 process, highlighting the associated challenges and noting that despite the challenges the
21 “crosswalk is likely to provide some reasonable amount of comparability across years.”)

22 d. Recommendation: When the development of the 2015-16 Budget
23 Process initiates in February 2015, the following information will be provided for each
24 tracked activity (A-C omitted): “D. projected expenditures at the completion of the current
25 budget year for the activity, with rationale for any differences between the projected and
26 allocated amounts, and E. rationale for any non-incremental increase or decrease in
27 funding for the activity, if applicable.” (**Decl. Brown, Ex. 1, p.2, ¶2 sections “C” and**
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1 **“D”)(The language from “D” and “E” was also added to columns in the Sample**
2 **Budget Format, see Decl. Brown, Ex. 1, “Sample Budget Format” p.2)**

3 Revision: TUSD removed sections “D” and “E” in the Final Revised Budget Review
4 Criteria and Process (*see Decl. Brown, Ex. 5, p.2*), and removed the correlating language
5 from the Final Revised Sample Budget Format (*see Decl. Brown, Ex. 6*).

6 Explanation: By objection, for the 2015-16 USP Budget Process, it is unreasonable for
7 TUSD, in February, to calculate and provide projected expenditures for each activity at the
8 completion of the current budget year on June 30, 2015. It is likewise unreasonable for
9 TUSD to provide rationales for differences between allocated and projected amounts –
10 particularly when the February projections could prove to be entirely different than the
11 actual expenditures four months later. Further, it is not clear whether TUSD is expected to
12 recalculate the projected expenditures (again, for each activity) for each of three budget
13 drafts. TUSD is transitioning to a newer budgeting system which may facilitate this type of
14 detailed information in future budgeting years, but at this time – using manual processes – it
15 is unreasonable and unduly burdensome for TUSD to provide premature projections that
16 would then be used by the Plaintiffs and Special Master to assess funding allocations for the
17 subsequent year.

18 e. Recommendation: Parties will meet “between March 30 – April 15 to
19 review and discuss the proposed budget and other issues.” (**Decl. Brown, Ex. 1, p.3, row 3**)

20 Revision: Parties will meet between April 6 and April 15.

21 Explanation: By stipulation, since the second draft budget will be due by March 23 (rather
22 than March 16), the meeting will be held after April 6 (but before April 15) to give the
23 parties time to review the second draft.

24 f. Recommendation: Draft budget #1 due on February 26, 2015. (**Decl.**
25 **Brown, Ex. 1, p.3, row 4**)

26 Revision: Draft budget #1 due on February 27, 2015.

27 Explanation: By stipulation.
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1 g. Recommendation: Draft budget #2 due on March 16, 2015. **(Decl.**
2 **Brown, Ex. 1, p.3, row 6)**

3 Revision: Draft budget #2 due on March 23, 2015.

4 Explanation: By stipulation. This date was revised because comments on the first draft are
5 due no later than March 9, 2015, and one week is not enough time to analyze comments and
6 to develop a second draft budget. Also, there is a two-week revision period following a
7 scheduled meeting in April to discuss the third draft, so the same two-week revision period
8 was applied here for consistency.

9 h. Recommendation: The 2013-14 USP Budget Audit “shall focus only
10 on the expenditure of 910(G) funds. Thereafter, the audit shall include expenditures for the
11 entire USP budget, including the expenditure of related funds from non-910(G) sources.”

12 Revision: The 2013-14 and 2014-15 USP Budget Audits “shall focus only on the
13 expenditure of 910(G) funds. Thereafter, starting with the 2015-16 audit, the audit shall
14 include expenditures for the entire USP budget, including the expenditure of related funds
15 from non-910(G) sources (as tracked and reported through narratives, see page 2 above
16 “TRACKING OF 910G FUNDS” “Non-910G funds will be reported in a narrative
17 format.”).” **(Decl. Brown, Ex. 1, p.4, ¶2)**

18 Explanation: By stipulation the 2013-14 and 2014-15 audits will be limited to 910(G) funds.
19 In 2015-16 TUSD will have the systems and capability to more accurately and efficiently
20 track and report USP-related non-910(G) funds, facilitating an audit of both 910(G) and
21 USP-related non-910(G) funds for the 2015-16 USP Budget.

22 i. Recommendation: “The District should recode past budget information
23 using the IA structure by activity for budget years 2013-14 (Original IA) and 2014-15
24 (Revised IA) to allow for an accurate and meaningful audit.” **(Decl. Brown, Ex. 1, p.4, ¶3)**

25 Revision: “The District will recode past budget information using the revised descriptions
26 of activities in the Implementation Addendum as amended in November of 2014 to allow
27 for an accurate and meaningful audit.”
28

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1 Explanation: This revision was made for clarification purposes. The language was revised
2 to clarify that the audit will use the November 2014 Revised IA activity list for both years.

3 j. Recommendation: “The Special Master has proposed the following
4 criteria for use of 910(G) funds. 910(G) funds may be used to fund activities that meet the
5 applicable criteria below.” (**Decl. Brown, Ex. 1, p.4, ¶4**)

6 Revision: “The Special Master has proposed the following criteria for use of 910(G) funds.
7 910(G) funds may be used to fund activities that meet one or more of the applicable criteria
8 below.”

9 Explanation: This revision was made for clarification purposes. By the nature of the
10 criteria, a USP activity cannot necessarily meet each criterion. For example, criterion 1 asks
11 whether the expenditure supports an OCR Agreement objective, criterion 2 asks whether
12 the expenditure supports a specific USP provision. Most expenditures will support either an
13 OCR Agreement objective, or a specific USP provision – but not both.

14 k. Recommendation: Criterion five: “5. Does the expenditure support a
15 new dual language program?” (**Decl. Brown, Ex. 1, p.5**)

16 Revision: TUSD removed this criterion.

17 Explanation: By objection. The vast majority of expenditures in the USP Budget will not
18 support a new dual language program so it is unreasonable to assess each expenditure by
19 the proposed criterion.

20 l. Recommendation: Criterion 6 (formerly Criterion 7) states: “This can
21 be determined by using a “formula plus rule”: the cost of services provided exceed the
22 expenditures that would’ve been made in accordance with Governing Board approved
23 funding formulas. Example: if culturally relevant courses that substitute for core courses are
24 offered with 20 students per course rather than the 27 students in conventional core courses,
25 the cost of teaching the additional seven students (averaged over several courses) can be
26 funded from 910 G funds.” (**Decl. Brown, Ex. 1, p.5**)

27 Revision: TUSD added the following paragraph for clarity: “For items for which a formula
28 does not apply, the District will provide information based on non-910(G) funding that

1 supports that the 910(G) funding is not supplanting, in a manner that relates to the revised
2 descriptions of activities in the Implementation Addendum as amended in November of
3 2014.”

4 Explanation: By stipulation.

5 m. Recommendation: The “Sample Budget Format” proposed by the
6 Budget Expert Dr. Balentine (*see Decl. Brown, Ex. 1, “Sample Budget Format”*) did not
7 include a mechanism for capturing the Budget Criteria analysis.

8 Revision: TUSD added columns to the Sample Budget Format to capture the Budget
9 Criteria analysis for each line item (rather than having two separate forms).

10 Explanation: Combining the Budget Criteria analysis with the budget form will provide
11 transparency to the Special Master, the Plaintiffs, the Court, and the public as to how TUSD
12 develop budget allocations. *See Decl. Brown, Ex. 6.*

13 9. There were several recommendations included in the Special Master’s
14 January 6, 2015 email that were not fully adopted by TUSD. In his memo, the Special
15 Master explained that he had “consulted with the budget expert and believe[s] that these
16 observations below are consistent with her views...” *See Decl. Brown, Ex. 3, ¶4.* Below is
17 a listing of the Special Master’s January 6, 2015 recommendations as stated in Exhibit 3 of
18 the 2/4/15 Declaration of Samuel E. Brown:

19 a. Recommendation: “Also on page 2, the district strikes the term
20 “regulations” saying that there are no district regulations that govern the allocation of funds.
21 However, what is requested here is a listing of any constraints on the use of state and
22 federal funds that would be applied to the USP portions of the budget. This clarification
23 should be added.” (*Decl. Brown, Ex. 3, ¶7*)

24 Revision: N/A

25 Explanation: TUSD did not add a clarification to this section. During the January 20, 2015
26 teleconference, the Special Master provided clarification as to the expectation for this
27 request, which TUSD understood to be a request for all state regulations, federal
28 regulations, and grant guidelines that could constrain the use of non-910(G) funds that

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1 would be applied to portions of the USP Budget. As explained in paragraph 8(b) above,
2 TUSD will not provide the voluminous amounts of Title I or other Federal and State
3 requirements related to funding. TUSD staff members continue to be available to answer
4 questions related to these regulations, but the affirmative obligation to detail the hundreds
5 of regulations that govern the allocation of school district funds is unreasonable and unduly
6 burdensome.

7 b. Recommendation: “When the district provides [budget formulas on
8 February 27], it should indicate changes that have been made from those affecting the
9 previous year’s budget and the reasons for those changes.” **(Decl. Brown, Ex. 3, ¶8)**

10 Revision: N/A

11 Explanation: By stipulation, this recommendation was discussed on January 20, 2015, and
12 TUSD agrees to indicate changes that have been made to the formulas and the reasons for
13 those changes.

14 c. Recommendation: “If the extension requested by the district is
15 approved by the court, the date for finalizing the “budget process methodology” would be
16 February 4.” **(Decl. Brown, Ex. 3, ¶9)**

17 Revision: N/A

18 Explanation: The Court has approved the extension and TUSD will submit the revised
19 “budget process methodology” by February 4, 2015. (*See ECF #1758*).

20 d. Recommendation: “On page 5, the district deletes a provision in the
21 budget expert’s proposal that specific dates be set for presenting any significant reallocation
22 proposal to the parties for consideration. The district should provide specific dates. Thus,
23 the paragraph that was deleted at the top of page 7 should be retained.” **(Decl. Brown, Ex.
24 3, ¶10)**

25 Revision: The paragraph that was deleted from the bottom of page six and the top of page
26 seven in Exhibit 2 to Decl. Brown (Stanton Email and Revised Budget Review Criteria and
27 Process, 12/29/14) has been retained and is now the first full paragraph on page five of
28 Exhibit 5 to Decl. Brown (Final Revised Budget Review Criteria and Process, 2/4/15).

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1 Explanation: During the January 20, 2015 teleconference, the Special Master and Budget
2 Expert provided clarity about this paragraph. Based on its clarified understanding, TUSD
3 replaced the previous revised language with the original language as proposed by the
4 Budget Expert.

5 e. Recommendation: “Finally on page 8, the district deletes the provision
6 allowing the use of 910 G funds to support new dual language programs. The court order
7 does seem to imply that new dual language programs could be supported from 910 G funds.
8 Taken literally this could result in a significant portion of the total 910 G funds being
9 allocated to new dual language school. Moreover, such an allocation of funds would be
10 contrary to the court approved approach to determining when a program expenditure
11 supplements rather than supplants. The district acknowledges that the vast majority of 910
12 G funding would not be used to support a new dual language program but it seems useful to
13 clarify what the intent of the court is by stipulation or amendment. It seems to me, for
14 example, that the startup costs for new dual language program that might involve
15 exceptional training and materials, among other things, would be inappropriate purposes to
16 which 910 G funds would be allocated but that the ongoing operation of the school or
17 program would be subject to the formula plus rule. **(Decl. Brown, Ex. 3, ¶11)**

18 Revision: N/A

19 Explanation: The parties and Special Master discussed this issue during the January 20,
20 2015 teleconference and gained some mutual understanding of the Court’s intent in this
21 regard, though this issue is not fully clarified and may require additional collaboration and
22 discussion to fully resolve. If further clarification and/or resolution is needed, TUSD staff
23 is available to discuss this issue with the Special Master, Plaintiffs, and/or the Budget
24 Expert.

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I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

DATED this 4th day of February, 2015.



Karla Soto

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