

ITEM 9
AMENDMENT TO
PARAMETERS AND GUIDELINES
AND
STATEMENT OF DECISION

Government Code Section 50087, Statutes 1978, Chapter 845

Filipino Employee Survey (CSM-2142)
12-PGA-02

As Repealed by:
Statutes 2012, Chapter 32 (SB 1006)

Department of Finance, Requestor

The reimbursement period for this program ends June 27, 2012

EXECUTIVE SUMMARY

Attached is the proposed statement of decision in this matter. This proposed statement of decision also functions as the final staff analysis, as required by section 1183.07 of the Commission's regulations.

I. Background

On March 15, 2013, the Department of Finance (Finance) filed a request with the Commission on State Mandates (Commission) to amend the parameters and guidelines for the *Filipino Employee Survey* program to end reimbursement because the Legislature repealed the test claim statute.¹

On May 21, 1980, in the test claim decision, the Board of Control (predecessor to the Commission) determined that cities and counties incurred "costs mandated by the state" as a result of conducting a survey to determine the number of employees in their workforce who are of Filipino ancestry or ethnic origin. The Board of Control adopted parameters and guidelines on May 27, 1982 which provide that all costs incurred on or after January 1, 1979 are reimbursable.

II. Procedural History

On March 15, 2013, the Finance filed a request to amend the parameters and guidelines for the *Filipino Employee Survey* program. No comments were received on this request.

On January 16, 2014, the Commission issued the draft amendment to parameters and guidelines and statement of decision.

¹ Government Code section 50087, effective June 27, 2012 (Stats. 2012, ch. 32).

On January 27, 2014, the State Controller's Office filed comments recommending no changes to the draft proposed parameters and guidelines amendment and statement of decision. Also on January 27, 2014, Finance filed comments concurring with the staff recommendation to amend the parameters and guidelines to end the period of reimbursement effective June 27, 2012.

III. Analysis

Government Code section 17557(d) authorizes the Commission to amend the parameters and guidelines to delete any reimbursable activity that has been repealed by statute after the adoption of original or last amended parameters and guidelines.

Statutes 2012, chapter 32 repealed Government Code section 50087, effective June 27, 2012, ending the employee survey program and ending all reimbursable state-mandated activities approved under the program.

Accordingly, beginning June 27, 2012, a reimbursable state-mandated program within the meaning of article XIII B, section 6 of the California Constitution no longer exists. Therefore, the proposed amendment to the parameters and guidelines ends reimbursement for the program beginning June 27, 2012.

IV. Conclusion and Staff Recommendation

Staff recommends that the Commission adopt the proposed statement of decision and approve Finance's request to amend the parameters and guidelines for the *Filipino Employee Survey* program to end reimbursement for the program beginning June 27, 2012.

Staff further recommends that the Commission authorize staff to make non-substantive, technical corrections to the statement of decision and parameters and guidelines following the Commission hearing on this matter.

BEFORE THE
COMMISSION ON STATE MANDATES
STATE OF CALIFORNIA

IN RE PARAMETERS AND GUIDELINES
AMENDMENT FOR:

Government Code section 50087

Statutes 1978, Chapter 845

As Repealed by Statutes 2012, Chapter 32
(SB 1006)

Requested by the Department of Finance
March 15, 2013.

Case No.: 12-PGA-02

Filipino Employee Survey (CSM -2142)

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

(Adopted March 28, 2014)

STATEMENT OF DECISION

The Commission on State Mandates (Commission) adopted the attached proposed statement of decision and amendment to parameters and guidelines during a regularly scheduled hearing on March 28, 2014. [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/rejected the amendment to parameters and guidelines and statement of decision by a vote of [vote count will be included in the final statement of decision].

I. Background

Government Code section 50087 was enacted in 1978 and provided:

Every city, county or city and county which has at least 5,000 residents or in which 5 percent of the population is of Filipino ancestry or ethnic origin according to the last federal census, and which conducts any survey as to the ancestry or ethnic origin of its employees, or maintains any statistical tabulation of minority group employees, shall categorize employees whose ancestry or ethnic origin is Filipino as Filipinos in such survey or tabulation.²

On May 21, 1980, the Board of Control (predecessor to the Commission) determined that cities and counties incurred "costs mandated by the state" as a result of conducting a survey to determine the number of employees in their workforce who are of Filipino ancestry or ethnic origin. The test

² Government Code section 50087, Statutes of 1978, Chapter 845.

claim was filed by the City of Los Angeles on October 30, 1979, before the passage of Proposition 4, which established a constitutional right to reimbursement for state-mandated local programs and higher levels of service and before the enactment of Government Code section 17500 et seq., which established a quasi-judicial process for the exercise of that right. Based on the filing date of the test claim, the Board of Control made its findings pursuant to the quasi-legislative process provided by Revenue and Taxation Code section 2253(b) and (c). The Board of Control adopted parameters and guidelines on May 27, 1982 which provide that all costs incurred on or after January 1, 1979 are reimbursable.

II. Request to Amend Parameters and Guidelines

On March 15, 2013, the Department of Finance (Finance) filed a request to amend the parameters and guidelines to reflect the repeal of Government Code section 50087.³ Finance asserts that the repeal of the statute ends the mandate. On January 16, 2013, Commission staff issued the draft amendment to parameters and guidelines and statement of decision.⁴

III. Position of the Parties

No comments have been filed by local government on the request to amend these parameters and guidelines.

On April 19, 2013, the State Controller's Office filed comments concurring with Finance's request.⁵ On January 27, 2014, Finance filed comments concurring with the proposed statement of decision to end the reimbursement period.⁶ Also on January 27, 2014, the State Controller's Office filed comments recommending no changes to the proposed statement of decision.⁷

IV. Commission Findings

Government Code section 17557(d) authorizes the Commission to amend the parameters and guidelines to delete any reimbursable activity that has been repealed by statute after the adoption of original or last amended parameters and guidelines.

The test claim statute, former Government Code section 50087, was enacted in 1978 and provided:

Every city, county or city and county which has at least 5,000 residents or in which 5 percent of the population is of Filipino ancestry or ethnic origin according to the last federal census, and which conducts any survey as to the ancestry or ethnic origin of its employees, or maintains any statistical tabulation of minority group employees, shall categorize employees whose ancestry or ethnic origin is Filipino as Filipinos in such survey or tabulation.⁸

³ Statutes 2012, chapter 32, effective June 27, 2012; Exhibit A.

⁴ Exhibit C.

⁵ Exhibit B.

⁶ Exhibit D.

⁷ Exhibit E.

On May 21, 1980, the Board of Control determined that cities and counties incurred “costs mandated by the state” as a result of conducting a survey to determine the number of employees in their workforce who are of Filipino ancestry or ethnic origin pursuant to former Government Code section 50087. On May 27, 1982, The Board of Control adopted parameters and guidelines providing that all costs incurred on or after January 1, 1979 are reimbursable.

Statutes 2012, chapter 32 repealed Government Code section 50087, effective June 27, 2012, ending the employee survey program and ending all state-mandated activities approved under the program.⁹

Accordingly, beginning June 27, 2012, a reimbursable state-mandated program within the meaning of article XIII B, section 6 of the California Constitution no longer exists.¹⁰

V. Conclusion

The Commission approves Finance’s request and adopts the amended parameters and guidelines for the *Filipino Employee Survey* program to end reimbursement beginning June 27, 2012.

⁹ Statutes 2012, chapter 32, effective June 27, 2012.

¹⁰ A review of the State Controller’s website found no outstanding reimbursement claims for this program since 2004.

Adopted: May 27, 1982

Amended: March 28, 2014

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PROPOSED AMENDMENT TO PARAMETERS AND GUIDELINES

Government Code Section 50087

Chapter 845, Statutes of 1978¹

Filipino Employee Survey (CSM-2142)

12-PGA-02

As Repealed by:

Statutes 2012, Chapter 32 (SB 1006)

The reimbursement period for this program ends on June 27, 2012

Summary of Mandate

Chapter 845, Statutes of 1978 requires in certain instances that Filipino employees be categorized as such in employee ethnicity surveys and tabulations².

Board of Control Decision

The Board of Control determined on May 21, 1980, that cities and counties incurred “costs mandated by the State” as a result of conducting a survey to determine the number of employees who are of Filipino ancestry or ethnic origin in their workforce. The Board made its finding on a test claim filled by the City of Los Angeles on October 30, 1979, pursuant to the provisions of Revenue and Taxation Code Section 2253(b) and (c).

On March 15, 2013, the Department of Finance (Finance) filed a request to amend the parameters and guidelines to end reimbursement for the program on June 27, 2012, as the test claim statute, Government Code section 50087, was repealed by Statutes 2012, chapter 32, effective June 27, 2012.

Eligible Claimants

Every city, county, or city and county which has at least 5000 residents or in which five percent (5%) of the population is of Filipino ancestry or ethnic origin, according to the last Federal census, and which conducts any survey as to the ancestry or ethnic origin of its employees, or which maintains any statistical tabulation of minority group employees, shall categorize employees whose ancestry or ethnic origin is Filipino as Filipinos in such survey or tabulation.

Period of Reimbursement

~~All costs incurred on or after January 1, 1979 are reimbursable. Chapter 845, Statutes of 1978 became effective January 1, 1979. Only one fiscal year shall be included in each claim. The first claim submitted will report costs incurred from January 1, 1979 through June 30, 1979. Pursuant to Revenue and Taxation Code Section 2231(d)(I), all claims for reimbursement of~~

¹ The original parameters and guidelines incorrectly stated Statutes of 1979 instead of 1978.

² Government Code section 50087.

~~costs shall be submitted within 120 days from the date of notification by the Controller of the enactment of the claims bill.~~

~~If total costs incurred in a single fiscal year do not exceed \$200, no reimbursement shall be allowed, except as otherwise provided in Revenue and Taxation Code Section 2233.~~

Statutes 2012, chapter 32 (SB 1006) repealed Government Code section 50087, repealing the state-mandated activities found to be reimbursable, and became effective on June 27, 2012.

Therefore the reimbursement for this program ends beginning June 27, 2012.

Reimbursable Cost

Revenue and Taxation Code Section 2207 defines “costs mandated by the State” to mean any increased costs resulting from an “increased level of service or new program.” Chapter 845, Statutes of 1978 mandates a new program for local government by requiring specified local governments which survey employees for ethnic composition to determine the number of employees who are of Filipino ancestry or ethnic origin in their workforce. Claimants will be reimbursed for increased costs associated with the following activities required by Chapter 845, Statutes of 1978:

(1) Activity: Preparation of draft survey instrument.

Reimbursable Cost: Salary and benefits of personnel directly assigned to the preparation of the survey instrument, provided that reimbursement be provided only once.

(2) Activity: Preparation of a final survey instrument, provided that reimbursement be provided only once.

Reimbursable Cost: Salary and benefits of personnel directly assigned to preparation of the survey.

(3) Activity: Collection and tabulation of survey results.

Reimbursable Cost: Salaries and benefits of personnel directly assigned to the collection and tabulation of survey results, except that only the incremental increase in costs associated with surveying Filipino employees will be reimbursed.

(Reimbursement for conducting a separate survey shall be provided only if the survey was conducted during the period of January 1, 1979 through December 31, 1979.)

(4) Activity: Rewriting of existing computer programs to include data on employees who identify themselves as Filipino.

Reimbursable Cost: Salaries and benefits of personnel directly assigned to this task.

Reimbursement for activities 1 through 4 shall be subject to the following:

Supplies -- charts, graphs, paper and other essential items which are necessary for use in the preparation and completion of the surveys are reimbursable.

Records of actual and necessary staff time to accomplish mandate should be maintained and the claim must be based on these records.

Guidelines for Claim Preparation

This procedure will help the claimant organize the data presentation for the various categories of allowable costs that may be claimed. Adherence to this procedure will speed up the reimbursement process. It will also ensure consistency in the review of the claim and less the need by the Controller's Office to contact the claimant for additional information.

(1) Description of Activity

Copies of invoices, time records, and other documents necessary to support the costs included in this claim should be retained by the claimant for audit purposes. In addition, copies of the invoices relating to professional services are to be submitted with this claim. If costs cannot be supported, the costs reported will be disallowed by the Controller's Office. The selecting of appropriate data is the responsibility of the Claimant.

(2) Salary and Employee's Benefits

Show the classification of the employees involved, mandated function performed, number of hours devoted to the function, hourly rate and fringe benefits.

(3) Services and Supplies

Only expenditures which can be identified as a direct cost as a result of the mandate can be claimed here. List costs of material acquired which have been consumed or expended specifically for the purpose of this mandate.

(4) Allowable Overhead Cost

Indirect costs may only be claimed through an indirect cost rate proposal prepared in accordance with the provision of Federal Regulation OASC-10 (use in conjunction with FMC-74-4.)

Supporting Data

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 on file and made available on the request of the State Controller.

Required Certification

The following certification must accompany the claim:

Required Certification

The following Certification must accompany the claim.

I DO HEREBY CERTIFY:

THAT sections 1090 to 1096 inclusive, of the Government Code and other applicable provisions of law have been complied with; and

THAT I am the person authorized by the local agency to file claim with the State of California.

Signature of Authorized Representative

Date

Title

Telephone Number