

COMMISSION ON STATE MANDATES

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May 8, 2013

To: Interested Parties and Affected State Agencies (See Mailing List)

Re: **Proposed Amendment to Parameters and Guidelines as Directed by the Legislature and Notice of Hearing**

Mandate Reimbursement Process I and II, (CSM-4204, 4485 and 05-TC-05), 12-PGA-03
Directed by the Legislature in Statutes 2011, Chapter 33 (Budget Act of 2011) and
Statutes 2012, Chapter 21, (Budget Act of 2012)

The proposed amendment to parameters and guidelines and statement of decision for the above-named matter are enclosed.

Hearing

This matter is set for hearing on **Friday, May 24, 2013**, at 10:00 a.m., State Capitol, Room 447, Sacramento, California. Please let us know in advance if you or a representative of your agency will testify at the hearing, and if other witnesses will appear. If you would like to request postponement of the hearing, please refer to section 1183.01(c)(2) of the Commission's regulations.

Special Accommodations

For any special accommodations such as a sign language interpreter, an assistive listening device, materials in an alternative format, or any other accommodations, please contact the Commission Office at least five to seven *working* days prior to the meeting.

Please contact Heidi Palchik at (916) 323-3562 if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Heather Halsey".

Heather Halsey
Executive Director

ITEM 5

**PROPOSED AMENDMENT TO PARAMETERS AND GUIDELINES
DIRECTED BY THE LEGISLATURE**

AND

STATEMENT OF DECISION

Statutes 1975, Chapter 486

Statutes 1984, Chapter 1459

Statutes 1995, Chapter 303 (Budget Act of 1995)

Statutes 1996, Chapter 162 (Budget Act of 1996)

Statutes 1997, Chapter 282 (Budget Act of 1997)

Statutes 1998, Chapter 324 (Budget Act of 1998)

Statutes 1999, Chapter 50 (Budget Act of 1999)

Statutes 2000, Chapter 52 (Budget Act of 2000)

Statutes 2001, Chapter 106 (Budget Act of 2001)

Statutes 2002, Chapter 379 (Budget Act of 2002)

Statutes 2003, Chapter 157 (Budget Act of 2003)

Statutes 2004, Chapter 208 (Budget Act of 2004)

Statutes 2005, Chapter 38 (Budget Act of 2005)

Statutes 2006, Chapter 47 (Budget Act of 2006)

Statutes 2007, Chapter 171 (Budget Act of 2007)

Statutes 2008, Chapter 268 (Budget Act of 2008)

Statutes 2009, Chapter 1, Third Extraordinary Session (Budget Act of 2009)

Statutes 2010, Chapter 712 (Budget Act of 2010)

Government Code Section 17553 (b)(1)(C) through (G) and (b)(2)

Statutes 2004, Chapter 890 (AB 2856)

California Code of Regulations, Title 2, Section 1183(d)

(Register 2005, No. 36, Effective September 6, 2005)

Mandate Reimbursement Process I and II

12-PGA-03 (CSM-4204, 4485, and 05-TC-05)

TO ADD:

Statutes 2011, Chapter 33 (Budget Act of 2011)

Statutes 2012, Chapter 21 (Budget Act of 2012)

EXECUTIVE SUMMARY

This item addresses amendments to the *Mandate Reimbursement Process I and II* parameters and guidelines, as adopted on May 26, 2011, to comply with the Budget Acts of 2011 and 2012.

Background and Summary of the Mandate

Mandate Reimbursement Process I (MRP I)

On April 24, 1986, the Commission on State Mandates (Commission) adopted the *MRP I* statement of decision, determining that Statutes 1975, chapter 486 and Statutes 1984, chapter 1459, which established the reimbursement process for state-mandated programs in Government Code sections 17500 et seq., was a reimbursable state-mandated program pursuant to article XIII B, section 6 of the California Constitution. On November 20, 1986, the Commission adopted parameters and guidelines, authorizing reimbursement for filing successful test claims, reimbursement claims, and incorrect reduction claims.

Mandate Reimbursement Process II (MRP II)

On January 29, 2010, the Commission adopted a statement of decision finding that Government Code section 17553(b)(1)(C) through (G) and (b)(2) as amended by Statutes 2004, chapter 890, and section 1183(d), of the Commission's regulations, as adopted in 2005, increase the requirements for filing test claims and impose a partial reimbursable state-mandated program within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514 for the additional filing requirements for approved test claims.

The parameters and guidelines for *MRP I* and *MRP II* were consolidated effective July 1, 2011.

Appendix A and Annual Budget Acts

Beginning in 1995 and through fiscal year 2012-2013, the State Budget Act has included the following language in the "Provisions" following the appropriations for the State Controller's Office (SCO):

The Commission on State Mandates shall provide, in applicable parameters and guidelines, as follows:

- (a) If a local agency or school district contracts with an independent contractor for the preparation and submission of reimbursement claims, the costs reimbursable by the state for that purpose shall not exceed the less of (1) 10 percent of the amount of the claims prepared and submitted by the independent contractor, or (2) the actual costs that would necessarily have been incurred for that purpose if performed by employees of the local agency or school district.
- (b) The maximum amount of reimbursement provided in subdivision (a) may be exceeded only if the local agency or school district establishes, by appropriate documentation, that the preparation and submission of these claims could not have been accomplished without incurring the additional costs claimed by the local agency or school district.

Prior to consolidation, language to implement this provision was included in Appendix A to the *MRP I* parameters and guidelines. On May 26, 2011, the Commission adopted consolidated parameters and guidelines for *MRP I* and *MRP II* and attached Appendix A to the parameters and guidelines to comply with this provision of the 2010 Budget Act through fiscal year 2010-11.

This proposed parameters and guidelines amendment makes the following changes to comply with the Budget Acts of 2011 and 2012 and any future Budget Acts that include the same provision concerning local reimbursement for the costs of contracting with an independent contractor:

- Adds Budget Act citations to the first page of the parameters and guidelines.
- Adds language to *Section V. Claim Preparation and Submission* addressing local reimbursement for the costs of contracting with an independent contractor.
- Deletes Appendix A.
- Makes other non-substantive, technical amendments to the parameters and guidelines. These include recommendations made by the State Controller's Office in comments filed on April 26, 2013 in response to the draft staff analysis and proposed amendment to parameters and guidelines issued by the Commission on April 12, 2013.

Staff Recommendation

Staff recommends that the Commission:

- Adopt the proposed amendments to the *Mandate Reimbursement Process I and II* parameters and guidelines adopted on May 26, 2011, to comply with the Budget Acts of 2011 and 2012 and any future Budget Acts that include the same specified provision.
- Authorize staff to make any non-substantive, technical corrections to the parameters and guidelines following the hearing.

BEFORE THE
COMMISSION ON STATE MANDATES
STATE OF CALIFORNIA

IN RE PARAMETERS AND GUIDELINES
AMENDMENT FOR:

Statutes 1975, Chapter 486
Statutes 1984, Chapter 1459
Statutes 1995, Chapter 303 (Budget Act of 1995)
Statutes 1996, Chapter 162 (Budget Act of 1996)
Statutes 1997, Chapter 282 (Budget Act of 1997)
Statutes 1998, Chapter 324 (Budget Act of 1998)
Statutes 1999, Chapter 50 (Budget Act of 1999)
Statutes 2000, Chapter 52 (Budget Act of 2000)
Statutes 2001, Chapter 106 (Budget Act of 2001)
Statutes 2002, Chapter 379 (Budget Act of 2002)
Statutes 2003, Chapter 157 (Budget Act of 2003)
Statutes 2004, Chapter 208 (Budget Act of 2004)
Statutes 2005, Chapter 38 (Budget Act of 2005)
Statutes 2006, Chapter 47 (Budget Act of 2006)
Statutes 2007, Chapter 171 (Budget Act of 2007)
Statutes 2008, Chapter 268 (Budget Act of 2008)
Statutes 2009, Chapter 1, Third Extraordinary
Session (Budget Act of 2009)
Statutes 2010, Chapter 712 (Budget Act of 2010)
Statutes 2011, Chapter 33 (Budget Act of 2011)
Statutes 2012, Chapter 21 (Budget Act of 2012)

Government Code Section 17553(b)(1)(C)
through (G) and (b)(2)
Statutes 2004, Chapter 890 (AB 2856)
California Code of Regulations, Title 2, Section
1183(d) Register 2005, No. 36, (Effective
September 6, 2005)

Directed by the Legislature in Statutes 2011,
Chapter 33 (Budget Act of 2011) and
Statutes 2012, Chapter 21 (Budget Act of 2012).

Case No.: 12-PGA-03 (CSM-4204, 4485,
and 05-TC-05)

Mandate Reimbursement Process I and II

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 May 24, 2013)

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 May 24, 2013. [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 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. Summary of the Mandate

Mandate Reimbursement Process I and II (MRP I and II)

On April 24, 1986, the Commission adopted the *MRP I* statement of decision, determining that Statutes 1975, chapter 486 and Statutes 1984, chapter 1459, which established the reimbursement process for state-mandated programs in Government Code sections 17500 et seq., was a reimbursable state-mandated program pursuant to article XIII B, section 6 of the California Constitution. On November 20, 1986, the Commission adopted parameters and guidelines, authorizing reimbursement for filing successful test claims, reimbursement claims, and incorrect reduction claims.

On January 29, 2010, the Commission adopted a statement of decision finding that Government Code section 17553(b)(1)(C) through (G) and (b)(2) as amended by Statutes 2004, chapter 890, and section 1183(d), of the Commission's regulations, as adopted in 2005, increase the requirements for filing test claims and impose a partial reimbursable state-mandated program within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514 for the additional filing requirements for approved test claims.

The parameters and guidelines for *MRP I* and *MRP II* were consolidated effective July 1, 2011.

This amendment is directed by the Legislature in Statutes 2011, Chapter 33 (Budget Act of 2011) and Statutes 2012, Chapter 21 (Budget Act of 2012) to limit the reimbursable costs for the preparation and submission of reimbursement claims by independent contractors.

Appendix A and Annual Budget Acts

Beginning in 1995 and through fiscal year 2012-2013, the State Budget Act has included the following language in the "Provisions" following the appropriations for the State Controller's Office (SCO):

The Commission on State Mandates shall provide, in applicable parameters and guidelines, as follows:

- (a) If a local agency or school district contracts with an independent contractor for the preparation and submission of reimbursement claims, the costs reimbursable by the state for that purpose shall not exceed the less of (1) 10 percent of the amount of the claims prepared and submitted by the independent contractor, or (2) the actual costs that would necessarily have been incurred for that purpose if performed by employees of the local agency or school district.
- (b) The maximum amount of reimbursement provided in subdivision (a) may be exceeded only if the local agency or school district establishes, by appropriate documentation, that the preparation and submission of these claims could not have been accomplished without incurring the additional costs claimed by the local agency or school district.

Prior to consolidation, this language was included in Appendix A to the *MRP I* parameters and guidelines. On May 26, 2011, the Commission adopted consolidated parameters and guidelines for *MRP I* and *II* and attached Appendix A to the parameters and guidelines to comply with this provision of the 2010 Budget Act through fiscal year 2010-2011.

II. Procedural History

On April 24, 1986, the Commission adopted the *Mandate Reimbursement Process (MRP I)* test claim statement of decision. On November 20, 1986, the Commission adopted the original parameters and guidelines for the *MRP I* program. Numerous amendments to the *MRP I* parameters and guidelines have been adopted to comply with annual budget act language.

On January 29, 2010, the Commission adopted the *Mandate Reimbursement Process II (MRPII)* test claim statement of decision. On May 26, 2011 the Commission adopted consolidated parameters and guidelines for *MRP I* and *MRP II* effective July 1, 2011.¹

On June 30, 2011, Senate Bill 87 (Budget Act of 2011) was chaptered and effective for fiscal year 2011-2012. On June 27, 2012, Assembly Bill 1464 (Budget Act of 2012) was chaptered and effective for fiscal year 2012-2013.

On April 12, 2013 the Commission issued a draft staff analysis and proposed amendment to parameters and guidelines with a comment period ending on May 3, 2013.²

On April 26, 2013 the State Controller's Office (SCO) filed comments recommending minor changes for consistency with current boilerplate language and non-substantive technical corrections in the parameters and guidelines.³

On May 3, 2013, the Department of Finance (Finance) filed comments stating that they had no concerns with the proposed amendment to the parameters and guidelines.⁴

III. Positions of the Parties

Legislatively Directed Amendment to the Parameters and Guidelines

This amendment to the parameters and guidelines was directed by the Legislature in Statutes 2011, chapter 33 (Budget Act of 2011) and Statutes 2012, chapter 21 (Budget Act of 2012).⁵

IV. Commission Findings

This amendment to the parameters and guidelines was directed by the Legislature in Statutes 2011, chapter 33 (Budget Act of 2011) and Statutes 2012, chapter 21 (Budget Act of 2012).

Line item 0840-001-0001, provision 5 of Budget Act 2011 and Budget Act 2012 states:

The Commission on State Mandates shall provide, in applicable parameters and guidelines, as follows:

¹ Exhibit A.

² Exhibit B.

³ Exhibit C.

⁴ Exhibit D.

⁵ Exhibit E. Budget Act 2012, Line item 0840-001-0001, provision 5 (same as Budget Act 2011)

- (a) If a local agency or school district contracts with an independent contractor for the preparation and submission of reimbursement claims, the costs reimbursable by the state for that purpose shall not exceed the less of (1) 10 percent of the amount of the claims prepared and submitted by the independent contractor, or (2) the actual costs that would necessarily have been incurred for that purpose if performed by employees of the local agency or school district.
- (b) The maximum amount of reimbursement provided in subdivision (a) may be exceeded only if the local agency or school district establishes, by appropriate documentation, that the preparation and submission of these claims could not have been accomplished without incurring the additional costs claimed by the local agency or school district.

The same language as is quoted above has been included in the Annual Budget Act since 1995. With the exception of a span of years, when this mandate was reconsidered under legislative direction and was challenged in court and thus stayed, the Commission has amended the parameters and guidelines on a nearly annual basis to include the language below. To comply with this legislatively directed amendment, and to increase efficiency by eliminating the need to annually amend these parameters and guidelines, the Commission is amending section V of the parameters and guidelines to state as follows:

For each year that the above language is included in the annual budget act, the following shall apply:

1. If a local agency or school district contracts with an independent contractor for the preparation and submission of reimbursement claims, the costs reimbursable by the state for that purpose shall not exceed the lesser of (1) 10 percent of the amount of the claims prepared and submitted by the independent contractor, or (2) the actual costs that would necessarily have been incurred for that purpose if performed by employees of the local agency or school district.

The maximum amount of reimbursement provided in subdivision (1) for an independent contractor may be exceeded only if the local agency or school district establishes, by appropriate documentation, that the preparation and submission of these claims could not have been accomplished without incurring the additional costs claimed by the local agency or school district.

2. Costs incurred for contract services and/or legal counsel that assist in the preparation, submission or presentation of claims are recoverable within the limitations imposed under subdivision 1 above. Provide copies of the invoices and/or claims that were paid. For the preparation and submission of claims pursuant to Government Code sections 17561 and 17564, submit an estimate of the actual costs that would have been incurred for that purpose if performed by employees of the local agency or school district; this cost estimate is to be certified by the governing body or its designee.

If reimbursement is sought for independent contractor costs that are in excess of **[Test (1)]** ten percent of the claims prepared and submitted by the independent contractor or **[Test (2)]** the actual costs that necessarily would have been incurred for that purpose if performed by employees of the local agency or school district, appropriate documentation must be submitted to show that the preparation and

submission of these claims could not have been accomplished without the incurring of the additional costs claimed by the local agency or school district. Appropriate documentation includes the record of dates and time spent by staff of the contractor for the preparation and submission of claims on behalf of the local agency or school district, the contractor's billed rates, and explanation on reasons for exceeding Test (1) and/or Test (2). In the absence of appropriate documentation, reimbursement is limited to the lesser of Test (1) and/or Test (2). No reimbursement shall be permitted for the cost of contracted services without the submission of an estimate of actual costs by the local agency or school district.

Appendix A has been deleted from the parameters and guidelines as the addition of the above language to Section V. complies with Budget Acts of 2011 and 2012 and as any future Budget Act that includes the same provision. On April 26, the SCO filed comments recommending minor changes for consistency with current boilerplate language and non-substantive technical corrections. The recommendations of the SCO are included in the amendment to parameters and guidelines.

Conclusion

The Commission adopts the amendment to the parameters and guidelines discussed above and this statement of decision for the *Mandate Reimbursement Process I and II* program.

Hearing Date: May 24, 2013

CONSOLIDATED PARAMETERS AND GUIDELINES

Statutes 1975, Chapter 486
Statutes 1984, Chapter 1459
Statutes 1995, Chapter 303 (Budget Act of 1995)
Statutes 1996, Chapter 162 (Budget Act of 1996)
Statutes 1997, Chapter 282 (Budget Act of 1997)
Statutes 1998, Chapter 324 (Budget Act of 1998)
Statutes 1999, Chapter 50 (Budget Act of 1999)
Statutes 2000, Chapter 52 (Budget Act of 2000)
Statutes 2001, Chapter 106 (Budget Act of 2001)
Statutes 2002, Chapter 379 (Budget Act of 2002)
Statutes 2003, Chapter 157 (Budget Act of 2003)
Statutes 2004, Chapter 208 (Budget Act of 2004)
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Statutes 2006, Chapter 47 (Budget Act of 2006)
Statutes 2007, Chapter 171 (Budget Act of 2007)
Statutes 2008, Chapter 268 (Budget Act of 2008)
Statutes 2009, Chapter 1, Third Extraordinary Session (Budget Act of 2009)
Statutes 2010, Chapter 712 (Budget Act of 2010)
[Statutes 2011, Chapter 33 \(Budget Act of 2011\)](#)
[Statutes 2012, Chapter 21 \(Budget Act of 2012\)](#)

~~Mandate Reimbursement Process I~~
CSM 4204 and 4485

And

Government Code Section 17553, ~~Subdivision~~ (b)(1)(C) through (G) and (b)(2)
Statutes 2004, Chapter 890 (AB 2856)
California Code of Regulations, Title 2, Sections 1183, ~~Subdivision~~ (d)
(Register 2005, No. 36, Effective September 6, 2005)

Mandate Reimbursement Process I and II
[12-PGA-03 \(CSM 4204, CSM 4485, and 05-TC-05\)](#)

(Effective Beginning July 1, 2011)

[\[For fiscal year 2010-2011, these parameters and guidelines are amended pursuant to the requirements of provision 5 of Item 0840-001-0001 of the Budget Act of 2010 to include Appendix A.\]](#)

I. SUMMARY OF THE MANDATE

Mandate Reimbursement Process I

On April 24, 1986, the Commission adopted the *Mandate Reimbursement Process I* statement of decision determining that Statutes ~~1875~~1975, chapter 486 and Statutes 1984, chapter 1459, which established the reimbursement process for state-mandated programs in Government Code section 17500 et seq., was a reimbursable state-mandated program pursuant to article XIII B, section 6 of the California Constitution. On November 20, 1986, the Commission adopted parameters and guidelines, authorizing reimbursement for filing successful test claims, reimbursement claims, and incorrect reduction claims.

Mandate Reimbursement Process II

~~On September 27, 2005, a test claim was filed on Statutes 2004, chapter 890, which amended Government Code section 17553 to increase the requirements for filing test claims. The Commission subsequently adopted regulations to implement Statutes 2004, chapter 890 (Cal. Code Regs., tit. 2, § 1183, subd. (d)).~~

On January 29, 2010, the Commission adopted a statement of decision finding that Government Code section 17553, ~~subdivision~~ (b)(1)(C) through (G) and (b)(2) as amended by Statutes 2004, chapter 890, and section 1183, ~~subdivision~~ (d), of the Commission's regulations, as adopted in 2005, increase the requirements for filing test claims and constitute a reimbursable state-mandated program within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514. ~~The Commission approved this test claim for the following reimbursable activities:~~

- ~~1. All test claims and test claim amendments shall include a written narrative that identifies the specific sections of statutes or executive orders alleged to contain a mandate, including:
 - ~~a. The actual increased costs incurred by the claimant during the fiscal year for which the claim is filed.~~
 - ~~b. The actual or estimated annual costs that will be incurred by the claimant to implement the alleged mandate during the fiscal year immediately following the fiscal year for which the claim is filed.~~
 - ~~c. A statewide cost estimate of increased costs that all local agencies or school districts will incur to implement the alleged mandate during the fiscal year immediately following the fiscal year for which the claim is filed.~~
 - ~~d. Identification of dedicated state funds appropriated for the program; dedicated federal funds appropriated for the program; other nonlocal agency funds dedicated to the program; the local agency's general purpose funds for the program; and fee authority to offset the costs of the program.~~
 - ~~e. Identification of prior mandate determinations made by the Board of Control or the Commission that may be related to the alleged mandate.~~~~

~~(Gov. Code, § 17553, subd. (b)(1)(C) through (G), as amended by Stats. 2004, ch. 890; Cal. Code Regs., tit. 2, § 1183, subd. (d), Register 2005, No. 36, effective September 6, 2005.)~~

- ~~2. The written narrative in the test claim or test claim amendment shall be supported with declarations under penalty of perjury, based on the declarant's personal knowledge, information, or belief, and signed by persons who are authorized and competent to do so, as follows:~~

~~a. — Declarations of actual or estimated increased costs that will be incurred by the claimant to implement the alleged mandate.~~

~~b. — Declarations identifying all local, state, or federal funds, or fee authority that may be used to offset the increased costs that will be incurred by the claimant to implement the alleged mandate, including direct and indirect costs.~~

~~c. — Declarations describing new activities performed to implement specified provisions of the new statute or executive order.~~

~~(Gov. Code, § 17553, subd. (b)(2), as amended by Stats. 2004, ch. 890; Cal. Code Regs., tit. 2, § 1183, subd. (d), Register 2005, No. 36, effective September 6, 2005.)~~

~~These activities are reimbursable only when a test claim is approved.~~

II. ELIGIBLE CLAIMANTS

Any "local agency" as defined in Government Code section 17518 that incurs increased costs as a result of this reimbursable state-mandated program is eligible to claim reimbursement of those costs.

Any "school district" as defined in Government Code section 17519, including community college districts, which incurs increased costs as a result of this mandate is eligible to claim reimbursement. Charter schools are not eligible claimants.

III. PERIOD OF REIMBURSEMENT

These ~~consolidated~~ parameters and guidelines are effective beginning July 1, 2011.

Reimbursement for state-mandated costs may be claimed as follows:

1. Actual costs for one fiscal year shall be included in each claim.
2. Pursuant to Government Code section 17561, ~~subdivision~~ (d)(1)(A), all claims for reimbursement of initial fiscal year costs shall be submitted to the State Controller within 120 days of the issuance date for the claiming instructions.
3. Pursuant to Government Code section 17560, ~~subdivision~~ (a), a local agency or school district may, by February 15 following the fiscal year in which costs were incurred, file an annual reimbursement claim that details the costs actually incurred for that fiscal year.
4. In the event that revised claiming instructions are issued by the Controller pursuant to Government Code section 17558, ~~subdivision~~ (c) between November 15 and February 15, a local agency or school district filing an annual reimbursement claim shall have 120 days following the issuance date of the revised claiming instructions to file a claim. (Gov. Code, § 17560, ~~subd.~~(b).)
5. If the total costs for a given fiscal year do not exceed \$1,000, no reimbursement shall be allowed except as otherwise allowed by Government Code section 17564.
6. There shall be no reimbursement for any period in which the Legislature has suspended the operation of a mandate pursuant to state law.¹

¹Statutes 2010, chapter 712, Item 0840-001-0001, Provision 5.

IV. REIMBURSABLE ACTIVITIES

To be eligible for mandated cost reimbursement for any fiscal year, only actual costs may be claimed. Actual costs are those costs actually incurred to implement the mandated activities. Actual costs must be traceable and supported by source documents that show the validity of such costs, when they were incurred, and their relationship to the reimbursable activities. A source document is a document created at or near the same time the actual cost was incurred for the event or activity in question. Source documents may include, but are not limited to, employee time records or time logs, sign-in sheets, invoices, and receipts.

Evidence corroborating the source documents may include, but is not limited to, worksheets, cost allocation reports (system generated), purchase orders, contracts, agendas, training packets, and declarations. Declarations must include a certification or declaration stating, "I certify (or declare) under penalty of perjury under the laws of the State of California that the foregoing is true and correct," and must further comply with the requirements of Code of Civil Procedure section 2015.5. Evidence corroborating the source documents may include data relevant to the reimbursable activities otherwise in compliance with local, state, and federal government requirements. However, corroborating documents cannot be substituted for source documents.

The claimant is only allowed to claim and be reimbursed for increased costs for reimbursable activities identified below. Increased cost is limited to the cost of an activity that the claimant is required to incur as a result of the mandate.

For each eligible claimant, the following activities are reimbursable:

A. Scope of Mandate

Local agencies and school districts filing successful test claims and reimbursement claims incur state-mandated costs. The purpose of this test claim is to establish that local governments cannot be made financially whole unless all state-mandated costs -- both direct and indirect -- are reimbursed. 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.

B. One-Time Activities (One-Time Per Employee) – Successful Test Claims Only

1. Training

a. Classes

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.

b. Commission Workshops

Participation in workshops convened by the Commission is reimbursable. Such costs include, but are not limited to, salaries and benefits, transportation, and per diem. This does not include reimbursement for participation in rulemaking proceedings.

C. On-Going Activities – Successful Test Claims Only

1. Test Claims

All costs incurred by local agencies and school districts in preparing and presenting successful test claims are reimbursable, including those same costs of an unsuccessful test claim if an adverse Commission ruling is later reversed as a result of a court order. These activities include, but are not limited to, the following: preparing and presenting test claims, developing parameters and guidelines, collecting cost data, and helping with the drafting of required claiming instructions. The following activities are eligible for reimbursement when preparing a test claim or test claim amendment. The costs of all successful test claims are reimbursable.

Costs that may be reimbursed include the following: salaries and benefits, materials and supplies, consultant and legal costs, transportation, and indirect costs.

a. Written Narrative

All test claims and test claim amendments shall include a written narrative as described below.

Draft the written narrative that identifies the specific sections of statutes or executive orders alleged to contain a mandate. Complete the following reimbursable activities to include in the written narrative:

- Gather and review information to complete the test claim narrative.
- Calculate the actual increased costs incurred by the claimant during the fiscal year for which the claim is filed.
- Calculate the actual or estimated annual costs that will be incurred by the claimant to implement the alleged mandate during the fiscal year immediately following the fiscal year for which the claim is filed.
- Calculate a statewide cost estimate of increased costs that all local agencies or school districts will incur to implement the alleged mandate during the fiscal year immediately following the fiscal year for which the claim is filed.
- Investigate other funding sources to identify dedicated state funds appropriated for the program; dedicated federal funds appropriated for the program; other nonlocal agency funds dedicated to the program; the local agency's general purpose funds for the program; and fee authority to offset the costs of the program.
- Review and identify prior mandate determinations made by the Board of Control or the Commission that may be related to the alleged mandate.

(Gov. Code, § 17553, ~~subd.~~ (b)(1)(C) through (G), as amended by Stats. 2004, ch. 890; Cal. Code Regs., tit. 2, § 1183, ~~subd.~~ (d), Register 2005, No. 36, eff. September 6, 2005.)

b. Declarations

The written narrative in the test claim or test claim amendment shall be supported with declarations under penalty of perjury, based on the declarant's personal knowledge, information, or belief, and signed by persons who are authorized and competent to do so. The following activities to complete the declarations are reimbursable:

Draft and file the following declarations:

- Declarations of actual or estimated increased costs that will be incurred by the claimant to implement the alleged mandate.
- Declarations identifying all local, state, or federal funds, or fee authority that may be used to offset the increased costs that will be incurred by the claimant to implement the alleged mandate, including direct and indirect costs.
- Declarations describing new activities performed to implement specified provisions of the new statute or executive order.

(Gov. Code, § 177553, ~~subd.~~ (b)(2), as amended by Stats. 2004, ch. 890; Cal. Code Regs., tit. 2, § 1183, ~~subd.~~ (d), Register 2005, No. 36, eff. September 6, 2005).

Review the declarations with declarants, and obtain the declarants' signatures.

D. 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, unless the Legislature has suspended the operation of [the](#) mandate pursuant to state law. Allowable costs include, but are not limited to, the following: salaries and benefits, service and supplies, contracted services, training, and indirect costs.

Incorrect Reduction Claims are considered to be an element of the reimbursement process. Reimbursable activities for successful incorrect reduction claims include the appearance of necessary representatives before the Commission on State Mandates to present the claim, in addition to the reimbursable activities set forth above for successful reimbursement claims.

V. CLAIM PREPARATION AND SUBMISSION

Each of the following cost elements must be identified for each reimbursable activity identified in Section IV, Reimbursable Activities, of this document. Each claimed reimbursable cost must be supported by source documentation as described in Section IV. Additionally, each reimbursement claim must be filed in a timely manner.

A. [Limitation on Reimbursement for Independent Contractor Costs](#)

[Since 1995, the annual budget act has included the following language:](#)

[The Commission on State Mandates shall provide, in applicable parameters and guidelines, as follows:](#)

- (a) If a local agency or school district contracts with an independent contractor for the preparation and submission of reimbursement claims, the costs reimbursable by the state for that purpose shall not exceed the less of (1) 10 percent of the amount of the claims prepared and submitted by the independent contractor, or (2) the actual costs that would necessarily have been incurred for that purpose if performed by employees of the local agency or school district.
- (b) The maximum amount of reimbursement provided in subdivision (a) may be exceeded only if the local agency or school district establishes, by appropriate documentation, that the preparation and submission of these claims could not have been accomplished without incurring the additional costs claimed by the local agency or school district.

For each year that the above language is included in the annual budget act, the following shall apply:

1. If a local agency or school district contracts with an independent contractor for the preparation and submission of reimbursement claims, the costs reimbursable by the state for that purpose shall not exceed the lesser of (1) 10 percent of the amount of the claims prepared and submitted by the independent contractor, or (2) the actual costs that would necessarily have been incurred for that purpose if performed by employees of the local agency or school district.

The maximum amount of reimbursement provided in subdivision (1) for an independent contractor may be exceeded only if the local agency or school district establishes, by appropriate documentation, that the preparation and submission of these claims could not have been accomplished without incurring the additional costs claimed by the local agency or school district.

2. Costs incurred for contract services and/or legal counsel that assist in the preparation, submission or presentation of claims are recoverable within the limitations imposed under subdivision 1 above. Provide copies of the invoices and/or claims that were paid. For the preparation and submission of claims pursuant to Government Code sections 17561 and 17564, submit an estimate of the actual costs that would have been incurred for that purpose if performed by employees of the local agency or school district; this cost estimate is to be certified by the governing body or its designee.

If reimbursement is sought for independent contractor costs that are in excess of [Test (1)] ten percent of the claims prepared and submitted by the independent contractor or [Test (2)] the actual costs that necessarily would have been incurred for that purpose if performed by employees of the local agency or school district, appropriate documentation must be submitted to show that the preparation and submission of these claims could not have been accomplished without the incurring of the additional costs claimed by the local agency or school district. Appropriate documentation includes the record of dates and time spent by staff of the contractor for the preparation and submission of claims on behalf of the local agency or school district, the contractor's billed rates, and explanation on reasons for exceeding Test (1) and/or Test (2). In the absence of appropriate documentation, reimbursement is limited to the lesser of Test (1) and/or Test (2). No

reimbursement shall be permitted for the cost of contracted services without the submission of an estimate of actual costs by the local agency or school district.

B. A. Direct Cost Reporting

Direct costs are those costs incurred specifically for the reimbursable activities. The following direct costs are eligible for reimbursement.

1. Salaries and Benefits

Report each employee implementing the reimbursable activities by name, job classification, and productive hourly rate (total wages and related benefits divided by productive hours). Describe the specific reimbursable activities performed and the hours devoted to each reimbursable activity performed.

2. Materials and Supplies

Report the cost of materials and supplies that have been consumed or expended for the purpose of the reimbursable activities. Purchases shall be claimed at the actual price after deducting discounts, rebates, and allowances received by the claimant. Supplies that are withdrawn from inventory shall be charged on an appropriate and recognized method of costing, consistently applied.

3. Contracted Services

Report the name of the contractor and services performed to implement the reimbursable activities. Attach a copy of the contract to the claim. If the contractor bills for time and materials, report the number of hours spent on the activities and all costs charged. If the contract is a fixed price, report the dates when services were performed and itemize all costs for those services during the period covered by the reimbursement claim. If the contract services were also used for purposes other than the reimbursable activities, only the pro-rata portion of the services used to implement the reimbursable activities can be claimed. Submit contract consultant and attorney invoices with the claim and a description of the contract scope of services.

4. Fixed Assets

Report the purchase price paid for fixed assets (including computers) necessary to implement the reimbursable activities. The purchase price includes taxes, delivery costs, and installation costs. If the fixed asset is also used for purposes other than the reimbursable activities, only the pro-rata portion of the purchase price used to implement the reimbursable activities can be claimed.

5. Travel

Report the name of the employee traveling for the purpose of the reimbursable activities. Include the date of travel, destination point, the specific reimbursable activity requiring travel, and related travel expenses reimbursed to the employee in compliance with the rules of the local jurisdiction. Report employee travel time according to the rules of cost element A.1, Salaries and Benefits, for each applicable reimbursable activity.

6. Training

Report the cost of training an employee to perform the reimbursable activities, as specified in Section IV of this document. Report the name and job classification of each employee preparing

for, attending, and/or conducting training necessary to implement the reimbursable activities. Provide the title, subject, and purpose (related to the mandate of the training session), dates attended, and location. If the training encompasses subjects broader than the reimbursable activities, only the pro-rata portion can be claimed. Report employee training time for each applicable reimbursable activity according to the rules of cost element A.1, Salaries and Benefits, and A.2, Materials and Supplies. Report the cost of consultants who conduct the training according to the rules of cost element A.3, Contracted Services.

BC. Indirect Cost Reporting

1. Local Agencies

Indirect costs are costs that are incurred for a common or joint purpose, benefiting more than one program, and are not directly assignable to a particular department or program without efforts disproportionate to the result achieved. Indirect costs may include both (1) overhead costs of the unit performing the mandate; and (2) the costs of the central government services distributed to the other departments based on a systematic and rational basis through a cost allocation plan.

Compensation for indirect costs is eligible for reimbursement utilizing the procedure provided in the Office of Management and Budget (OMB) Circular A-87. Claimants have the option of using 10% of direct labor, excluding fringe benefits, or preparing an Indirect Cost Rate Proposal (ICRP) if the indirect cost rate claimed exceeds 10%.

If the claimant chooses to prepare an ICRP, both the direct costs (as defined and described in OMB Circular A-87 Attachments A and B) and the indirect costs shall exclude capital expenditures and unallowable costs (as defined and described in OMB Circular A-87 Attachments A and B). However, unallowable costs must be included in the direct costs if they represent activities to which indirect costs are properly allocable.

The distribution base may be (1) total direct costs (excluding capital expenditures and other distorting items, such as pass-through funds, major subcontracts, etc.), (2) direct salaries and wages, or (3) another base which results in an equitable distribution.

In calculating an ICRP, the claimant shall have the choice of one of the following methodologies:

- a. The allocation of allowable indirect costs (as defined and described in OMB Circular A-87 Attachments A and B) shall be accomplished by (1) classifying a department's total costs for the base period as either direct or indirect, and (2) dividing the total allowable indirect costs (net of applicable credits) by an equitable distribution base. The result of this process is an indirect cost rate which is used to distribute indirect costs to mandates. The rate should be expressed as a percentage which the total amount allowable indirect costs bears to the base selected; or
- b. The allocation of allowable indirect costs (as defined and described in OMB Circular A-87 Attachments A and B) shall be accomplished by (1) separating a department into groups, such as divisions or sections, and then classifying the division's or section's total costs for the base period as either direct or indirect, and (2) dividing the total allowable indirect costs (net of applicable credits) by an equitable distribution base. The result of this process is an indirect cost rate that is used to distribute

indirect costs to mandates. The rate should be expressed as a percentage which the total amount allowable indirect costs bears to the base selected.

2. School Districts

Indirect costs are costs that have been incurred for common or joint purposes. These costs benefit more than one cost objective and cannot be readily identified with a particular final cost objective without effort disproportionate to the results achieved. After direct costs have been determined and assigned to other activities, as appropriate, indirect costs are those remaining to be allocated to benefited cost objectives. A cost may not be allocated as an indirect cost if any other cost incurred for the same purpose, in like circumstances, has been claimed as a direct cost.

Indirect costs include: (a) the indirect costs originating in each department or agency of the governmental unit carrying out state mandated programs, and (b) the costs of central governmental services distributed through the central service cost allocation plan and not otherwise treated as direct costs.

School districts ~~and county offices of education~~ must use the [Restrictive Indirect Cost Rates for K-12 Local Educational Agencies \(LEAs\) Five Year Listing](#) issued by the California Department of Education (CDE) [School Fiscal Services Division, approved indirect cost rate](#) for the fiscal year ~~of costs that funds are expended~~.

3. Community College Districts

Community colleges have the option of using: (1) a federally approved rate, utilizing the cost accounting principles from the Office of Management and Budget Circular A-21, "Cost Principles of Educational Institutions"; (2) the rate calculated on State Controller's Form FAM-29C; or (3) a 7% indirect cost rate.

VI. RECORD RETENTION

Pursuant to Government Code section 17558.5, ~~subdivision~~ (a), a reimbursement claim for actual costs filed by a local agency or school district pursuant to this chapter² is subject to the initiation of an audit by the Controller no later than three years after the date that the actual reimbursement claim is filed or last amended, whichever is later. However, if no funds are appropriated or no payment is made to a claimant for the program for the fiscal year for which the claim is filed, the time for the Controller to initiate an audit shall commence to run from the date of initial payment of the claim. In any case, an audit shall be completed not later than two years after the date that the audit is commenced. All documents used to support the reimbursable activities, as described in Section IV, must be retained during the period subject to audit. If an audit has been initiated by the Controller during the period subject to audit, the retention period is extended until the ultimate resolution of any audit findings.

VII. OFFSETTING REVENUES AND REIMBURSEMENTS

Any offsetting revenues the claimant experiences in the same program as a direct result of the same statutes or executive orders found to contain the mandate shall be deducted from the costs claimed. In addition, reimbursement for this mandate from any source, including but not limited

²This refers to Title 2, division 4, part 7, chapter 4 of the Government Code.

to, services fees collected, federal funds, and other state funds, shall be identified and deducted from this claim.

VIII. STATE CONTROLLER'S CLAIMING INSTRUCTIONS

Pursuant to Government Code section 17558, ~~subdivision~~ (b), the Controller shall issue claiming instructions for each mandate that requires state reimbursement not later than ~~60~~90 days after receiving the adopted parameters and guidelines from the Commission, to assist local agencies and school districts in claiming costs to be reimbursed. The claiming instructions shall be derived from the statute or executive order creating the mandate and the parameters and guidelines adopted by the Commission.

Pursuant to Government Code section 17561, ~~subdivision~~ (d)(1), issuance of the claiming instructions shall constitute a notice of the right of the local agencies and school districts to file reimbursement claims, based upon parameters and guidelines adopted by the Commission.

IX. REMEDIES BEFORE THE COMMISSION

Upon request of a local agency or school district, the Commission shall review the claiming instructions issued by the State Controller or any other authorized state agency for reimbursement of mandated costs pursuant to Government Code section 17571. If the Commission determines that the claiming instructions do not conform to the parameters and guidelines, the Commission shall direct the Controller to modify the claiming instructions and the Controller shall modify the claiming instructions to conform to the parameters and guidelines as directed by the Commission.

In addition, requests may be made to amend parameters and guidelines pursuant to Government Code section 17557, and California Code of Regulations, title 2, section 1183.2.

X. LEGAL AND FACTUAL BASIS FOR THE PARAMETERS AND GUIDELINES

The ~~Statement~~ statements of ~~Decision~~ decision for the test claim and parameters and guidelines ~~is~~ are legally binding on all parties and provides the legal and factual basis for the parameters and guidelines. The support for the legal and factual findings is found in the administrative record ~~for the test claim~~. The administrative record, ~~including the Statement of Decision,~~ is on file with the Commission.

~~(Continue to Appendix A)~~

PARAMETERS AND GUIDELINES

~~Statutes 1975, Chapter 486~~

~~Statutes 1984, Chapter 1459~~

~~Mandate Reimbursement Process~~

~~CSM 4204 and 4485~~

APPENDIX A

Limitation on Reimbursement for Independent Contractor Costs During Fiscal Years

~~2006-2007~~

~~2007-2008~~

~~2008-2009~~

~~2009-2010~~

~~2010-2011³~~

~~A. If a local agency or school district contracts with an independent contractor for the preparation and submission of reimbursement claims, the costs reimbursable by the state for that purpose shall not exceed the lesser of (1) 10 percent of the amount of the claims prepared and submitted by the independent contractor, or (2) the actual costs that would necessarily have been incurred for that purpose if performed by employees of the local agency or school district.~~

~~The maximum amount of reimbursement provided in subdivision (A) for an independent contractor may be exceeded only if the local agency or school district establishes, by appropriate documentation, that the preparation and submission of these claims could not have been accomplished without incurring the additional costs claimed by the local agency or school district.~~

~~B. Costs incurred for contract services and/or legal counsel that assist in the preparation, submission or presentation of claims are recoverable within the limitations imposed under subdivision A above. Provide copies of the invoices and/or claims that were paid. For the preparation and submission of claims pursuant to Government Code sections 17561 and 17564, submit an estimate of the actual costs that would have been incurred for that purpose if performed by employees of the local agency or school district; this cost estimate is to be certified by the governing body or its designee.~~

~~If reimbursement is sought for independent contractor costs that are in excess of [Test (1)] ten percent of the claims prepared and submitted by the independent contractor or [Test (2)] the actual costs that necessarily would have been incurred for that purpose if~~

³The limitation added by Statutes 2010, chapter 712 (Budget Act of 2010) is shown as part A of this Appendix.

~~performed by employees of the local agency or school district, appropriate documentation must be submitted to show that the preparation and submission of these claims could not have been accomplished without the incurring of the additional costs claimed by the local agency or school district. Appropriate documentation includes the record of dates and time spent by staff of the contractor for the preparation and submission of claims on behalf of the local agency or school district, the contractor's billed rates, and explanation on reasons for exceeding Test (1) and/or Test (2). In the absence of appropriate documentation, reimbursement is limited to the lesser of Test (1) and/or Test (2). No reimbursement shall be permitted for the cost of contracted services without the submission of an estimate of actual costs by the local agency or school district.~~

Commission on State Mandates

Original List Date: 4/12/2013
Last Updated: 5/8/2013
List Print Date: 05/08/2013
Claim Number: 12-PGA-03
Issue: Mandate Reimbursement Process I and II

Mailing List

TO ALL PARTIES AND INTERESTED PARTIES:

Each commission mailing list is continuously updated as requests are received to include or remove any party or person on the mailing list. A current mailing list is provided with commission correspondence, and a copy of the current mailing list is available upon request at any time. Except as provided otherwise by commission rule, when a party or interested party files any written material with the commission concerning a claim, it shall simultaneously serve a copy of the written material on the parties and interested parties to the claim identified on the mailing list provided by the commission. However, this requirement may also be satisfied by electronically filing your documents. Please see <http://www.csm.ca.gov/dropbox.shtml> on the Commission's website for instructions on electronic filing. (Cal. Code Regs., tit. 2, § 1181.2.)

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