

ITEM 14
FINAL STAFF ANALYSIS
PROPOSED PARAMETERS AND GUIDELINES,
AS MODIFIED BY STAFF

Public Resources Code Section 5164, Subdivisions (b)(1) and (b)(2)

Statutes 2001, Chapter 777

Local Recreational Areas: Background Screenings
01-TC-11

City of Los Angeles, Claimant

EXECUTIVE SUMMARY

On December 9, 2005, the Commission adopted the Statement of Decision for *Local Recreational Areas: Background Screenings* (01-TC-11). The Commission found that the test claim statute constitutes a new program or higher level of service and imposes a reimbursable state-mandated program upon local agencies within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514. Accordingly, the Commission approved this test claim for the following reimbursable activities:

- Requiring each local agency to have each prospective employee or volunteer who would have supervisory or disciplinary authority over minors to complete an application that inquires as to whether or not the prospective employee or volunteer has been convicted of any offense specified in Public Resources Code section 5164, subdivision (a). This means that local agencies must perform the one-time activity of revising and printing job applications that inquire as to the applicants' criminal history.
- Screening, pursuant to Penal Code section 11105.3, prospective employees and volunteers who would have supervisory or disciplinary authority over minors. The screening procedure for these individuals requires submitting the following to DOJ: (1) the prospective employee's or volunteer's fingerprints, (2) any other data specified by DOJ on a DOJ-approved form, (3) for prospective employees only, paying the DOJ's fingerprint processing fee (no fee is required for a prospective volunteer).

The Commission denied any remaining alleged costs or activities because they do not impose a new program or higher level of service, and do not impose costs mandated by the state.

Discussion

Commission staff prepared and issued the draft parameters and guidelines on December 14, 2005. The proposed reimbursable activities were limited to those approved in the Statement of Decision. On May 10, 2006, staff issued the draft staff analysis and proposed parameters and guidelines. On June 30, 2006, claimant requested inclusion of a reasonable reimbursement methodology in the parameters and guidelines, proposing reimbursement as

follows: (1) actual cost methods to reimburse initial costs and Department of Justice fingerprint processing fees; and (2) a standard time rate for ongoing costs at 19 minutes per clerical staff and 6 minutes per technical staff.

Government Code section 17518.5 requires a reasonable reimbursement methodology to meet specific conditions. At a July 27, 2006 prehearing, it was determined that the claimant's proposed reasonable reimbursement methodology did meet these statutory conditions. Since that time, the claimant has not provided a revised methodology that meets the statutory conditions under Government Code section 17518.5 requirements.

Therefore, staff finds that the evidence in the record does not demonstrate that the proposed reasonable reimbursement methodology meets the required criteria, and recommends the parameters and guidelines be adopted using actual cost methodology for this program.

Staff also clarified that special districts are eligible claimants based on the test claim statutes.

Staff Recommendation

Staff recommends that the Commission adopt the proposed parameters and guidelines, as modified by staff, beginning on page 7.

Staff also recommends that the Commission authorize staff to make any non-substantive, technical corrections to the parameters and guidelines following the hearing.

Claimants

City of Los Angeles

Chronology

02/08/02	Claimant, City of Los Angeles files test claim
12/09/05	Commission on State Mandates (Commission) adopts Statement of Decision
12/14/05	Commission staff issues draft parameters and guidelines
05/10/06	Commission staff issues draft staff analysis and proposed parameters and guidelines
05/24/06	Claimant requests an extension of time to comment on proposed parameters and guidelines and a prehearing conference
05/30/06	Commission grants extension of time and sets prehearing.
06/30/06	Claimant submits a proposed reasonable reimbursement methodology for inclusion in the proposed parameters and guidelines
07/27/06	Commission staff conducts prehearing conference to discuss reasonable reimbursement methodology
11/14/06	Commission staff prepares final staff analysis and proposed parameters and guidelines prepared for release
11/16/06	Claimant requests hearing be postponed to revise reasonable reimbursement methodology
11/21/07	Commission staff issues final staff analysis and proposed parameters and guidelines

Background and Summary of the Claim

On December 9, 2005, the Commission adopted the Statement of Decision for *Local Recreational Areas: Background Screenings* (01-TC-11). The Commission found that the test claim statute constitutes a new program or higher level of service and imposes a state-mandated program on local agencies within the meaning of article XIII B, section 6, of the California Constitution and Government Code section 17514.¹ Accordingly, the Commission approved this test claim for the following reimbursable activities:

- Requiring each local agency to have each prospective employee or volunteer who would have supervisory or disciplinary authority over minors to complete an application that inquires as to whether or not the prospective employee or volunteer has been convicted of any offense specified in Public Resources Code section 5164, subdivision (a). This means that local agencies must perform the one-time activity of revising and printing job applications that inquire as to the applicants' criminal history.
- Screening, pursuant to Penal Code section 11105.3, prospective employees and volunteers who would have supervisory or disciplinary authority over minors. The

¹ Exhibit A.

screening procedure for these individuals requires submitting the following to DOJ: (1) the prospective employee's or volunteer's fingerprints, (2) any other data specified by DOJ on a DOJ-approved form, (3) for prospective employees only, paying the DOJ's fingerprint processing fee (no fee is required for a prospective volunteer).²

The Commission denied any remaining alleged costs or activities because they do not impose a new program or higher level of service, and do not impose costs mandated by the state.

Specifically, the Commission found that the following activities are not reimbursable:

- Taking fingerprints.
- Paying DOJ's fingerprint processing fee for a prospective volunteer.

Discussion

Commission staff prepared and issued the draft parameters and guidelines on December 14, 2005.³ The proposed reimbursable activities were limited to those approved in the Statement of Decision. No comments were received on the draft. Staff modified the draft parameters and guidelines to clearly identify the activities that are not reimbursable. On May 10, 2006, staff issued the draft staff analysis and proposed parameters and guidelines.⁴ On May 24, 2006, the claimant requested an extension of time to comment on the draft and requested a prehearing conference.⁵ The request was granted on May 30, 2006.⁶

On June 30, 2006, the claimant submitted comments requesting the inclusion of a reasonable reimbursement methodology (RRM) parameters and guidelines⁷. Claimant proposes that initial costs would be claimed using the actual cost method as would reimbursement for Department of Justice fingerprint processing fees. The claimant proposed that a local agency would claim ongoing costs using the following standard times:

19 minutes – clerical staff time related to the subject state mandate

6 minutes – technical staff time for processing the subject state mandate

Claimant explains that “[e]ach standard time is multiplied by the average productive hour rate, including applicable indirect cost for each classification assigned state mandated duties and the results totaled to obtain a reimbursable unit cost. Such reimbursable unit cost is then multiplied by the total number of reported prospective employees and volunteers for which a mandated screening procedure is performed.” According to the claimant, “[t]he units of time used in the RRM are based primarily on a limited analysis of our own process. We are working with the California Parks and Recreation Society in an effort to gather a broad sample of local agency data to either validate the above time units or amend them to reflect average statewide times.”

² Public Resources Code section 5164, subdivision (b)(1) and (b)(2).

³ Exhibit A.

⁴ Exhibit B.

⁵ Exhibit C.

⁶ Exhibit D.

⁷ Exhibit E.

Government Code section 17518.5 defines a *reasonable reimbursement methodology* as a formula that meets the following conditions:⁸

(1) The total amount to be reimbursed statewide is equivalent to total estimated local agency and school district costs to implement the mandate in a cost-efficient manner.

(2) For 50 percent or more of eligible local agency and school district claimants, the amount reimbursed is estimated to fully offset their projected costs to implement the mandate in a cost-efficient manner.

A prehearing conference was held on July 27, 2006 to further discuss the proposed reasonable reimbursement methodology and the fact that the proposed methodology did not meet the statutory conditions and lacked supporting documentation. Following the prehearing conference, no additional documentation was submitted by claimant to meet the statutory conditions. Therefore, staff set this matter for the December 2006 hearing. On November 16, 2006, claimant requested that the matter be postponed “for the purpose of determining if there is some other method, other than actual costs, to claim the costs that have been and will be incurred by cities, counties, and special districts in performing the mandated background screenings.”⁹

Since that time, claimant has not provided a revised reasonable reimbursement methodology, nor has claimant and the Department of Finance provided written notification of their intent to develop a reasonable reimbursement methodology and statewide estimate of costs pursuant to Government Code section 17557.1, as added by Statutes 2007, chapter 329 (AB 1222, eff. January 1, 2008).

Therefore, staff finds that there is no evidence in the record to demonstrate that claimant’s proposed reasonable reimbursement methodology meets the conditions required by Government Code section 17518.5. Accordingly, staff recommends the proposed parameters and guidelines be adopted using actual cost methodology for this program.

Eligible Claimants

Finally, staff clarified that special districts are eligible claimants based on the test claim statute.

Staff Recommendation

Staff recommends that the Commission adopt the draft parameters and guidelines, as prepared by staff, beginning on page 7.

Staff also recommends that the Commission authorize staff to make any non-substantive, technical corrections to the parameters and guidelines following the hearing.

⁸ These conditions were deleted from the definition of “reasonable reimbursement methodology” by AB 1222 (Laird, Stats 2007, ch. 329, eff. January 1, 2008).

⁹ Exhibit F.

