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April 02, 2015  
**Commission on  
State Mandates**

STATE OF CALIFORNIA  
COMMISSION ON STATE MANDATES

In Re:

STATE CONTROLLER'S OFFICE  
AUDIT REPORT ON SANTA CLARA  
COUNTY'S CHILD ABDUCTION AND  
RECOVERY PROGRAM

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INCORRECT REDUCTION CLAIM  
No.12-4237-I-03

**REBUTTAL TO THE RESPONSE SUBMITTED BY THE STATE  
CONTROLLER**

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**BACKGROUND**

On December 4, 2009, the State Controller's Office (hereinafter "SCO") issued its final audit report on the County of Santa Clara's (hereinafter "County") claims for costs incurred based on the legislatively-created Child Abduction and Recovery Program (Test Claim No. CSM 4237; Chapter 1399, Statutes of 1976; Chapter 162, Statutes of 1992; and Chapter 988, Statutes of 1996) for July 1, 2003, through June 30, 2007. The SCO incorrectly reduced the County's claim of \$2,480,334 by \$296,732, thus allowing only \$2,183,602.

The County submitted the instant Incorrect Reduction Claim (“IRC”) on November 27, 2012, which was received by the Commission on State Mandates (“Commission”) on November 29, 2012. On December 22, 2014, the SCO filed its formal response. The County will address the specifics in the SCO’s response.

### DISCUSSION

**A. AUDIT FINDING NUMBER ONE REGARDING COUNTY’S PRODUCTIVE HOURLY RATE CALCULATION IS INCORRECT.**

Audit Finding 1 states that the County over-claimed salaries, benefits and related indirect costs in the amount of \$196,391. This finding was based upon the County’s computation of its productive hourly rates for employees, which was proper and complied with the SCO’s Claiming Instructions allowing for a methodology of calculating the average annual productive hours with a deduction based on authorized (or required) employee break time and required training; rather than actual break time and required training. The County’s IRC exhaustively explains the County’s basis for using the developed countywide average annual productive hours and why this is an approved method based on the Mandated Cost Manual for Local Agencies (“Manual”).

The SCO’s response acknowledges that the Manual “allows the county to calculate productive hourly rates using countywide average annual productive hours.”<sup>1</sup> The point of difference between the SCO and the County is the accepted methodology for calculating break time and training time.

With respect to break time, the County claimed authorized break time to calculate the productive hourly rate. The SCO is taking the position that only actual break time can be used to calculate the productive hourly rate. Since the IRC was submitted, the

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<sup>1</sup> SCO Response at p. 7.

County has re-evaluated how it calculates break time for the countywide average annual productive hours and break time is not included in the calculation because it is not cost effective to track actual break time. Therefore, the County no longer challenges the SCO's audit findings with respect to how break time was calculated for purposes of the countywide productive hourly rate for FY 2003-2004, FY 2004-2005, FY 2005-2006, and FY 2006-2007.

Concerning training hours deducted, the SCO's response acknowledges that training time specifically related to a mandated program is eligible for reimbursement and, presumably, can be deducted when calculating the countywide productive hourly rate. The issue for the SCO is that the County deducted training time based on time required for non-mandated programs, such as training time benefiting specific departments when calculating the countywide productive hours for FY 2003-2004, FY 2004-2005, FY 2005-2006, and FY 2006-2007. The County no longer challenges the SCO's audit findings with respect to how training was calculated for purposes of the countywide productive hourly rate for FY 2003-2004, FY 2004-2005, FY 2005-2006, and FY 2006-2007.

**B. AUDIT FINDING NUMBER TWO REGARDING A LACK OF SUBSTANTIATING RECORDS IS INCORRECT.**

Audit Finding 2 alleges that the application of the time study conducted during the November 15, 2004, through December 10, 2004, period to the fiscal year 2003-2004 claim was improper because the time study was not representative. As the County previously explained, the time study undertaken by the County provided a reliable measure of the time needed to perform the mandated activities. In addition, the

requirement document was not in the Commission's parameters and guidelines at the time the mandate claim was filed. Despite the substantial documentation submitted by the County to support the time study, the SCO concluded that the County's "time study was invalid because (1) the time period studied was not representative of either FY 2003-04 or FY 2004-04; and (2) the extrapolated time study results were not representative of FY 2003-04 because the time study covered only 18 workdays.

The County's time study was representative of a fiscal year because it captured 18 workdays, almost four weeks of work, of County employees. A time study need not be conducted each fiscal year to substantiate time spent on the program during that fiscal year. Further, time studies need not be exhaustive to capture how long tasks take. As the County previously stated, the activities related to the program are not seasonal in nature; rather, the volume of the program is constant.

### CONCLUSION

The County continues to request that the Commission reverse the SCO's audit finding with respect to Audit Finding 2. However, the County is available to meet with Commission and SCO staff to discuss.

Dated: 4/2/2015

Respectfully submitted,

ORRY P. KORB  
County Counsel



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Elizabeth G. Pianca  
Deputy County Counsel  
Attorneys for County of Santa Clara

**DECLARATION OF SERVICE BY EMAIL**

I, the undersigned, declare as follows:

I am a resident of the County of Sacramento and I am over the age of 18 years, and not a party to the within action. My place of employment is 980 Ninth Street, Suite 300, Sacramento, California 95814.

On April 3, 2015, I served the:

**Claimant Rebuttal Comments**

Incorrect Reduction Claim, 12-4237-I-03

*Child Abduction and Recovery Program*

Family Code Sections 3060-3064, 3130-3134.5, 3408, 3411, and 3421;

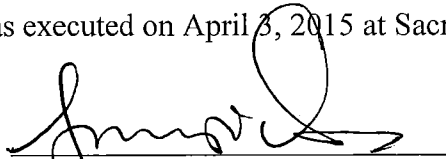
Penal Code Sections 277, 278, and 278.5; Welfare and Institutions Code Section 11478.5

Fiscal Years: 2003-2004, 2004-2005, 2005-2006, and 2006-2007

Santa Clara County, Claimant

By making it available on the Commission's website and providing notice of how to locate it to the email addresses provided on the attached mailing list.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on April 3, 2015 at Sacramento, California.



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Lorenzo Duran

Commission on State Mandates

980 Ninth Street, Suite 300

Sacramento, CA 95814

(916) 323-3562

# COMMISSION ON STATE MANDATES

## Mailing List

**Last Updated:** 2/19/15

**Claim Number:** 12-4237-I-03

**Matter:** Child Abduction and Recovery Program

**Claimant:** County of Santa Clara

### TO ALL PARTIES, INTERESTED PARTIES, AND INTERESTED PERSONS:

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. (Cal. Code Regs., tit. 2, § 1181.3.)

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