

COMMISSION ON STATE MANDATES

980 NINTH STREET, SUITE 300
SACRAMENTO, CA 95814
PHONE: (916) 323-3562
FAX: (916) 445-0278
E-mail: csminfo@csm.ca.gov



August 5, 2015

Ms. Annette Chinn
Cost Recovery Systems
705-2 E. Bidwell Street, #294
Folsom, CA 95630

Ms. Sally Hazzard
SEAACA
9777 SEAACA Street
Downey, CA 90241

Ms. Jill Kanemasu
Accounting and Reporting
State Controller's Office
3301 C Street, Suite 700
Sacramento, CA 95816

Re: Notice of Complete Filing and Schedule for Comments

Incorrect Reduction Claim

Animal Adoption, 14-9811-I-03

Civil Code Sections 1834 and 1846; Food and Agriculture Code sections 31108, 31752, 31752.5, 31753, 32001, and 32003;

Statutes 1998, Chapter 752 and Statutes 2004, Chapter 313

Fiscal Years: 2001-2002, 2002-2003, 2006-2007, 2007-2008, and 2008-2009

South East Area Animal Control Authority, Claimant

Dear Ms. Chinn, Ms. Hazzard, and Ms. Kanemasu:

On June 8, 2015, the South East Area Animal Control Authority (SEAACA) filed an incorrect reduction claim (IRC) with the Commission on State Mandates (Commission) based on the State Controller's (SCO's) reductions to reimbursement claims for costs incurred under the *Animal Adoption* program for fiscal years 2001-2002, 2002-2003, 2006-2007, 2007-2008, and 2008-2009. Commission staff found the IRC filing to be incomplete and on July 3, 2015, notified the claimant of the incomplete filing.

On July 29, 2015, the claimant refiled. Upon review, Commission staff finds this IRC filing to be complete. Therefore, the IRC filing retains the original filing date of June 8, 2015 in accordance with section 1185.2(a) of the Commission's regulations. (California Code of Regulations, Title 2.)

SCO Review and Response. Please file the SCO written comments and supporting documentation regarding this claim no later than **November 3, 2015**. Please include an explanation of the reasons for the reductions and the computation of reimbursements. All documentary evidence must be authenticated by declarations under penalty of perjury signed by persons who are authorized and competent to do so and be based on the declarant's personal knowledge, information or belief.

Please specifically comment on the following and consider claimant's letter briefing this issue in your response:

Though there is no question that the cities and counties that formed SEAACA are eligible claimants under this program, it is unclear whether SEAACA itself is eligible to claim reimbursement for mandated programs. Here, there is nothing in the record to indicate that SEAACA's member cities and counties have designated SEAACA to represent them for purposes of mandate reimbursement for this program. Staff notes that SEAACA was a claimant on the original test claim for this program and that the claim was approved without any analysis of whether SEAACA was subject to the taxing and spending limitations of article XIII of the California Constitution. However, the State Controller has recently determined that SEAACA is

not subject to the taxing and spending limitations of the California Constitution, which is a prerequisite to eligibility for mandate reimbursement.

Article XIII B, section 6 was added to the California Constitution to require the state to reimburse local governments for expenditures mandated by the state, which would be funded solely on local tax revenues subject to the appropriations limit. The California Supreme Court, in *County of Fresno v. State of California*,¹ explained:

Section 6 was included in article XIII B in recognition that article XIII A of the Constitution severely restricted the taxing powers of local governments. (See *County of Los Angeles I, supra*, 43 Cal.3d at p. 61.) The provision was intended to preclude the state from shifting financial responsibility for carrying out governmental functions onto local entities that were ill equipped to handle the task. (*Ibid.*; see *Lucia Mar Unified School Dist. v. Honig* (1988) 44 Cal.3d 830, 836, fn. 6.) Specifically, it was designed to protect the tax revenues of local governments from state mandates that would require expenditure of such revenues. Thus, although its language broadly declares that the “state shall provide a subvention of funds to reimburse ... local government for the costs [of a state-mandated new] program or higher level of service,” read in its textual and historical context section 6 of article XIII B requires subvention only when the costs in question can be recovered *solely from tax revenues*.²

Not every local agency is subject to the restrictions of article XIII B, and therefore not every local agency is entitled to reimbursement. Redevelopment agencies, for example, have been identified by the courts as being exempt from the restrictions of article XIII B. In *Bell Community Redevelopment Agency v. Woolsey*, the Second District Court of Appeal concluded that a redevelopment agency’s power to issue bonds, and to repay those bonds with its tax increment, was not subject to the spending limit of article XIII B.³

The failure of the SCO to respond within this 90-day timeline shall not cause the Commission to delay consideration of this IRC. (Gov. Code §17553(d).)

The Commission's regulations require that written materials filed with the Commission be simultaneously served on all parties, interested parties, and interested persons on the mailing list, and accompanied by a proof of service. (Cal. Code Regs., tit. 2, 1181.3.) However, this requirement may be satisfied by electronically filing your documents via the Commission’s e-filing system. Please see <http://www.csm.ca.gov/dropbox.shtml> on the Commission’s website. The written material will be posted on the Commission’s website and the mailing list will be notified by electronic mail of the posting. This procedure will satisfy all the service requirements pursuant to section 1181.3 of the Commission’s regulations.

Claimant’s Rebuttal. Upon receipt of the SCO comments, the claimant and interested parties may file rebuttals. The rebuttals are due 30 days from the service date of the comments.

¹ *County of Fresno, supra*, (1991) 53 Cal.3d 482.

² *Id.*, at p. 487. Emphasis in original.

³ *Bell Community Redevelopment Agency v. Woolsey* (Cal. Ct. App. 2d Dist. 1985) 169 Cal.App.3d 24.

Ms. Chinn, Ms. Hazzard, and Ms. Kanemasu

August 5, 2015

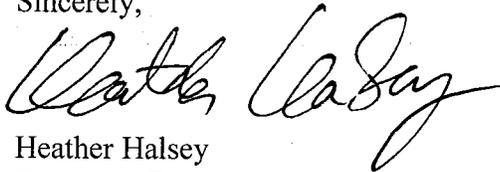
Page 3

Informal Conference. An informal conference may be scheduled if requested. Refer to section 1187.4 of the Commission's regulations.

Public Hearing and Draft Proposed Decision. The public hearing on this matter has been tentatively scheduled for **December 2, 2016**. The draft proposed decision will be issued approximately eight to ten weeks prior to the public hearing.

Withdrawal of Incorrect Reduction Claims. Under section 1185.8 of the Commission's regulations, an IRC may be withdrawn by written application any time before a decision is adopted or by oral application at the time of hearing. If such an application is made, the executive director shall issue a letter dismissing the claim.

Sincerely,

A handwritten signature in black ink, appearing to read "Heather Halsey", written in a cursive style.

Heather Halsey
Executive Director

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 August 5, 2015, I served the:

IRC Filing; and Notice of Complete Filing and Schedule for Comments

Incorrect Reduction Claim

Animal Adoption, 14-9811-I-03

Civil Code Sections 1834 and 1846; Food and Agriculture Code sections 31108, 31752, 31752.5, 31753, 32001, and 32003;

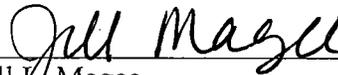
Statutes 1998, Chapter 752 and Statutes 2004, Chapter 313

Fiscal Years: 2001-2002, 2002-2003, 2006-2007, 2007-2008, and 2008-2009

South East Area Animal Control Authority (SEAACA), 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 August 5, 2015 at Sacramento, California.



Jill L. Magee

Commission on State Mandates

980 Ninth Street, Suite 300

Sacramento, CA 95814

(916) 323-3562

COMMISSION ON STATE MANDATES

Mailing List

Last Updated: 8/3/15

Claim Number: 14-9811-I-03

Matter: Animal Adoption

Claimant: South East Area Animal Control Authority

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.)

Socorro Aquino, *State Controller's Office*

Division of Audits, 3301 C Street, Suite 700, Sacramento, CA 95816

Phone: (916) 322-7522

SAquino@sco.ca.gov

Lacey Baysinger, *State Controller's Office*

Division of Accounting and Reporting, 3301 C Street, Suite 700, Sacramento, CA 95816

Phone: (916) 324-0254

lbaysinger@sco.ca.gov

Danielle Brandon, Budget Analyst, *Department of Finance*

915 L Street, Sacramento, CA 95814

Phone: (916) 445-3274

danielle.brandon@dof.ca.gov

Allan Burdick,

7525 Myrtle Vista Avenue, Sacramento, CA 95831

Phone: (916) 203-3608

allanburdick@gmail.com

Gwendolyn Carlos, *State Controller's Office*

Division of Accounting and Reporting, 3301 C Street, Suite 700, Sacramento, CA 95816

Phone: (916) 323-0706

gcarlos@sco.ca.gov

Annette Chinn, *Cost Recovery Systems, Inc.*

Claimant Representative

705-2 East Bidwell Street, #294, Folsom, CA 95630

Phone: (916) 939-7901
achinnrcs@aol.com

Marieta Delfin, *State Controller's Office*

Division of Accounting and Reporting, 3301 C Street, Suite 700, Sacramento, CA 95816
Phone: (916) 322-4320
mdelfin@sco.ca.gov

Donna Ferebee, *Department of Finance*

915 L Street, Suite 1280, Sacramento, CA 95814
Phone: (916) 445-3274
donna.ferebee@dof.ca.gov

Susan Geanacou, *Department of Finance*

915 L Street, Suite 1280, Sacramento, CA 95814
Phone: (916) 445-3274
susan.geanacou@dof.ca.gov

Dillon Gibbons, *Legislative Representative, California Special Districts Association*

1112 I Street Bridge, Suite 200, Sacramento, CA 95814
Phone: (916) 442-7887
dillong@csda.net

Sally Hazzard, *Executive Director, South East Area Animal Control Authority*

9777 Seaaca Street, Downey, CA 90241
Phone: (562) 806-3301
sally.hazzard@seaaca.org

Justyn Howard, *Program Budget Manager, Department of Finance*

915 L Street, Sacramento, CA 95814
Phone: (916) 445-1546
justyn.howard@dof.ca.gov

Edward Jewik, *County of Los Angeles*

Auditor-Controller's Office, 500 W. Temple Street, Room 603, Los Angeles, CA 90012
Phone: (213) 974-8564
ejewik@auditor.lacounty.gov

Jill Kanemasu, *State Controller's Office*

Division of Accounting and Reporting, 3301 C Street, Suite 700, Sacramento, CA 95816
Phone: (916) 322-9891
jkanemasu@sco.ca.gov

Jay Lal, *State Controller's Office (B-08)*

Division of Accounting & Reporting, 3301 C Street, Suite 700, Sacramento, CA 95816
Phone: (916) 324-0256
JLal@sco.ca.gov

Andy Nichols, *Nichols Consulting*

1857 44th Street, Sacramento, CA 95819
Phone: (916) 455-3939
andy@nichols-consulting.com

Christian Osmena, *Department of Finance*

915 L Street, Sacramento, CA 95814

Phone: (916) 445-0328
christian.osmena@dof.ca.gov

Arthur Palkowitz, *Stutz Artiano Shinoff & Holtz*
2488 Historic Decatur Road, Suite 200, San Diego, CA 92106
Phone: (619) 232-3122
apalkowitz@sashlaw.com

Keith Petersen, *SixTen & Associates*
P.O. Box 340430, Sacramento, CA 95834-0430
Phone: (916) 419-7093
kbsixten@aol.com

Jai Prasad, *County of San Bernardino*
Office of Auditor-Controller, 222 West Hospitality Lane, 4th Floor, San Bernardino, CA
92415-0018
Phone: (909) 386-8854
jai.prasad@atc.sbcounty.gov

David Scribner, *Max8550*
2200 Sunrise Boulevard, Suite 240, Gold River, CA 95670
Phone: (916) 852-8970
dscribner@max8550.com

Jim Spano, Chief, Mandated Cost Audits Bureau, *State Controller's Office*
Division of Audits, 3301 C Street, Suite 700, Sacramento, CA 95816
Phone: (916) 323-5849
jspano@sco.ca.gov

Dennis Speciale, *State Controller's Office*
Division of Accounting and Reporting, 3301 C Street, Suite 700, Sacramento, CA 95816
Phone: (916) 324-0254
DSpeciale@sco.ca.gov

Evelyn Suess, Principal Program Budget Analyst, *Department of Finance*
Local Government Unit, 915 L Street, Sacramento, CA 95814
Phone: (916) 445-3274
evelyn.suess@dof.ca.gov