

BEFORE THE  
COMMISSION ON STATE MANDATES  
STATE OF CALIFORNIA

RECONSIDERATION OF PRIOR DECISION  
ON:

Statutes 1975, Chapter 486 and Statutes 1984,  
Chapter 1459

Filed on November 27, 1985

By County of Fresno, Claimant

Directed by Statutes 2005, Chapter 72 (Assem.  
Bill No. 138, § 17, eff. July 19 2005).

Case No.: 05-RL-4204-02 (CSM 4202 &4485)

*Mandate Reimbursement Process*

NOTICE OF HEARING ON FINAL STAFF  
ANALYSIS AND PROPOSED  
AMENDMENTS TO PARAMETERS AND  
GUIDELINES

HEARING DATE: July 28, 2006  
9:30 a.m., State Capitol, Room 126,  
Sacramento

TO: Interested Parties  
Department of Finance  
State Controller's Office  
Legislative Analyst  
Legislative Committees

**NOTICE**

The Final Staff Analysis and Proposed Amendments to Parameters and Guidelines are being posted to the Commission's website.

**Commission Hearing – July 28, 2006**

The Commission will hear and determine this matter on **July 28, 2006** at 9:30 a.m., State Capitol, Room 126, Sacramento, California.

This item will be scheduled for the consent calendar unless any party objects. 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, subdivision (c), 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.

If you have any questions regarding this matter, please contact Nancy Patton at (916) 323-8217.

Dated: July 12, 2006

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PAULA HIGASHI, Executive Director

## ITEM 24

### PROPOSED AMENDMENT OF PARAMETERS AND GUIDELINES

Statutes 1975, Chapter 486; Statutes 1984, Chapter 1459

Reconsideration Directed by Statutes 2005, Chapter 72, Section 17 (Assem. Bill No. 138)

Amendment Directed by Statutes 2006, Chapter 37 (Budget Act of 2006)

#### *Mandate Reimbursement Process*

05-RL-4202-02 (CSM 4204 & 4485)

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### EXECUTIVE SUMMARY

On May 28, 2006, the Commission reconsidered its prior decision in the Mandate Reimbursement Process test claim, determining that the test claim statutes do not constitute a reimbursable state mandated program effective July 1, 2006. After reconsidering the prior decision, AB 138 also requires the Commission to revise the parameters and guidelines, if necessary. Thus, it is necessary for the Commission to revise the parameters and guidelines to reflect the decision on reconsideration. Upon adoption of staff's proposed amendments to the parameters and guidelines, the Commission will have completed the requirements of AB 138.

#### **Background**

##### Original Decision

On April 24, 1986, the Commission adopted the *Mandate Reimbursement Process* Statement of Decision, determining that the test claim statutes impose a reimbursable mandate on local agencies and school districts. On November 20, 1986, the Commission adopted parameters and guidelines,<sup>1</sup> determining that the following activities are reimbursable:

##### A. Scope of the Mandate

Local agencies and school districts filing successful test claims and reimbursement claims incur State-mandated costs. The purpose of this test claim was to establish that local governments (counties, cities, school districts, special districts, etc.) 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.

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<sup>1</sup> See pages 229-230 of the Administrative Record.

## B. Reimbursable Activities—Test Claims

All costs incurred by local agencies and school districts in preparing and presenting successful test claims are reimbursable, including court responses, if an adverse Commission ruling is later reversed. 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 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 allowable overhead.

## C. Reimbursable Activities –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. Allowable costs include, but are not limited to, the following: salaries and benefits, service and supplies, contracted services, training, and overhead.

Incorrect Reduction Claims are considered to be an element of the reimbursement claim 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.

The phrase, “including court responses, if an adverse Commission ruling is later reversed” under heading “B” above was amended out in March 1987 and replaced with “including those same costs of an unsuccessful test claim if an adverse Commission ruling is later reversed as a result of a court order.” (See Administrative Record, p. 229).

In addition to this March 1987 amendment, the parameters and guidelines have been amended 11 times between 1995 and 2005. The 1995 amendment was the result of a provision in the state budget act that limited reimbursement for independent contractor costs for preparation and submission of reimbursement claims.<sup>2</sup> Identical amendments were required by the Budget Acts of 1996 (amended Jan 1997),<sup>3</sup> 1997 (amended Sept. 1997),<sup>4</sup> 1998 (amended Oct. 1998),<sup>5</sup> 1999

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<sup>2</sup> Administrative Record, page 295 et seq. (especially pp. 302-303).

<sup>3</sup> Administrative Record, pages 355-426, especially page 425.

<sup>4</sup> Administrative Record, pages 427-473.

<sup>5</sup> Administrative Record, pages 477-551. This amendment also removed the cap on claims for legal costs, so that those costs would be claimed under the contracted services provision.

(amended Sept. 1999),<sup>6</sup> 2000 (amended Sept. 2000),<sup>7</sup> 2001 (amended Oct. 2001),<sup>8</sup> 2002 (amended Feb. 2003),<sup>9</sup> 2003 (amended Sept. 2003),<sup>10</sup> 2004 (amended Dec. 2004),<sup>11</sup> and 2005 (amended Sept. 2005).<sup>12</sup> In addition to technical amendments, the language in the parameters and guidelines was updated as necessary for consistency with other recently adopted parameters and guidelines.

### Reconsideration

Statutes 2005, chapter 72, section 17 (AB 138) directed the Commission to reconsider whether the *Mandate Reimbursement Process* program (CSM Nos. 4204 & 4485) constitutes a reimbursable state-mandated program under article XIII B, section 6 in light of subsequently enacted state or federal statutes or case law. The Commission's decision is effective July 1, 2006, so that costs incurred up to that date would be reimbursable.

On reconsideration, the Commission determined that because Statutes 1975, chapter 486 was repealed by Statutes 1986, chapter 879, it is not subject to article XIII B, section 6 of the California Constitution. As to the 1984 test claim statute, Government Code section 17556, subdivision (f) prohibits the Commission from finding costs mandated by the state if:

The statute or executive order imposes duties that are necessary to implement, reasonably within the scope of, or expressly included in a ballot measure approved by the voters in a statewide or local election. This subdivision applies regardless of whether the statute or executive order was enacted or adopted before or after the date on which the ballot measure was approved by the voters.

Applying this statute, the Commission found that Statutes 1984, chapter 1459 is reasonably within the scope of or necessary to implement article XIII B, section 6 which was enacted in Proposition 4, a ballot measure approved in a statewide election. Therefore, the Commission determined that the test claim statutes do not constitute a reimbursable state mandated program, and denied the test claim effective July 1, 2006.

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<sup>6</sup> Administrative Record, pages 569-678. This amendment also updated text to conform with 1998 amendments to the Commission's statutory scheme, updated parameters and guidelines text, and included reimbursement for participation in Commission workshops.

<sup>7</sup> Administrative Record, pages 679-736.

<sup>8</sup> Administrative Record, pages 737-763.

<sup>9</sup> Administrative Record, pages 781-904.

<sup>10</sup> Administrative Record, pages 905-986.

<sup>11</sup> Administrative Record, pages 987-1044.

<sup>12</sup> Administrative Record, pages 1045-1106.

Statutes 2005, chapter 72, section 17 (AB 138) also directed the Commission to "revise the parameters and guidelines," as follows:

The commission shall, if necessary, revise its parameters and guidelines in CSM-4485 to be consistent with this reconsideration and, if practicable, include a reasonable reimbursement methodology as defined in Section 17518.5 of the Government Code. If the parameters and guidelines are revised, the Controller shall revise the appropriate claiming instructions to be consistent with the revised parameters and guidelines. Any changes by the commission to the original statement of decision in CSM-4202 shall be deemed effective on July 1, 2006. (Emphasis added.)

Thus, based on the plain language of AB 138, the Commission is required, if necessary, to revise its parameters and guidelines to be consistent with this reconsideration. If the parameters and guidelines are revised, the Controller is required to revise the claiming instructions to be consistent with the revised parameters and guidelines.

### **Staff's Proposed Parameters and Guidelines Amendments**

Staff reviewed the existing parameters and guidelines, the Statement of Decision on reconsideration, Statutes 2005, chapter 72, section 17, and Statutes 2006, chapter 38 (Budget Act of 2006) and finds that the following revisions to the parameters and guidelines are necessary:

#### **Title**

Staff modified the title and captions.

#### **I. Summary of the Mandates**

Staff proposes to update this section to conform to current format and to describe the new Statement of Decision on reconsideration.

#### **IV. Reimbursable Activities**

Staff proposes to revise this section to allow local agencies and school districts to be reimbursed for the costs to *prepare successful claims that were filed before July 1, 2006*. Claimants have incurred costs to prepare and submit 102 test claims, and 115 incorrect reduction claims before July 1, 2006. However, local agencies and school districts are not eligible to claim these costs before the Commission hears and approves the claims. Language is added to define a "successful" claim as a test claim or incorrect reduction claim that was filed before July 1, 2006 and is heard and approved by the Commission. Language that originally specified that costs incurred for presenting test claims, developing parameters and guidelines, collecting cost data, and helping with the drafting of required claiming instructions were reimbursable, is now stricken and instead these costs are described as "not reimbursable. Also, the reimbursable activities for "2. Reimbursement Claims" and "3. Training" is stricken.

#### **V-IX – Other Sections**

Section V. Claim Preparation and Submission, A. Direct Cost Reporting. Staff proposes to strike the categories of "Fixed Assets and Equipment" and "Training."

## Section VII. Offsetting Savings and Reimbursements.

Staff proposes to update this section by changing the word "Savings" to "Revenues." This change will conform the parameters and guidelines to section 1183.1, subdivision (a)(7) of the regulations.

Section X. Legal and Factual Basis for the Parameters and Guidelines. This section is revised to reference the Statement of Decision on reconsideration.

## Appendix A.

Staff proposes elimination of Appendix A because the Commission is only required to adopt it if a local agency or school district contracts with an independent contractor for the preparation and submission of *reimbursement claims*. In section IV, Reimbursable Activities, the reimbursable activity of "preparing reimbursement claims" is stricken based on the Commission's denial of the test claim on reconsideration. Thus, staff finds that this Appendix is no longer required.

## **Conclusion and Recommendation**

Staff concludes that effective, July 1, 2006, pursuant to Statutes 2005, chapter 72, section 17 that the parameters and guidelines for the Mandate Reimbursement Process must be revised.

Therefore, staff recommends that the Commission:

- Adopt staff's proposed amendments to the parameters and guidelines, beginning on page 7.
- Authorize staff to make any non-substantive, technical corrections to the parameters and guidelines following the hearing.



**PROPOSED PARAMETERS AND GUIDELINES AMENDMENTS**

Statutes 1975, Chapter 486  
Statutes 1984, Chapter 1459

As Reconsidered

~~Statutes 2005, Chapter 38 (Budget Act of 2005)~~ Statutes 2005, Chapter 72, section 17 (AB 138)

*Mandate Reimbursement Process*

[Beginning Fiscal Year 2006-2007]

Adopted: November 20, 1986  
First Amendment Adopted: March 26, 1987  
Second Amendment Adopted: October 26, 1995  
Third Amendment Adopted: January 30, 1997  
Fourth Amendment Adopted: September 25, 1997  
Fifth Amendment Adopted: October 29, 1998  
Sixth Amendment Adopted: September 30, 1999  
Seventh Amendment Adopted: September 28, 2000  
Eighth Amendment Adopted: October 25, 2001  
Ninth Amendment Adopted: February 27, 2003  
Tenth Amendment Adopted: September 25, 2003  
Eleventh Amendment Adopted: December 9, 2004  
Twelfth Amendment Adopted: September 27, 2005  
Thirteenth Amendment Proposed for Adoption: July 28, 2006

Mandate Reimbursement Process (05-RL-4204-02 (CSM 4204 & 4485)

CSM 4485

~~September 27, 2005~~, July 28, 2006

## I. SUMMARY OF THE MANDATE

Statutes 1975, chapter 486, established the Board of Control's authority to hear and make determinations on claims submitted by local governments that allege costs mandated by the state. In addition, Statutes 1975, chapter 486 contains provisions authorizing the State Controller's Office to receive, review, and pay reimbursement claims for mandated costs submitted by local governments.

Statutes 1984, chapter 1459, created the Commission on State Mandates (Commission), which replaced the Board of Control with respect to hearing mandated cost claims. This law established the "sole and exclusive procedure" by which a local agency or school district is allowed to claim reimbursement as required by article XIII B, section 6 of the California Constitution for state mandates under Government Code section 17552.

~~Together these laws establish the process by which local agencies receive reimbursement for state-mandated programs. As such, they prescribe the procedures that must be followed before mandated costs are recognized. They also dictate reimbursement activities by requiring local agencies and school districts to file claims according to instructions issued by the Controller.~~

On March 27, 1986, the Commission determined that local agencies and school districts incurred "costs mandated by the state" as a result of Statutes 1975, chapter 486, and Statutes 1984, chapter 1459. Specifically, the Commission found that these two statutes imposed a new program by requiring local governments to file claims in order to establish the existence of a mandated program, as well as to obtain reimbursement for the costs of mandated programs.

Statutes 2005, chapter 72, section 17 (AB 138) directed the Commission to reconsider whether the *Mandate Reimbursement Process* program (CSM Nos. 4204 & 4485) constitutes a reimbursable state-mandated program under article XIII B, section 6 in light of subsequently enacted state or federal statutes or case law. The Commission's decision is to be effective July 1, 2006, so that costs incurred up to that date would be reimbursable.

On May 25, 2006, the Commission adopted its Statement of Decision on reconsideration. The Commission determined that because Statutes 1975, chapter 486 was repealed by Statutes 1986, chapter 879, it is not subject to article XIII B, section 6 of the California Constitution. As to the 1984 test claim statute, Government Code section 17556, subdivision (f) prohibits the Commission from finding costs mandated by the state if:

The statute or executive order imposes duties that are necessary to implement, reasonably within the scope of, or expressly included in a ballot measure approved by the voters in a statewide or local election. This subdivision applies regardless of whether the statute or executive order was enacted or adopted before or after the date on which the ballot measure was approved by the voters.

Applying this statute, the Commission determined that Statutes 1984, chapter 1459 is reasonably within the scope of or necessary to implement article XIII B, section 6 which was enacted in Proposition 4, a ballot measure approved in a statewide election. Therefore, on reconsideration, the Commission denied the test claim, finding that the statutes do not constitute a reimbursable state mandated program, effective July 1, 2006.

## II. ELIGIBLE CLAIMANTS

Any local agency as defined in Government Code section 17518, or school district as defined in Government Code section 17519, which incurs increased costs as a result of this mandate is eligible to claim reimbursement of those costs.

## III. PERIOD OF REIMBURSEMENT

Pursuant to Government Code section 17560, reimbursement for state-mandated costs may be claimed as follows:

- (a) A local agency or school district may file an estimated reimbursement claim by January 15 of the fiscal year in which costs are to be incurred, and, by January 15 following that fiscal year shall file an annual reimbursement claim that details the costs actually incurred for that fiscal year; or it may comply with the provisions of subdivision (b).
- (b) A local agency or school district may, by January 15 following the fiscal year in which costs are incurred, file an annual reimbursement claim that details the costs actually incurred for that fiscal year.
- (c) In the event revised claiming instructions are issued by the Controller pursuant to subdivision (c) of section 17558 between October 15 and January 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.

Reimbursable actual costs for one fiscal year shall be included in each claim. Estimated costs for the subsequent year may be included on the same claim, if applicable. Pursuant to Government Code section 17561 (d)(1), all claims for reimbursement of initial years' costs shall be submitted within 120 days of the issuance of the State Controller's claiming instructions. 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.

There shall be no reimbursement for any period in which the Legislature has suspended the operation of a mandate pursuant to state law.<sup>1</sup>

## 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

<sup>1</sup> Statutes ~~20052006~~, chapter 38 (~~SB 77AB 1811~~), Item 8885-295-0001, Schedule 3 (~~yff~~).

Mandate Reimbursement Process (05-RL-4204-02 (CSM 4204 & 4485)

~~CSM 4485~~

~~September 27, 2005~~, July 28, 2006

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. Reimbursable Activities~~

##### ~~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. A successful claim is one that was filed before July 1, 2006 and is heard and approved by the Commission. These reimbursable activity activities include, but are not is limited to, the following: preparing and presenting test claims filed with the Commission before July 1, 2006; developing parameters and guidelines, collecting cost data, and helping with the drafting of required claiming instructions. The costs of all successful test claims are reimbursable.

Costs incurred for presenting claims, developing parameters and guidelines, collecting cost data, and helping with the drafting of required claiming instructions are not reimbursable.

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

##### ~~2. 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 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.~~

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### 3. 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. (One-time activity per employee.)~~

#### 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.~~

## 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. 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.

### 4. ~~Fixed Assets and Equipment~~

~~Report the purchase price paid for fixed assets and equipment (including computers) necessary to implement the reimbursable activities. The purchase price includes taxes, delivery costs, and installation costs. If the fixed asset or equipment 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.~~

#### ~~54.~~ 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.~~

### B. 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 must use the J-380 (or subsequent replacement) non-restrictive indirect cost rate provisionally approved by the California Department of Education.

## 3. County Offices of Education

County offices of education must use the J-580 (or subsequent replacement) non-restrictive indirect cost rate provisionally approved by the California Department of Education.

## 4.3. 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 chapter<sup>2</sup> 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 SAVINGS AND REIMBURSEMENTS**

Any offsetting revenues savings 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 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 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.

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

**X. LEGAL AND FACTUAL BASIS FOR THE PARAMETERS AND GUIDELINES**

The Statements of Decision ~~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 and the Reconsideration. The administrative record, including the Statements of Decision, ~~is~~ are on file with the Commission.

~~(Continue to Appendix A)~~

## PARAMETERS AND GUIDELINES

Statutes 1975, Chapter 486  
Statutes 1984, Chapter 1459

### APPENDIX A

#### ~~Limitation on Reimbursement for Independent Contractor Costs During Fiscal Years 2005-2006<sup>3</sup>~~

~~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 and/or presentation of claims are recoverable within the limitations imposed under 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 performed by employees of the local agency or the local 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~~

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<sup>3</sup>The limitation added by the Budget Act of 2005, Statutes 2005, chapter 38, in Item 0840-001-0001, Provision 7, is shown as part A. of this Appendix.

~~(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.~~