

ITEM 6
PROPOSED PARAMETERS AND GUIDELINES
AS MODIFIED BY STAFF
FINAL STAFF ANALYSIS

Government Code Sections 56425, Subdivision (i)(1) (formerly Subdivision (h)(1))

Statutes 2000, Chapter 761 (AB 2838)

Local Agency Formation Commissions

02-TC-23

Sacramento Metropolitan Fire District, Claimant

EXECUTIVE SUMMARY

On September 27, 2007, the Commission on State Mandates (Commission) adopted the Statement of Decision for the *Local Agency Formation Commissions* program finding that Government Code section 56425, subdivision (i)(1), constitutes a reimbursable state-mandated program for independent special districts that are subject to the tax and spend provisions of articles XIII A and XIII B of the California Constitution to file written statements specifying the functions or classes of service provided by those districts with local agency formation commissions (LAFCOs) when the LAFCO adopts or updates the spheres of influence during the following periods of time and circumstances:

- July 1, 2001 through December 31, 2001 – when a LAFCO adopts or updates any sphere of influence or sphere of influence that includes a special district.
- On and after January 1, 2002 – when a LAFCO adopts or updates a sphere of influence for a special district.

The LAFCO is required to develop and determine the sphere of influence of each local governmental agency within the county and enact policies designed to promote the logical and orderly development of areas within the sphere in order to carry out its responsibilities “for planning and shaping the logical and orderly development and coordination of local governmental agencies to advantageously provide for the present and future needs of the county and its communities.” Every five years, the LAFCO is required to review and update, as necessary, each sphere of influence, and shall require the special districts within its jurisdiction to file the written statements described above.

Staff reviewed the claimant’s initial and revised proposed parameters and guidelines and the comments received from the parties. Non-substantive, technical changes were made for purposes of clarification, consistency with language in recently adopted parameters and guidelines, and conformity to the Statement of Decision and statutory language.

In addition, the claimant filed comments on the draft staff analysis addressing the proposed reimbursable activities and is requesting reimbursement for other related activities it alleges are the most reasonable methods of complying with the mandate.

Section 1183.1 of the Commission’s regulations describes the content of parameters and guidelines. Pursuant to section 1183.1, subdivision (a)(4), the reimbursable activities shall consist of the activities approved by the Commission in the Statement of Decision as reimbursable state-mandated activities, and activities found to constitute the most reasonable methods of complying with the mandate. “The most reasonable methods of complying with the mandate” are those methods not specified in statute that are necessary to carry out the mandated program.”

Staff finds that the activities proposed by the claimant, as modified by staff to conform to the approved test claim statute, constitute reasonable methods of complying with the mandate. Staff recommends that the Commission adopt the following language in Section IV, Reimbursable Activities (proposed modifications are reflected with underline and strikeout):

A. On-going Activities:

~~For Filing~~ written statements to the LAFCO pursuant to Government Code section 56425, subdivision (i)(1) (formerly numbered subdivision (h)(1).), specifying the functions or classes of service provided by the district, for the following time periods and types of spheres of influence:

- July 1, 2001 through December 31, 2001 – when a LAFCO adopts or updates any sphere of influence or sphere of influence that includes a special district.
- On and after January 1, 2002 – when a LAFCO adopts or updates a sphere of influence for a special district:

The following activities are reimbursable:

1. Gather information on the functions or classes of services provided by the special district ~~from within the special district and from outside sources~~, as needed to prepare the written statements required by Government Code section 56425, subdivision (i)(1).
2. Draft written statements, including but not limited to, the initial draft, reviews and revisions as needed.
3. File written statements with the LAFCO.
4. Prepare for, attend, and present written statements as required by Government Code section 56425, subdivision (i)(1), at LAFCO meeting hearing.

~~(Government Code section 56425, subdivision (h)(1) (subsequently renumbered to subdivision (i)(1).)~~

Staff Recommendation

Staff recommends that the Commission adopt the proposed parameters and guidelines, as modified by staff, beginning on page 9.

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

STAFF ANALYSIS

Claimant

Sacramento Metropolitan Fire District

Chronology

05/29/2003	Claimant files test claim with the Commission on State Mandates (Commission)
07/07/2003	Department of Finance requests extension of time to file comments on the test claim
07/08/2003	Commission staff approves extension of time to August 18, 2003, to file comments
07/18/2003	Department of Finance submits comments
09/25/2003	Claimant submits response to Department of Finance comments
06/28/2007	Commission staff issues draft staff analysis
07/24/2007	Department of Finance submits comments on draft staff analysis
07/25/2007	Claimant requests extension of time to file comments on the draft staff analysis
07/25/2007	Commission staff approves extension of time to August 9, 2007, to file comments on the draft staff analysis
08/09/2007	Claimant files comments on the draft staff analysis
09/17/2007	Commission staff issues final staff analysis
09/27/2007	Commission adopts Statement of Decision
03/20/2008	Commission staff notifies claimant that claimant's proposed parameters and guidelines were required to be submitted on November 2, 2007, and to date, no parameters and guidelines have been filed
06/25/2008	Commission staff notifies claimant that claimant's proposed parameters and guidelines have not been filed and requests claimant to advise if claim has been abandoned
08/14/2008	Claimant submits proposed parameters and guidelines
09/12/2008	Department of Finance files comments
07/20/2009	Claimant responds to Finance comments and submits revised proposed parameters and guidelines
08/12/09	Draft staff analysis and proposed parameters and guidelines issued for comment
09/02/09	Claimant files comments on the draft staff analysis and proposed parameters and guidelines

Summary of the Mandate

This test claim addressed representation on the Sacramento County Local Agency Formation Commission ("LAFCO"), changes to funding mechanisms for LAFCOs with independent special district representation, and modifications to the process for LAFCOs to adopt and update the "sphere of influence"¹ for each local government agency within a county.

¹ "Sphere of influence" means a plan for the probable physical boundaries and service area of a local agency, as determined by the LAFCO. (Gov. Code § 56076.)

On September 27, 2007, the Commission on State Mandates (Commission) adopted the Statement of Decision for the *Local Agency Formation Commissions* program (02-TC-23).² The Commission found that the test claim statute constitutes a new program or higher level of service and imposes a state-mandated program on certain independent special districts within the meaning of article XIII B, section 6, of the California Constitution and Government Code section 17514 for the following activities:

Requiring independent special districts to file written statements with the LAFCO specifying the functions or classes of service provided by those districts, for the following time periods and types of spheres of influence:

- July 1, 2001 through December 31, 2001 – when a LAFCO adopts or updates any sphere of influence or sphere of influence that includes a special district.
- On and after January 1, 2002 – when a LAFCO adopts or updates a sphere of influence for a special district.

The Commission also found that only those independent special districts that are subject to the tax and spend limitations of article XIII A and article XIII B are eligible claimants.

The Commission concluded that Government Code section 56001 declares legislative findings and is helpful to interpret the test claim statutes, but does not mandate any activities. The Commission further concluded that Government Code sections 56326.5, 56381, 56381.6, 56425 (except subdivision (h)(1), subsequently renumbered to subdivision (i)(1)), 56426.5, and 56430, and the Municipal Service Review Guidelines and Appendices developed by OPR, as pled, along with any other test claim statutes, alleged executive orders, guidelines and allegations not specifically approved above, do not mandate a new program or higher level of service subject to article XIII B, section 6.

Discussion

Claimant submitted the proposed parameters and guidelines on July 20, 2009.³ On September 12, 2008, Department of Finance submitted comments on the claimant's proposed parameters and guidelines.⁴ On July 20, 2009, claimant responded to Finance's comments, and submitted revised proposed parameters and guidelines.⁵ Staff reviewed the claimant's initial and revised proposed parameters and guidelines and the comments received. Non-substantive, technical changes were made for purposes of clarification, consistency with language in recently adopted parameters and guidelines, and conformity to the Statement of Decision and statutory language.

Substantive changes were made to the following sections of the claimant's revised proposed parameters and guidelines.

II. Eligible Claimants Were Modified to Clarify that LAFCOs are Not Eligible Claimants

The Commission found that independent special districts participating in a LAFCO and which are subject to the tax and spend limitations of articles XIII A and XIII B of the California

² Exhibit A.

³ Exhibit B.

⁴ Exhibit C.

⁵ Exhibit D.

Constitution, and not LAFCOs, are eligible claimants. Therefore, staff clarified that LAFCOs are not eligible claimants.

III. Period of Reimbursement Was Modified to Add One Year

Government Code section 17557, subdivision (e), states that a test claim shall be submitted on or before June 30 following a given fiscal year to establish eligibility for that fiscal year. This test claim was filed on May 29, 2003, establishing reimbursement for the 2001-2002 fiscal year.

The proposed parameters and guidelines state that reimbursement begins on July 1, 2002. Staff corrected this sentence to clarify that reimbursement begins on July 1, 2001.

Estimated Claims

Prior to 2008, claimants were authorized to file estimated reimbursement claims for the current fiscal year. In 2008, ABX3 8 (Stats. 2008, ch. 6) repealed the authority for claimants to file and be paid for estimated reimbursement claims. Therefore, staff removed any references to estimated reimbursement claims from this section of the proposed parameters and guidelines.

IV. Reimbursable Activities Were Narrowed

Pursuant to Government Code section 56425, the LAFCO is required to develop and determine the sphere of influence of each local governmental agency within the county and enact policies designed to promote the logical and orderly development of areas within the sphere in order to carry out its responsibilities “for planning and shaping the logical and orderly development and coordination of local governmental agencies to advantageously provide for the present and future needs of the county and its communities.” Every five years, the LAFCO is required to review and update, as necessary, each sphere of influence. Pursuant to Government Code section 56425, subdivision (i)(1), the LAFCO, when adopting, amending, or updating a sphere of influence, shall require existing special districts to file written statements with the LAFCO specifying the functions or classes of service provided by those districts.

The Commission approved the test claim for the following reimbursable activity mandated by Government Code section 56425, subdivision (i)(1):

Requiring independent special districts to file written statements with the LAFCO specifying the functions or classes of service provided by those districts, for the following time periods and types of spheres of influence:

- July 1, 2001 through December 31, 2001 – when a LAFCO adopts or updates any sphere of influence or sphere of influence that includes a special district.
- On and after January 1, 2002 – when a LAFCO adopts or updates a sphere of influence for a special district.

Section 1183.1 of the Commission’s regulations describes the content of parameters and guidelines. Pursuant to section 1183.1, subdivision (a)(4), the reimbursable activities shall consist of the activities approved by the Commission in the Statement of Decision as reimbursable state-mandated activities, and activities found to constitute the most reasonable methods of complying with the mandate. “The most reasonable methods of complying with the mandate” are those methods not specified in statute that are necessary to carry out the mandated program.

On July 20, 2009, the claimant submitted revised proposed parameters and guidelines, requesting reimbursement for the following activities:

1. Gather information from within the special district and from outside sources, as needed to prepare the written statements.
2. Draft written statements, including but not limited to, the initial draft, reviews and revisions as needed.
3. File ~~de~~ written statements with the LAFCO.
4. Prepare for, attend, and present written statements at LAFCO meeting.

On August 12, 2009, a draft staff analysis and proposed parameters and guidelines were issued for comment, denying reimbursement for activities 1 and 4 on the ground that they go beyond the scope of the mandated activity and, therefore, are not reasonable methods of complying with the mandate.⁶

On September 2, 2009, the claimant filed comments on the draft staff analysis⁷ (certified under penalty of perjury by the general counsel for Sacramento Metropolitan Fire District), arguing that activities 1 and 4 are reasonable methods of complying with the mandated activity. With respect to activity 1, the claimant states the following:

Few, if any, of us can say that we could, without gathering any information, draft a written statement concerning our respective businesses or departments. Even if one can name all the services their business or department provides without assistance, there remain questions about what was filed before, what do other districts file, who drafted the prior document, the format of the document, or the method of filing. This information is not only necessary to the drafting and filing of the written statement, it is also the most reasonable method of compliance as it allows for accurate drafting and the mere updating of any prior statement. Thus time spent gathering information can yield time saving in the process of drafting that statement.

The language proposed by the claimant (“gather information from within the special district and from outside sources”) is vague and ambiguous, and can apply to activities that go beyond the scope of the mandated activity. Staff recommends that the language be narrowed to apply to the mandated activity, as follows:

1. Gather information on the functions or classes of services provided by the special district from within the special district and from outside sources, as needed to prepare the written statements required by Government Code section 56425, subdivision (i)(1).

Based on the evidence in the record, staff finds that activity 1, as modified by staff, is the most reasonable method of complying with the mandated activity to file written statements on the functions or classes of service provided by the district, pursuant to Government Code section 56425, subdivision (i)(1).

With respect to activity 4 (prepare for, attend, and present written statements at LAFCO meeting), the claimant filed a declaration from Allan P. Burdick of MAXIMUS, Inc., which states in relevant part the following:

2. I spoke to representatives of three LAFCo’s in an effort to establish whether representatives are required to attend LAFCO meeting where the agency had a matter on

⁶ Exhibit E.

⁷ Exhibit F

the agenda. Similar to a Commission on State Mandates meeting, all agreed there is no requirement for agency representatives to attend meetings. They are, however, invited and encouraged to attend. With rare exceptions, the local agency's staff are in contact with the LAFCo staff before the meetings, and they discuss, among other things, the value or benefit to either the local agency or LAFCo from their attendance.

3. I have spoke [sic] to a number of LAFCo staff members over the years, and LAFCo meetings are similar to most other local government meetings, such as city council and county board of supervisor meetings. Since LAFCo commissioners are made up of elected representative [sic] of cities, counties and special districts, their policies, procedures and practices are based on those of their parent organizations. Similar to governing board meetings of local government, while there is no statutory or regulatory requirement to attend a meeting, an agency has an obligation to its taxpayers to insure they are represented if the outcome may have consequences on its constituents.

In comments on the draft staff analysis, the claimant states the following with respect to activity 4:

Government Code section 56425, subdivision (a) states:

In order to carry out its purposes and responsibilities for planning and shaping the logical and orderly development and coordination of local governmental agencies so as to advantageously provide for the present and future needs of the county and its communities, the commission shall develop and determine the sphere of influence of each local governmental agency within the county and enact policies designed to promote the logical and orderly development of areas within the sphere.

To further this purpose, the mandate legislation, Government Code section 56425, subdivision (h)(1) (subsequently renumbered to subdivision (i)(1)) "requires independent special districts to file written statements with the LAFCO, specifying the functions or classes of service provided by those districts ... when a LAFCO adopts or updates a sphere of influence for a special district ..." This Commission found that this activity is a reimbursable state mandate. Filing statements is a method by which agencies communicate with their LAFCO. This communication requires the preparation of the statements to be filed, the drafting and filing of statements and, to bring the matter to its natural close, the appearance at the public meeting where those written statements are discussed and reviewed by the LAFCO. Since these discussions can raise questions, delineate unforeseen issues and lead the LAFCO in new directions, written statements alone are not always sufficient for the LAFCO to complete its business.

Staff finds that activity 4 is a reasonable method of complying with the mandated activity. Government Code section 56427 requires that the LAFCO adopt, amend, or revise spheres of influence only after a public hearing called and held for that purpose. Notice of the hearing is mailed to each affected local agency. At the hearing, the LAFCO is required to hear and consider oral and written testimony presented by the affected local agency. Staff recommends that the language be amended to include a reference to the state-mandated activity and to change the phrase "LAFCO meeting" to "LAFCO hearing" to make it consistent with Government Code section 56427, as follows:

4. Prepare for, attend, and present written statements as required by Government Code section 54625, subdivision (i)(1), at LAFCO meeting hearing.

In summary, staff recommends that the Commission adopt the following revisions to Section IV, reimbursable activities:

A. On-going Activities:

~~For Filing~~ written statements to the LAFCO pursuant to Government Code section 56425, subdivision (i)(1) (formerly numbered subdivision (h)(1).), specifying the functions or classes of service provided by the district, for the following time periods and types of spheres of influence:

- July 1, 2001 through December 31, 2001 – when a LAFCO adopts or updates any sphere of influence or sphere of influence that includes a special district.
- On and after January 1, 2002 – when a LAFCO adopts or updates a sphere of influence for a special district:

The following activities are reimbursable:

1. Gather information on the functions or classes of services provided by the special district from within the special district and from outside sources, as needed to prepare the written statements required by Government Code section 56425, subdivision (i)(1).
2. Draft written statements, including but not limited to, the initial draft, reviews and revisions as needed.
3. File written statements with the LAFCO.
4. Prepare for, attend, and present written statements as required by Government Code section 56425, subdivision (i)(1), at LAFCO meeting hearing.

~~(Government Code section 56425, subdivision (h)(1) (subsequently renumbered to subdivision (i)(1).)~~

Staff Recommendation

Staff recommends that the Commission adopt the proposed parameters and guidelines, as modified by staff, beginning on page 9.

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

[Proposed for Adoption: September 25, 2009](#)

**CLAIMANT’S REVISED
PROPOSED PARAMETERS AND GUIDELINES**

AS MODIFIED BY STAFF

Government Code Sections ~~56001, 56326.5, 56381, 56381.6, 56425~~, [Subdivision \(i\)\(1\) \(formerly Subdivision \(h\)\(1\)\) and 56430](#)

~~Chapter 439, Statutes of 1991~~

Chapter 761, Statutes of 2000

~~Chapter 493, Statutes of 2002~~

~~LAFCO Municipal Services Review Guidelines~~

~~LAFCO Municipal Services Review Guidelines Appendices~~

Local Agency Formation Commissions

02-TC-23

Sacramento Metropolitan Fire District, Claimant

I. SUMMARY OF THE MANDATE

On September 27, 2007, the Commission on State Mandates (Commission) adopted a Statement of Decision finding that the test claim legislation imposes a partially reimbursable state-mandated program upon certain independent special districts within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514. Specifically, the Commission found that only one statutory provision, Government Code section 56425, subdivision (h) (subsequently renumbered to subdivision (i)(1)),~~—~~ constitutes a state-mandated “new program or higher level of service” in an existing program. ~~As the claimant is an independent special district, the findings of for~~ this test claim apply to independent special districts ~~only and not LAFCOs or other local government agencies. Furthermore, only independent special districts~~ that are subject to the tax and spend limitations of articles XIII A and XIII B of the California Constitution ~~are eligible claimants~~. Local agency formation commissions (LAFCOs) are not eligible claimants. All other activities claimed for sphere of influence reviews or municipal service reviews are either required of the LAFCO and not special districts, or the activities are not mandated since the Municipal Service Review Guidelines and Appendices do not constitute executive orders.

The Commission approved this test claim for the following reimbursable activities:

Filing written statements with the LAFCO specifying the functions or classes of service provided by independent special districts, for the following time periods and types of spheres of influence:

- July 1, 2001 through December 31, 2001 – when a LAFCO adopts or updates any sphere of influence or sphere of influence that includes a special district.
- On and after January 1, 2002 – when a LAFCO adopts or updates a sphere of influence for a special district.

II. ELIGIBLE CLAIMANTS

Any independent special district participating in the LAFCO which is subject to the tax and spend limitations of articles XIII A and XIII B of the California Constitution and that incurs increased costs as a result of this reimbursable state-mandated program is eligible to claim reimbursement of those costs. [LAFCOs are not eligible claimants.](#)

III. PERIOD OF REIMBURSEMENT

Government Code section 17557, subdivision (e), states that a test claim shall be submitted on or before June 30 following a given fiscal year to establish eligibility for that fiscal year. The Sacramento Metropolitan Fire District filed the test claim on May 29, 2003, [establishing eligibility for reimbursement for fiscal year 2001-2002.](#) Therefore, costs incurred pursuant to Government Code section 56425, subdivision (h) are reimbursable on or after July 1, [2001-2002.](#)

Actual costs for one fiscal year shall be included in each claim. ~~Estimated costs of the subsequent year may be included on the same claim, if applicable.~~ 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.

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.

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. On-going Activities:

~~For Filing~~ written statements to the LAFCO pursuant to Government Code section 56425, subdivision (i)(1) (formerly numbered subdivision (h)(1).), specifying the functions or classes of service provided by the district, for the following time periods and types of spheres of influence:

- July 1, 2001 through December 31, 2001 – when a LAFCO adopts or updates any sphere of influence or sphere of influence that includes a special district.
- On and after January 1, 2002 – when a LAFCO adopts or updates a sphere of influence for a special district:

The following activities are reimbursable:

1. Gather information on the functions or classes of services provided by the special district from within the special district and from outside sources, as needed to prepare the written statements required by Government Code section 56425, subdivision (i)(1).
2. Draft written statements, including but not limited to, the initial draft, reviews and revisions as needed.
3. File written statements with the LAFCO.
4. Prepare for, attend, and present written statements as required by Government Code section 56425, subdivision (i)(1), at LAFCO meeting hearing.

~~(Government Code section 56425, subdivision (h)(1) (subsequently renumbered to subdivision (i)(1).)~~

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. 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 services that were performed during the period covered by the reimbursement claim. If the contract services are 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 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.

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.

B. Indirect Cost Rates

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:

1. 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
2. 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.

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 chapter¹ 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 offsets the claimant experiences in the same program as a 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, service 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

¹ This refers to Title 2, division 4, part 7, chapter 4 of the Government Code.

derived from the test claim decision 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, subdivision (d), and California Code of Regulations, title 2, section 1183.2.

X. LEGAL AND FACTUAL BASIS FOR THE PARAMETERS AND GUIDELINES

The Statement of Decision is 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.