

## ITEM 10

### PROPOSED ORDER TO SET ASIDE PARAMETERS AND GUIDELINES

*Redevelopment Agencies – Tax Disbursement Reporting*  
05-PGA-01 (99-TC-06)

Health and Safety Code Section 33672.7  
Statutes 1998, Chapter 39

Repealed by Statutes 2005, Chapter 72  
(Assem. Bill No. 138, § 15, eff. July 19, 2005)

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#### EXECUTIVE SUMMARY

Health and Safety Code section 33672.7, as added by Statutes 1998, chapter 39, required the county auditor to prepare annual tax disbursement statements for community redevelopment agency project areas. On October 2002, the Commission on State Mandates adopted its Statement of Decision that the test claim constituted a reimbursable state-mandated program pursuant to article XIII B, section 6 of the California Constitution and Government Code section 17514. On September 25, 2003, the Commission adopted the parameters and guidelines for this program.

The test claim statute was repealed by Statutes 2005, chapter 72 (eff. July 19, 2005).

#### Discussion

Article XIII B, section 6 of the California Constitution states that “whenever the Legislature or any state agency *mandates* a new program or higher level of service on any local government, the state shall provide a subvention of funds.” (Emphasis added.) This constitutional provision was specifically intended to prevent the state from forcing programs on local government that *require* expenditure by local governments of their tax revenues.<sup>1</sup> To implement article XIII B, section 6, the Legislature enacted Government Code section 17500 et seq. Government Code section 17514 defines “costs mandated by the state” as “any increased costs which a local agency or school district is *required* to incur . . . as a result of any statute . . . which *mandates* a new program or higher level of service of an existing program within the meaning of Section 6 of Article XIII B of the California Constitution.” (Emphasis added.)

Staff finds that the test claim statute, Health and Safety Code section 33672.7 was repealed by Statutes 2005, chapter 72. Without the test claim statute, no reimbursement is required pursuant to article XIII B, section 6 of the Constitution and Government Code section 17514 because there is no *Redevelopment Agencies – Tax Disbursement Reporting* program.

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<sup>1</sup> *County of Fresno v. State of California* (1991) 53 Cal.3d 482, 487; *County of Los Angeles v. State of California* (1987) 43 Cal.3d 46, 56; *County of Sonoma v. Commission on State Mandates* (2000) 84 Cal.App.4th 1264, 1283-1284.

**Conclusion**

Therefore, staff concludes that the parameters and guidelines for this program should be set aside, effective July 19, 2005.

**Staff Recommendation**

Staff recommends the Commission adopt the proposed Order to Set Aside the Parameters and Guidelines for the *Redevelopment Agencies – Tax Disbursement Reporting* program.

BEFORE THE  
COMMISSION ON STATE MANDATES  
STATE OF CALIFORNIA

IN RE TEST CLAIM ON:

Health and Safety Code Section 33672.7, as added by Statutes 1998, Chapter 39

Filed on March 3, 2000;

By the County of Los Angeles, Claimant

No. 05-PGA-01 (99-TC-06)

*Redevelopment Agencies – Tax Disbursement Reporting*

SET ASIDE OF PARAMETERS AND GUIDELINES

*(Proposed on September 27, 2005)*

**ORDER TO SET ASIDE PARAMETERS AND GUIDELINES**

Health and Safety Code section 33672.7, as added by Statutes 1998, chapter 39, required the county auditor to prepare annual tax disbursement statements for community redevelopment agency project areas. On October 2002, the Commission on State Mandates adopted its Statement of Decision that the test claim constituted a reimbursable state-mandated program pursuant to article XIII B, section 6 of the California Constitution and Government Code section 17514. On September 25, 2003, the Commission adopted the parameters and guidelines for this program.

The test claim statute was repealed by Statutes 2005, chapter 72 (eff. July 19, 2005).

Article XIII B, section 6 of the California Constitution states that “whenever the Legislature or any state agency *mandates* a new program or higher level of service on any local government, the state shall provide a subvention of funds.” (Emphasis added.) This constitutional provision was specifically intended to prevent the state from forcing programs on local government that *require* expenditure by local governments of their tax revenues.<sup>2</sup> To implement article XIII B, section 6, the Legislature enacted Government Code section 17500 et seq. Government Code section 17514 defines “costs mandated by the state” as “any increased costs which a local agency or school district is *required* to incur . . . as a result of any statute. . . which *mandates* a new program or higher level of service of an existing program within the meaning of Section 6 of Article XIII B of the California Constitution.” (Emphasis added.)

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<sup>2</sup> *County of Fresno v. State of California* (1991) 53 Cal.3d 482, 487; *County of Los Angeles v. State of California* (1987) 43 Cal.3d 46, 56; *County of Sonoma v. Commission on State Mandates* (2000) 84 Cal.App.4th 1264, 1283-1284.

The Commission finds that the test claim statute, Health and Safety Code section 33672.7 was repealed by Statutes 2005, chapter 72. Without the test claim statute, no reimbursement is required pursuant to article XIII B, section 6 of the Constitution and Government Code section 17514 because there is no *Redevelopment Agencies – Tax Disbursement Reporting* program.

Therefore, the Commission sets aside the parameters and guidelines for the *Redevelopment Agencies – Tax Disbursement Reporting* program, effective July 19, 2005.

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PAULA HIGASHI, Executive Director

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Date

## PARAMETERS AND GUIDELINES

Health and Safety Code Section 33672.7

Statutes 1998, Chapter 39

*Redevelopment Agencies—Tax Disbursement Reporting (99-TC-06)*

County of Los Angeles, Claimant

### I. SUMMARY OF THE MANDATE

Health and Safety Code section 33672.7, as added by Statutes 1998, chapter 39, requires the county auditor to prepare annual tax disbursement statements for community redevelopment agency project areas. Prior law required that the auditor prepare such a statement only upon the request of a redevelopment agency. The enactment of Health and Safety Code section 33672.7 created new reporting requirements in that a statement must now be prepared for every community redevelopment agency project, regardless of whether one was requested.

On October 24, 2002, the Commission on State Mandates (Commission) adopted its Statement of Decision that the test claim legislation constitutes a reimbursable state-mandated program upon local governments within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514 for the following activity:

- Preparation, on or before August 15 of each year, of a statement for every community redevelopment agency project area, providing the amounts of disbursements made in the prior fiscal year pursuant to Health and Safety Code sections 33401, 33607.5, 33607.7, 33670, and 33676. (Health & Saf. Code, § 33672.7.)

The Commission also found that the following activities were not reimbursable:

- Costs incurred to perform the calculation and disbursement of tax revenues to redevelopment agencies pursuant to Health and Safety Code sections 33401, 33607.5, 33607.7, 33670, and 33676 are not reimbursable.
- Costs incurred to prepare, duplicate, and distribute the statement are not reimbursable if the statement is requested by a redevelopment agency pursuant to Health and Safety Code section 33672.5.

### II. ELIGIBLE CLAIMANTS

Any county, or city and county, that has incurred increased costs as a direct result of this mandate is eligible to claim reimbursement of those costs.

### III. PERIOD OF REIMBURSEMENT

Government Code section 17557 states that a test claim shall be submitted on or before June 30 following a given fiscal year to establish eligibility for reimbursement for that fiscal year. The test claim for this mandate was filed on March 2, 2000. The test claim legislation became effective on January 1, 1999. Therefore, costs incurred for compliance with Statutes 1998, chapter 39 are reimbursable on or after January 1, 1999.

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, subdivision (d)(1), all claims for reimbursement of initial years' costs shall be submitted within 120 days of notification by the State Controller of the issuance of claiming instructions.

If the total costs for a given 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, 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 eligible for reimbursement:

##### **A. On-Going Activities**

1. On or before August 15 of each year, prepare a statement for each project area that provides the amount of disbursement made in the prior fiscal year pursuant to Health and Safety Code section 33670 and the amounts of disbursement made pursuant to Health and Safety Code sections 33401, 33607.5, 33607.7, and 33676.
2. Duplicate and distribute the annual tax disbursement statements for community redevelopment agency project areas.

See Section I. Summary of the Mandate, for non-reimbursable activities.

## V. CLAIM PREPARATION AND SUBMISSION

Actual costs shall be claimed based on the following uniform allowance per tax disbursement statement as adopted by the Commission pursuant to Government Code section 17557. The uniform allowance shall be adjusted each subsequent year by the Implicit Price Deflator referenced in Government Code section 17523.

<b>Fiscal Year</b>	<b>Uniform Allowance</b>
1998-1999	\$22.27
1999-2000	\$22.72
2000-2001	\$23.61
2001-2002	\$23.87
2002-2003	\$24.40
2003-2004	\$24.81

The uniform allowance covers all the direct and indirect costs of performing the activities described in section IV. Direct costs are those costs incurred specifically for the reimbursable activities. 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.

Reimbursement is determined by multiplying the uniform allowance by the number of statements prepared.

The Commission has not identified any circumstances that would cause an eligible claimant to incur additional costs to perform the reimbursable activities listed in section IV. of these parameters and guidelines, which have not already been incorporated in the uniform allowance. Eligible claimants incurring any such costs within the scope of the reimbursable activities may submit a request to amend the parameters and guidelines to the Commission for such costs to be approved for reimbursement, subject to the provisions of California Code of Regulations, title 2, section 1183.2.

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.

## VI. RECORDS 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>1</sup> is subject to the initiation of an audit by the State 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

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

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. 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 SAVINGS AND REIMBURSEMENTS**

Any offsetting savings that 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 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, subdivision (a), and California Code of Regulations, title 2, section 1183.2.