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March 25, 2014

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Mr. Keith Petersen
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P.O. Box 340430
Sacramento, CA 95834-0430

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

And Parties, Interested Parties and Interested Persons (See Mailing List)

**RE: Draft Staff Analysis and Proposed Statewide Cost Estimate, Schedule for
Comments, and Notice of Hearing**
California Public Records Act, 02-TC-10 and 02-TC-51
Government Code Section 6253, et al.
County of Los Angeles and Riverside Unified School District, Claimants

Dear Mr. Jewik, Mr. Petersen, and Ms. Kanemasu:

The draft staff analysis and proposed statewide cost estimate for this matter are enclosed for your review and comment.

Written Comments

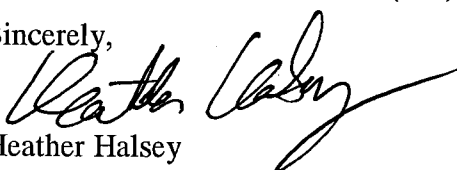
Written comments on the draft staff analysis and proposed statewide cost estimate may be filed by **April 4, 2014**. If you would like to request an extension of time to file comments, please refer to section 1183.01(c)(1) of the Commission's regulations (California Code of Regulations, title 2).

Hearing

This matter is set for hearing on **Friday, May 30, 2014** at 10:00 a.m. in Room 447, State Capitol, Sacramento, CA. The final staff analysis will be issued on or about May 16, 2014. This matter is proposed for the Consent Calendar. Please let us know in advance if you oppose having this item placed on consent and wish to testify at the hearing, or have a representative testify on your behalf, and if other witnesses will appear. If you would like to request postponement of the hearing, please refer to section 1183.01(c)(2) of the Commission's regulations.

Please contact Heidi Palchik at (916) 323-3562 if you have any questions.

Sincerely,


Heather Halsey
Executive Director

Item ____

**Draft Staff Analysis
Proposed Statewide Cost Estimate**

\$9,674,284

(Approximate Prospective Cost of \$1,719,552 Annually)

Government Code Sections 6253, 6253.1, 6253.9, 6254.3, and 6255

Statutes 1992, Chapters 463 (AB 1040); Statutes 2000, Chapter 982
(AB 2799); and Statutes 2001, Chapter 355 (AB 1014)

California Public Records Act

02-TC-10 and 02-TC-51

STAFF ANALYSIS

Background and Summary of the Mandate

The California Public Records Act (CPRA) has long required the disclosure of public records kept by the state, local agencies, school districts and community college districts, and county offices of education.

On May 26, 2011, the Commission on State Mandates (Commission) adopted a statement of decision finding that the test claim statutes impose a partially reimbursable state-mandated program upon local agencies and K-14 school districts within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514. Specifically, the Commission found that the test claim statutes imposed an incremental higher level of service only for the limited activities specified below which do not include the primary Public Records Act activities of providing access to public records for review or providing paper copies of such records, since those activities were not new. Parameters and guidelines were adopted on April 19, 2013 and corrected on July 26, 2013¹ approving the reimbursable activities described below under the *Reimbursable Activities* section.

Eligible claimants were required to file initial reimbursement claims (for costs incurred between fiscal years 2001-2002 and 2012-2013) with the State Controller's Office (SCO) by February 28, 2014. Late initial reimbursement claims may be filed until February 28, 2015.

Eligible Claimants and Period of Reimbursement

Any city; county; city and county; special district subject to the taxing restrictions of articles XIII A and XIII C, and the spending limits of article XIII B, of the California Constitution, whose costs for this program are paid from proceeds of taxes; or any "school district" as defined in Government Code section 17519 which incurs increased costs as a result of this mandate, is eligible to claim reimbursement.

¹ Exhibit A.

Government Code section 17557(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 County of Los Angeles filed the first test claim on October 15, 2002, establishing eligibility for reimbursement for the 2001-2002 fiscal year. Therefore, costs incurred pursuant to the test claim statutes are reimbursable on or after July 1, 2001.

Reimbursable Activities

The parameters and guidelines authorize reimbursement of each eligible claimant for the following activities:

A. One Time Activities: Development of Policies and Procedures, and Training Employees to Implement the Mandate

1. Developing policies, protocols, manuals, and procedures, to implement only the activities identified in section IV.B. of these parameters and guidelines. The activities in section IV.B. represent the incremental higher level of service approved by the Commission.

This activity does not include, and reimbursement is not required for, developing policies and procedures to implement California Public Records Act requirements not specifically included in these parameters and guidelines. This activity specifically does not include making a determination whether a record is disclosable, or providing copies of disclosable records.

2. One-time training of each employee assigned the duties of implementing the reimbursable activities identified in section IV.B. of these parameters and guidelines.

This activity does not include, and reimbursement is not required for, instruction on California Public Records Act requirements not specifically included in these parameters and guidelines. This activity specifically does not include instruction on making a determination whether a record is disclosable, or providing copies of disclosable records.

B. Ongoing Activities

1. Provide a copy of a disclosable electronic record in the electronic format requested if the requested format is one that has been used by the agency to create copies for its own use or for provision to other agencies. (Gov. Code, § 6253.9(a)(2) (Stats. 2000, ch. 982)).

This activity includes:

- a. Computer programming, extraction, or compiling necessary to produce disclosable records.
- b. Producing a copy of an electronic record that is otherwise produced only at regularly scheduled intervals.

Reimbursement is not required for the activities of making the determination whether a record is disclosable, receiving the request for records, determining whether the request falls within the agency's jurisdiction, determining whether the request describes reasonably identifiable records, identifying access to records, conducting legal review to determine whether the records are disclosable, processing the records, sending the records, or tracking the records.

Fee authority discussed in section VII. of these parameters and guidelines is available to be applied to the costs of this activity. The Controller is authorized to reduce reimbursement for this activity to the extent of fee authority, as described in section VII.

2. Upon receipt of a request for a copy of records, a local agency or K-14 school district must perform the activities in a., b., or c. as follows:

- a. Beginning January 1, 2002, within 10 days from receipt of a request for a copy of records, provide verbal or written notice to the person making the request of the disclosure determination and the reasons for the determination. (Gov. Code, § 6253(c), Stats. 2001, ch. 982);

This activity includes, where applicable:

- 1) Drafting, editing and reviewing a written notice to the person making the request, setting forth the reasons for the determination.
- 2) Obtaining agency head, or his or her designee, approval and signature of a written notice of determination.
- 3) Sending or transmitting the notice to the requestor.

- b. Beginning January 1, 2002, if the 10-day time limit to notify the person making the records request of the disclosure determination is extended due to “unusual circumstances” as defined by Government Code section 6253(c)(1)-(4) (Stats. 2001, ch. 982), the agency head, or his or her designee, shall provide written notice to the person making the request, setting forth the reasons of the extension and the date on which a determination is expected to be dispatched. (Gov. Code, § 6253(c), Stats. 2001, ch. 982).

This activity includes, where applicable:

- 1) Drafting, editing and reviewing a written notice to the person making the request, setting forth the reasons for the extension of time.
- 2) Obtaining agency head, or his or her designee, approval and signature of, the notice of determination or notice of extension.
- 3) Sending or transmitting the notice to the requestor.

- c. Beginning July 1, 2001, if a request is denied, in whole or in part, respond in writing to a written request for inspection or copies of public records that includes a determination that the request is denied. (Gov. Code, § 6255(b), Stats. 2000, ch. 982).

This activity includes, where applicable:

- 1) Drafting, editing and reviewing a written notice to the person making the request, setting forth the reasons for the determination. This may include legal review of the written language in the notice. However, legal research and review of the law and facts that form the basis of the determination to deny the request are not reimbursable.
- 2) Obtaining agency head, or his or her designee, approval and signature of, the notice of determination.
- 3) Sending or transmitting the notice to the requestor.

Reimbursement for activities 2a., 2b., and 2c. is not required for making the determination whether a record is disclosable, receiving the request for records, determining whether the request falls within the agency’s jurisdiction, determining

whether the request describes reasonably identifiable records, identifying access to records, conducting legal review to determine whether the records are disclosable, processing the records, sending the records, or tracking the records.

3. When a member of the public requests to inspect a public record or obtain a copy of a public record, the local agency or K-14 school district shall (1) assist the member of the public to identify records and information that are responsive to the request or to the purpose of the request, if stated; (2) describe the information technology and physical location in which the records exist; and (3) provide suggestions for overcoming any practical basis for denying access to the records or information sought.

This activity includes:

- a. Conferring with the requestor if clarification is needed to identify records requested.
- b. Identifying record(s) and information which may be disclosable and may be responsive to the request or to the purpose of the request, if stated.
- c. Provide suggestions for overcoming any practical basis for denying access to the records or information sought.

These activities are not reimbursable when: (1) the public records requested are made available to the member of the public through the procedures set forth in Government Code section 6253; (2) the public agency determines that the request should be denied and bases that determination solely on an exemption listed in Government Code section 6254; or (3) the public agency makes available an index of its records. (Gov. Code, § 6253.1(a) and (d), Stats. 2001, ch. 355).

In addition, reimbursement is not required for the activities of making the determination whether a record is disclosable, receiving the request for records, determining whether the request falls within the agency's jurisdiction, conducting legal review to determine whether the requested records are disclosable, processing the records, sending the records, or tracking the records.

4. For K-12 school districts and county offices of education only, the following activities are eligible for reimbursement:
 - a. Redact or withhold the home address and telephone number of employees of K-12 school districts and county offices of education from records that contain disclosable information.

This activity is not reimbursable when the information is requested by: (1) an agent, or a family member of the individual to whom the information pertains; (2) an officer or employee of another school district, or county office of education when necessary for the performance of its official duties; (3) an employee organization pursuant to regulations and decisions of the Public Employment Relations Board, except that the home addresses and home telephone numbers of employees performing law enforcement-related functions shall not be disclosed (and thus must always be redacted or withheld); (4) an agent or employee of a health benefit plan providing health services or administering claims for health services to K-12 school district and county office of education employees and

their enrolled dependents, for the purpose of providing the health services or administering claims for employees and their enrolled dependents. (Gov. Code, § 6254.3(a), Stats. 1992, ch. 463.)

- b. Remove the home address and telephone number of an employee from any mailing lists that the K-12 school district or county office of education is legally required to maintain, if requested by the employee, except for lists used exclusively by the K-12 school district or county office of education to contact the employee. (Gov. Code, § 6254.3(b), Stats. 1992, ch. 463.)

Statewide Cost Estimate

Assumptions

Staff reviewed the reimbursement claims data submitted by approximately 160 local agencies, 29 school districts, and two community college districts and compiled by the SCO.² The actual claims data showed that 1124 initial claims were filed for a 12-year period including fiscal years 2001-2002 through 2012-2013 for a total of \$9,674,284. Based on this data, staff made the following assumptions and used the following methodology to develop a statewide cost estimate for this program.

- *The actual amount claimed for reimbursement may increase and exceed the statewide cost estimate.*
 - There are currently 482 cities, 58 counties and over 6,000 special districts in California. Combined, only 160 local agencies filed reimbursement claims totaling just over nine million dollars for this program for a 12-year period including fiscal years 2001-2002 through 2012-2013. Likewise, there are 1043 school districts and 58 county offices of education (COEs). Yet only 29 districts and no COEs filed claims totaling \$473,409. Finally, only two of the 72 community college districts in the state filed claims for a total of \$25,705. If other eligible claimants file late or amended initial claims, the amount of reimbursement claims may exceed the statewide cost estimate. Late initial reimbursement claims for this program for fiscal years 2001-2002 through 2012-2013 may be filed until February 28, 2015.
 - There also may be several reasons that non-claiming local agencies, school districts, and community college districts did not file reimbursement claims, including but not limited to: (1) they did not incur more than \$1,000 in increased costs for this program and (2) they did not have supporting documentation to file a reimbursement claim.
 - Additionally, the number of claimants that submitted reimbursement claims and the total costs claimed in the initial claiming period, in all 12 fiscal years for local agencies as well as school districts, are trending upward. It is likely that the number of claimants that submit reimbursement claims as well as the cost of the activities will continue to increase moving forward.
- *The total amount of reimbursement for this program may be lower than the statewide cost estimate because the SCO may reduce any reimbursement claim for this program.*

² Exhibit B. Claims data reported as of March 13, 2014.

- The SCO may conduct audits and reduce any claims it deems to be excessive or unreasonable.
- The state-mandated reimbursable activities represent only an incremental increase in the level of service required under prior law. Therefore, it is possible that claimants may submit invalid claims based on activities that exceed the limited scope of this program.
- Only those special districts subject to the taxing restrictions of articles XIII A and XIII C, and the spending limits of article XIII B, of the California Constitution, whose costs for this program are paid from proceeds of taxes are eligible claimants. Therefore, it is possible that some of the claims may have been submitted by ineligible claimants.

Methodology

Fiscal Years 2001-2002 through 2012-2013

The statewide cost estimate for fiscal years 2001-2002 through 2012-2013 was developed by totaling the 1124 reimbursement claims filed with the SCO for these years totaling \$9,674,284. Staff finds that the averages for the most recent three-year period are most indicative of potential future costs. For the most recent three-year period, costs averaged \$1,719,552 annually.

Following is a breakdown of estimated costs per fiscal year:

Fiscal Year	# of Local Claims	Local Totals	# of School Claims	School Totals	# of CCD Claims	CCD Totals
2001-2002	35	\$220,290	1	\$1,464	-	-
2002-2003	42	\$252,852	2	\$3,363	-	-
2003-2004	47	\$299,186	2	\$3,454	-	-
2004-2005	51	\$329,837	2	\$3,432	-	-
2005-2006	57	\$382,715	6	\$19,255	-	-
2006-2007	69	\$485,586	7	\$45,752	-	-
2007-2008	83	\$568,344	5	\$9,928	-	-
2008-2009	97	\$843,199	6	\$24,641	-	-
2009-2010	115	\$978,139	9	\$44,191	-	-
2010-2011	135	\$1,242,492	14	\$73,153	-	-
2011-2012	139	\$1,548,724	19	\$111,773	2	\$21,388
2012-2013	157	\$2,023,806	21	\$133,003	1	\$4,317
TOTAL	1027	\$9,175,170	94	\$473,409	3	\$25,705
TOTAL ALL CLAIMS						\$9,674,284

Staff Recommendation

Staff recommends the Commission adopt the proposed statewide cost estimate of **\$9,674,284 (Approximate Prospective Cost of \$1,719,552 Annually)** for costs incurred in complying with the *California Public Records Act* program.

Item ____

Draft Staff Analysis

Proposed Statewide Cost Estimate

\$9,674,284

(Approximate Prospective Cost of \$1,719,552 Annually)

Government Code Sections 6253, 6253.1, 6253.9, 6254.3, and 6255

Statutes 1992, Chapters 463 (AB 1040); Statutes 2000, Chapter 982
(AB 2799); and Statutes 2001, Chapter 355 (AB 1014)

California Public Records Act

02-TC-10 and 02-TC-51

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BEFORE THE
COMMISSION ON STATE MANDATES
STATE OF CALIFORNIA

IN RE PARAMETERS AND GUIDELINES:

Government Code Sections 6253, 6253.1, 6253.9, 6254.3, and 6255

Statutes 1992, Chapters 463 (AB 1040); Statutes 2000, Chapter 982 (AB 2799); and Statutes 2001, Chapter 355 (AB 1014)

Period of reimbursement begins on July 1, 2001, or later for specified activities added by subsequent statutes.

Case No.: 02-TC-10 and 02-TC-51

California Public Records Act

STATEMENT OF DECISION PURSUANT TO GOVERNMENT CODE SECTION 17500 ET SEQ.; CALIFORNIA CODE OF REGULATIONS, TITLE 2, DIVISION 2, CHAPTER 2.5, ARTICLE 7

(Adopted April 19, 2013)

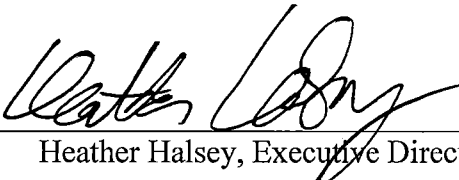
(Served April 25, 2013)

(Corrected July 26, 2013)

(Served August 2, 2013)

PARAMETERS AND GUIDELINES

The Commission on State Mandates adopted the attached corrected parameters and guidelines on July 26, 2013.


Heather Halsey, Executive Director

PARAMETERS AND GUIDELINES

Government Code Sections 6253, 6253.1, 6253.9, 6254.3, and 6255
Statutes 1992, Chapters 463 (AB 1040); Statutes 2000, Chapter 982
(AB 2799); and Statutes 2001, Chapter 355 (AB 1014)

California Public Records Act

02-TC-10 and 02-TC-51

Period of reimbursement begins on July 1, 2001, or later for specified activities
added by subsequent statutes

I. SUMMARY OF THE MANDATE

The California Public Records Act (CPRA) provides for the disclosure of public records kept by the state, local agencies, school districts and community college districts, and county offices of education. On May 26, 2011, the Commission on State Mandates (Commission) adopted a statement of decision finding that the test claim statutes impose a partially reimbursable state-mandated program upon local agencies and K-14 school districts within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514. The Commission approved this test claim for the following reimbursable activities which impose an incremental increase in the level of service required under prior law:

1. If requested by a person making a public records request for a public record kept in an electronic format, provide a copy of a disclosable electronic record in the electronic format requested if the requested format is one that has been used by the agency to create copies for its own use or for provision to other agencies. (Gov. Code, § 6253.9(a)(2) (Stats. 2000, ch. 982)).
2. Within 10 days from receipt of a request for a copy of records, notify the person making the request of the determination regarding whether the records are disclosable and the reasons for the determination. (Gov. Code, § 6253(c) (Stats. 2001, ch. 982)).
3. If the 10-day time limit of Government Code section 6253 is extended by a local agency or K-14 district due to “unusual circumstances” as defined by Government Code section 6253(c)(1)-(4) (Stats. 2001, ch. 982), provide written notice to the person making the request, setting forth the reasons of the extension and the date on which a determination is expected to be dispatched. (Gov. Code, § 6253(c) (Stats. 2001, ch. 982)).
4. If a request is denied, in whole or in part, respond in writing to a written request for inspection or copies of public records that includes a determination that the request is denied. (Gov. Code, § 6255(b) (Stats. 2000, ch. 982).)
5. When a member of the public requests to inspect a public record or obtain a copy of a public record:
 - a. Assist the member of the public to identify records and information that are responsive to the request or to the purpose of the request, if stated;

- b. Describe the information technology and physical location in which the records exist; and
- c. Provide suggestions for overcoming any practical basis for denying access to the records or information sought.

These activities are not reimbursable when:

- The public records requested are made available to the member of the public through the procedures set forth in Government Code section 6253;
 - The public agency determines that the request should be denied and bases that determination solely on an exemption listed in Government Code section 6254; or
 - The public agency makes available an index of its records. (Gov. Code, § 6253.1(a) and (d) (Stats. 2001, ch. 355)).
6. For K-12 school districts and county offices of education only, the following activities are eligible for reimbursement:
- a. Redact or withhold the home address and telephone number of employees of K-12 school districts and county offices of education from records that contain disclosable information.
- This activity is not reimbursable when the information is requested by: (1) an agent, or a family member of the individual to whom the information pertains; (2) an officer or employee of another school district, or county office of education when necessary for the performance of its official duties; (3) an employee organization pursuant to regulations and decisions of the Public Employment Relations Board, except that the home addresses and home telephone numbers of employees performing law enforcement-related functions shall not be disclosed (and thus must always be redacted or withheld); (4) an agent or employee of a health benefit plan providing health services or administering claims for health services to K-12 school district and county office of education employees and their enrolled dependents, for the purpose of providing the health services or administering claims for employees and their enrolled dependents. (Gov. Code, § 6254.3(a) (Stats. 1992, ch. 463).)
- b. Remove the home address and telephone number of an employee from any mailing lists that the K-12 school district or county office of education is legally required to maintain, if requested by the employee, except for lists used exclusively by the K-12 school district or county office of education to contact the employee. (Gov. Code, § 6254.3(b) (Stats. 1992, ch. 463).)

II. ELIGIBLE CLAIMANTS

Any city; county; city and county; special district subject to the taxing restrictions of articles XIII A and XIII C, and the spending limits of article XIII B, of the California Constitution, whose costs for this program are paid from proceeds of taxes; or any "school district" as defined in Government Code

section 17519 which incurs increased costs as a result of this mandate, is eligible to claim reimbursement.

III. PERIOD OF REIMBURSEMENT

Government Code section 17557(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 County of Los Angeles filed the first test claim on October 15, 2002, establishing eligibility for reimbursement for the 2001-2002 fiscal year. Therefore, costs incurred pursuant to the test claim statutes are reimbursable on or after July 1, 2001.

Reimbursement for state-mandated costs may be claimed as follows:

1. Actual costs for one fiscal year shall be included in each claim.
2. Pursuant to Government Code section 17561(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.
3. Pursuant to Government Code section 17560(a), a local agency or school district may, by February 15 following the fiscal year in which costs were incurred, file an annual reimbursement claim that details the costs actually incurred for that fiscal year.
4. If revised claiming instructions are issued by the Controller pursuant to Government Code section 17558(c), between November 15 and February 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. (Gov. Code § 17560(b)).
5. 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(a).
6. There shall be no reimbursement for any period in which the Legislature has suspended the operation of a mandate pursuant to state law.

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 to 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.

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