



**COUNTY OF LOS ANGELES
DEPARTMENT OF AUDITOR-CONTROLLER**

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DECLARATION OF SERVICE

STATE OF CALIFORNIA, County of Los Angeles:

Lorraine Hadden states: I am and at all times herein mentioned have been a citizen of the United States and a resident of the County of Los Angeles, over the age of eighteen years and not a party to nor interested in the within action; that my business address is 603 Kenneth Hahn Hall of Administration, City of Los Angeles, County of Los Angeles, State of California;

That on the 24th day of August, 2010 I served the attached:

Documents: Los Angeles County's review of State agency comments on its Revised Parameters and Guidelines (Ps&Gs) and Proposed Standard Costs for the Municipal Storm Water and Urban Runoff Discharges reimbursement program, including a 1 page letter of Wendy L. Watanabe, dated August 19, 2010, a 20 page narrative and attached Ps&Gs, a 4 page declaration of William Yan dated August 16, 2010, a 1 page declaration of Leonard Kaye, dated August 18, 2010, a 1 page cost analysis table, and a 6 page letter of Jill Kanemasu, dated April 1, 2010, now pending before the Commission on State Mandates.

upon all Interested Parties listed on the attachment hereto and by

- by transmitting via the internet the document(s) listed above to the e-mail address(s) set forth below on this date a PDF copy to the Commission on State Mandates and by mailing the original document(s) to the Commission at the address listed below.
- by placing true copies original thereof enclosed in a sealed envelope addressed as stated on the attached mailing list.
- by placing the document(s) listed above in a sealed envelope with postage thereon fully prepaid, in the United States mail at Los Angeles, California, addressed as set forth below.
- by personally delivering the document(s) listed above to the person(s) as set forth below at the indicated address.

PLEASE SEE ATTACHED MAILING LIST

That I am readily familiar with the business practice of the Los Angeles County for collection and processing of correspondence for mailing with the United States Postal Service; and that the correspondence would be deposited within the United States Postal Service that same day in the ordinary course of business. Said service was made at a place where there is delivery service by the United States mail and that there is a regular communication by mail between the place of mailing and the place so addressed.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 24th day of August, 2010 at Los Angeles, California.

Lorraine Hadden

Commission on State Mandates

Original List Date:
Last Updated: 8/6/2010
List Print Date: 08/23/2010
Claim Number: 03-TC-04, 20, 21
Issue: Municipal Stormwater and Runoff Discharges

Agenda Mailing List

TO ALL PARTIES AND INTERESTED PARTIES:

Each commission mailing list is continuously updated as requests are received to include or remove any party or person on the mailing list. A current mailing list is provided with commission correspondence, and a copy of the current mailing list is available upon request at any time. Except as provided otherwise by commission rule, when a party or interested party files any written material with the commission concerning a claim, it shall simultaneously serve a copy of the written material on the parties and interested parties to the claim identified on the mailing list provided by the commission. (Cal. Code Regs., tit. 2, § 1181.2.)

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August 19, 2010

Ms. Paula Higashi
Executive Director
Commission on State Mandates
980 Ninth Street, Suite 300
Sacramento, California 95814

Dear Ms. Higashi:

**LOS ANGELES COUNTY'S REVIEW OF STATE AGENCY COMMENTS
REVISED PARAMETERS & GUIDELINES AND PROPOSED STANDARD COSTS
MUNICIPAL STORM WATER AND URBAN RUNOFF DISCHARGES TEST CLAIMS**

The County of Los Angeles respectfully submits its review of state agency comments on its parameters and guidelines (Ps&Gs) and standard costs for the Municipal Storm Water and Urban Runoff Discharges reimbursement program which was filed with the Commission on May 27, 2010. A revised set of Ps&Gs and standard costs is also enclosed.

If you have any questions, please contact Leonard Kaye at (213) 974-9791 or via e-mail at lkaye@auditor.lacounty.gov.

Very truly yours,


Wendy L. Watanabe
Auditor-Controller

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Enclosure

Los Angeles County's Review of State Agency Comments
Revised Parameters and Guidelines and Proposed Standard Costs
Municipal Storm Water and Urban Runoff Discharges Test Claims

Executive Summary

On July 31, 2009, the Commission on State Mandates (Commission) adopted a landmark decision which, for the first time in California, allowed municipalities to receive State reimbursement for storm water mandates, including the mandate to place and maintain trash receptacles at designated bus stops.

On August 28, 2009, the County filed parameters and guidelines (Ps&Gs) which permitted claiming repetitive trash collection activities using time studies. On May 27, 2010, the County filed revised Ps&Gs which added a 'reasonable reimbursement methodology' (RRM) or standard unit cost option for claiming these repetitive activities. Based on a survey of eligible claimants, a standard unit cost of \$6.75 for each trash receptacle collection was found. This finding was then endorsed by the League of California Cities and the California State Association of Counties in a joint letter filed with the Commission on May 24, 2010.

On July 23, 2010, the State Department of Finance (Finance) filed comments with the Commission and concluded that the \$6.75 RRM rate should apply to the entire initial reimbursement period (2002-03 through 2008-09) without a cost of living adjustment because the rate "... is based on local costs incurred over a seven year period". Finance also concluded that "... the proposed RRM rate ... increase in 2009-2010 and subsequent years by the implicit price deflator for that respective year". The County agrees with both of Finance's conclusions and has modified its Ps&Gs accordingly.

Finance staff express concerns over cleaning activity costs which were used in developing the \$6.75 RRM rate. In this regard, the County addresses Finance's concerns and explains the necessity for cleaning activities and as well as annual cleaning cost increases.

On July 23, 2010, the State Controller's Office (SCO) commented that "... for uniformity and consistency" only the actual cost claiming option should be used. However, the County finds no prohibition in using the actual cost claiming option and the standard cost RRM claiming option in the same set of PS&Gs. Accordingly, the County continues to include a \$6.75 standard cost RRM claiming option as well as an actual cost claiming option in its Ps&Gs.

Finance

Ms. Nona Martinez with the State Department of Finance (Finance) filed comments approving the use of a 'reasonable reimbursement methodology' (RRM) or standard unit cost claiming option under specified conditions. In this regard, she concludes that:

“... a fair and accurate RRM rate, if agreed upon by all relevant parties, would be an efficient way to streamline the reimbursement process. However, we would not support an RRM that is based on costs for activities that are not clearly identified or reasonably necessary to carry out the mandate.”

In particular, Ms. Martinez is concerned that “... the proposed (\$6.75) RRM rate does not accurately reflect the costs incurred to implement the mandate because ... some of the claimants' alleged activities, e.g. cleaning costs, are not reasonably necessary to implement the mandate”.

The County respectfully disagrees. Cleaning is reasonably necessary.

According to the Commission's Statement of Decision adopted on July 31, 2009, on page 71:

“All trash receptacles shall be maintained as necessary.”

Cleaning trash receptacles is necessary. In this regard, Mr. William Yan, associate civil engineer with the County's Department of Public Works, in a declaration attached as Exhibit 1, describes the routine cleaning activities that are reasonably necessary in maintaining trash receptacles. He indicates that:

“ ... routine cleaning of trash receptacles and the 10-foot area around each trash receptacle is reasonably necessary to implement the mandate

... trash receptacles and the 10-foot area around each trash receptacle must be thoroughly cleaned of any graffiti, stickers, posters, litter, dust, dirt, weeds and any residue in order to prevent the flow of any waste to enter the storm drain and/or street gutters.

... the County provides 48 to 52 visits per year to clean trash receptacles and the 10-foot area around each trash receptacle.

... during each cleaning visit the County routinely cleans, washes and removes all graffiti, stickers, posters, litter, dust, dirt and weeds from each trash receptacle and immediate 10-foot area around each trash receptacle. The trash receptacle is to be maintained in a continual like new condition.

... during each cleaning visit the County shall carry an adequate supply of clean aluminum liners during the cleaning visits to ensure that liners are kept in a clean condition. County shall not allow any waste or liquid from trash receptacles or liners to enter the storm drains and/or street gutters during the cleaning of trash receptacles and liners.”

Clearly, then, cleaning activities are reasonably necessary in maintaining trash receptacles at designated bus stops. Without cleaning, waste or liquid from trash receptacles or liners could enter the storm drains and/or street gutters --- precisely the result the Permit was designed to prevent.

Cleaning Costs

Regarding the RRM cost survey, Finance’s commentary focuses on the County’s cleaning cost component. Specifically, Ms. Martinez notes that:

“The (RRM) survey responses do not clearly explain the costs associated with the maintenance of the trash receptacles, e.g. cleaning. The survey of the unincorporated area of Los Angeles County shows increased cleaning costs in the amount of \$7,275 from fiscal year 2005-06 to 2006-07 and \$32,501 from fiscal year 2006-07 to 2007-08. ... The concern is that the ratio of increased cleaning costs to increased number of trash receptacles is not proportionate or consistent between fiscal years.”

In researching the cleaning cost increases noted by Finance, it was found that more than one variable (the number of trash receptacles) should be examined when studying year to year cleaning cost changes. The County found that at least three variables are related to these changes. Mr. William Yan, County’s engineer, in his declaration attached as Exhibit 1, reports that:

“... the costs of providing the (above) cleaning activities were calculated from two separate Bus Stop Amenities Maintenance contracts (North

and South County) using three variables: (1) the average number of trash receptacles, (2) the unit cleaning cost per visit, and (3) the frequency of cleanings per month.”

Regarding the specific year-to-year cleaning cost increases questioned by Finance, Mr. Yan’s examination finds:

“ FY 2005-06 to FY 2006-07: \$7,275 increase

- North County: The cost increase was due to the living wage adjustments which increased the unit cost from \$3.25 to \$3.38 per visit. We were also charged for 48 cleaning visits per receptacle in FY2005-06 versus 52 cleaning visits in FY 2006-07.
- South County: The cost increase was due to the living wage adjustments which increased the unit cost from \$3.25 to \$3.38 per visit and an increase in the number of number of trash receptacles. We were also charged for 48 cleaning visits per receptacle versus in FY2005-06 versus 52 cleaning visits in FY 2006-07.

FY 2006-07 to FY 2007-08: \$32,501 increase

- North County: The cost increase was due to the revised Living Wage Program which increased the unit cost from \$3.38 to \$4.59 per visit. With the award of a new contract, the unit cost increased again from \$4.59 to \$8.00 per visit.
- South County: The cost increase was due to the revised Living Wage Program which increased the unit cost from \$3.38 to \$4.43 per visit.”

Mr. Yan, provides an in-depth analysis of the major cause of the (above) increases in per visit costs and indicates that:

“Both the North County and the South County maintenance contracts included a clause which allowed for a Living Wage Adjustment for the first (April 2006- March 2007) and second (April 2007- March 2008) option years of the contract. The increases were 2.5% and 1.87% respectively. In addition, the rates were increased again. Prior to the end of the second option year, the County Board of Supervisors adopted a revised Living

Wage Program (Los Angeles County Code Sections 2.201.010-2.201.100); this further increased the price by about 30% effective July 1, 2007.

In addition, on March 2008, the County awarded a new contract for the North County Maintenance Program, which included an increase in the unit cleaning cost from \$4.59 to \$8.00.”

Accordingly, as Finance has requested, the factors “driving ... cleaning cost increases” have been identified and explained.

Further analysis demonstrates that annual cleaning cost increases are modest when viewed over an extended reimbursement period (July 1, 2003 through June 30, 2009). Here, the year-to-year increase averages only 5.91%¹, significantly different than the isolated 40.34% (2007-08) increase discussed in Finance’s commentary.

Finance comments on the cost of living adjustments to the RRM rate proposed by the County and recommends that the \$6.75 rate apply to the entire initial reimbursement period (2002-03 through 2008-09) without a cost of living adjustment because the rate “... is based on local costs incurred over a seven year period”. In addition, Finance recommends that “... the proposed RRM rate ... [should] increase in 2009-2010 and subsequent years by the implicit price deflator for that respective year”. Here, the County agrees with both of Finance’s recommendations and has modified its Ps&Gs accordingly.

State Controller’s Office

The State Controller’s Office (SCO) comments were filed by Mr. Jay Lal, Local Reimbursement Section Manager. In discussing the County’s proposed use of an actual claiming option as well as an RRM claiming option in the same reimbursement program, Mr. Lal concludes that “... for uniformity and consistency” only the actual cost claiming option can be used. The RRM claiming option is not available.

The County respectfully disagrees. The RRM claiming option is also available here. And it is available because the County has met the requirements in Government Code Section 17518.5.

¹ The computation of the 5.91% average annual increase in (per receptacle) cleaning costs is found in Exhibit 3.

In particular, the RRM claiming option rate of \$6.75 for each trash collection was developed from a survey of a representative sample of eligible claimants in accordance with Section 17518.5(b):

“(b) A reasonable reimbursement methodology shall be based on cost information from a representative sample of eligible claimants, information provided by associations of local agencies and school districts, or other projections of local costs.

Under the auspices of the California State Association of Counties (CSAC) and the California League of Cities (League), eleven jurisdictions were surveyed. The sample was representative as it included large, mid-sized and small jurisdictions. And on May 24, 2010, the League and CSAC endorsed the RRM rate of \$6.75 per trash collection in a joint letter filed with the Commission.

Accordingly, the RRM claiming option and rate met the representative sample requirements in Section 17518.5(b).

In addition, the RRM survey results reflect the variation in costs among local agencies to implement the mandate in a cost-efficient manner, an RRM requirement in Government Code Section 17518.5(c). Here, some agencies found that using in-house staff and resources to perform the trash collection mandate was cost-efficient while other agencies concluded otherwise and awarded new or amended contracts to perform the mandate to vendors. Moreover, some agencies used both in-house and contract performance methods during the survey period.

Accordingly, the RRM cost survey's results reflect the variation in costs among local agencies to implement the mandate in a cost-efficient manner in Section 17518.5(c).

The RRM survey also meets the RRM requirements found in Government Code Section 17518.5(d):

“Whenever possible, a reasonable reimbursement methodology shall be based on general allocation formulas, uniform cost allowances, and other approximations of local costs mandated by the state, rather than detailed documentation of actual local costs. In cases when local agencies and school districts are projected to incur costs to implement a mandate over a

period of more than one fiscal year, the determination of a reasonable reimbursement methodology may consider local costs and state reimbursements over a period of greater than one fiscal year, but not exceeding 10 years." (Emphasis added.)

Here, the County's RRM claiming option provides a uniform cost allowance. Further, this allowance is based on local costs incurred over a seven year period (July 1, 2002 through June 30, 2009), which does not exceed the ten-year limitation.

Therefore, pertinent RRM requirements found in Government Code Section 17518.5 have been met and use of the RRM claiming option is permitted.

In addition, the County finds no prohibition in using the RRM claiming option in its Ps&Gs under other sections of pertinent law (Government Code Section 17500 et seq.) . Also, the County finds no prohibition against including the actual cost claiming option and the RRM claiming option in the same set of PS&Gs.

In fact, combining the two claiming options in the same reimbursement program have been approved when proposed by claimants. For example, on April 1, 2010, Ms. Jill Kanemasu, SCO's Chief of the Bureau of Payments, filed comments with the Commission, attached as Exhibit 4, on a set of Ps&Gs proposed by the County for the Interagency and Child Abuse and Neglect (ICAN) reimbursement program. These Ps&Gs provided claimants with the actual cost claiming option as well as the RRM claiming option. On page 2 of her commentary she indicates that:

"To be eligible for mandated cost reimbursement for any fiscal year, only actual costs may be claimed except where reasonable reimbursement methodology rates are adopted as set forth in Section IVB." (Emphasis added.)

Accordingly, the County's Ps&Gs use Ms. Kanemasu's language and provide that only actual costs may be claimed except where reasonable reimbursement methodology rates are adopted.

Installation Costs

Mr. Jay Lal, SCO's Local Reimbursement Section Manager, finds that installation costs are not reimbursable "because they are outside the scope of the state mandated reimbursable costs".

The County respectfully disagrees. There is no evidence provided or cited by Mr. Lal that installation costs are outside the scope of the state mandated reimbursable costs. Rather, substantial evidence in the record points in the other direction --- that installation costs are within the scope of state mandated reimbursable costs.

The County's evidence that installation costs are reimbursable was provided in a declaration of William Yan, associate civil engineer with the County's Department of Public Works, attached to the County's May 27, 2010 Ps&Gs filing. Mr. Yan, indicated the necessity for installation activities, on pages 2-3 of his declaration, as follows:

" ... to prevent frequent loss of trash receptacles in many types of locations, the receptacle must be bolted down and, in order to be bolted down, unimproved bus stops must be fitted with a concrete pad.

... proper selection of receptacle and pad types, evaluations of appropriate placements of receptacles and preparation of engineering specifications and/or drawings are necessary for installation of concrete pads.

... securing transit trash receptacles reduces vandalism, theft, and accidental losses and the costs of replacing the missing or damaged receptacles.

... securing transit trash receptacles would reduce the time the receptacle would be out of service and not available to collect trash.

... concrete pads would provide adequate bolting surface for large-capacity transit trash receptacles which require less collection frequency.

... transit trash receptacles made of wrought iron would be more durable against vandalism and damage, thereby reducing replacement costs.

... dome covers and solid trash receptacle liners prevent rain water from going into the receptacles , thereby causing trash to spill out and flow into the storm drains.

... the use of dome covers and the solid trash receptacle liners meet the intent of the California Regional Water Quality Control Board's mandate (Executive Order Number 01-182, as issued on December 13, 2001, in Permit Number CASoo4001, Part 4, Section F.5.c.3.) by preventing pollutants from entering the storm drains."

In addition, it should be noted that a plain reading of the mandate the Commission found to be reimbursable imposes installation duties on claimants. This mandate addresses the placement as well as the maintenance of trash receptacles. It clearly directs claimants to:

"Place trash receptacles at all transit stops within its jurisdiction that have shelters no later than August 1, 2002, and at all transit stops within its jurisdiction no later than February 3, 2003. All trash receptacles shall be maintained as necessary."² (Emphasis added.)

Now, in order place trash receptacles at specified transit stops, the following activities found in the "Installation of Trash Receptacles" section (IVC.) of the attached Ps&Gs are reasonably necessary because:

1. In order to place trash receptacles one needs to know where to put them. So, "identification of locations of all transit stops within the jurisdiction required to have a trash receptacle pursuant to the Permit" is reasonably necessary.
2. In order to place trash receptacles after a site has been determined, one needs to ensure that trash receptacle can be secured at the location to prevent frequent loss of service, overflow, and damage. So, "selection of receptacle and pad type, evaluate proper placement of receptacles and preparation of specifications and/or drawings" is reasonably necessary.

² These mandates are found in Part 4F5c3 of Order No. 01-182, Permit CAS004001 (Permit) which was issued by the Los Angeles Regional Water Quality Control Board on December 13, 2001.

3. In order to place the selected trash receptacles and pads one needs to design and configure them as effectively and efficiently as possible so as to minimize design defects and maximize the continuing collection of trash in the most efficient manner. So, “contract preparation, specification review process, bid, advertising, and review and award of bid” activities are reasonably necessary.
4. In order to complete the process of placing trash receptacles one needs to buy or construct them. So “purchase of receptacles and/or construction of receptacles and installing receptacles” is reasonably necessary.
5. And in order to place trash receptacles at transit stops, one must replace those that are lost or damaged. So, “repeat(ing) steps (IV.C.1. c-d) when necessary for replacement of receptacles/pads” is reasonable necessary.

Therefore, the (above) installation activities are reasonably necessary. Without them, the mandate to place trash receptacles at specified transit stops could not be performed. Accordingly, reimbursement is required for the installation activities claimed herein.

Technical Corrections

Mr. Lal offers technical corrections which have been modified and incorporated in the County's revised Ps&Gs.

The first paragraph of Section III. (Period of Reimbursement) has been modified to eliminate estimated cost claim language as such claims are no longer filed. The second paragraph of this section increases the minimum claim to \$1,000 to conform with current law. The two paragraphs now read:

“Actual costs for one fiscal year shall be included in each claim. Pursuant to section 17561, subdivision (d)(1)(A) of the Government Code, all claims for reimbursement of initial fiscal year costs shall be submitted to the State Controller within 120 days of the issuance date 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.”

The third paragraph of Section IV.A. (Actual Costs) has been modified to include some instruction as to the performance of time studies but not include the extensive requirements, such as developing a time study plan, detailed by Mr. Lal. This section now reads, in pertinent part:

“Claimants may use time studies to support labor [salary, benefit and associated indirect] costs when an activity is task-repetitive. Time study usage is subject to the review and audit conducted by the State Controller’s Office. The reimbursable time recorded on each time survey form must be for specific reimbursable activities as detailed herein. Further time study guidance is available from the State Controller’s Office web site www.sco.ca.gov.”

Mr. Lal also suggests that in Section V.4. (Claim Preparation and Submission) that the old accounting term “fixed assets” replace the newer term “capital assets” now used in many accounting pronouncements. This has been done. This section now reads:

“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.”

In sum, the County finds that reimbursement is required as claimed herein for trash receptacle and pad installation costs and for repetitive trash collection costs using either an RRM claiming option rate of \$6.75 per collection or a time study claiming option.

Los Angeles County's Revised Parameters and Guidelines Municipal Storm Water and Urban Runoff Discharges Test Claims

I. SUMMARY OF THE MANDATE

On July 31, 2009 the Commission on State Mandates (Commission) issued a Statement of Decision finding, on page 3, that the Los Angeles Regional Water Quality Control Board Order No. 01-182, Permit CAS004001, in Part 4F5c3, imposes a reimbursable state-mandated program on local agencies within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514. This program requires the County of Los Angeles and various cities to:

“Place trash receptacles at all transit stops within its jurisdiction that have shelters no later than August 1, 2002, and at all transit stops within its jurisdiction no later than February 3, 2003. All trash receptacles shall be maintained as necessary.”

The Commission found that the inspection activities, also required under Permit CAS004001, in Parts 4C2a, 4C2b and 4E, mandate inspections of various facilities. The Commission determined that while these requirements were imposed by the State, and not the federal government, these activities were not reimbursable state mandates because the claimants had fee authority within the meaning of Government Code section 17556, subdivision (d), sufficient to pay for the activities in those parts of the permit.

II. ELIGIBLE CLAIMANTS

The County of Los Angeles, Los Angeles County Flood Control District and all cities covered under the municipal storm water permit issued by the Los Angeles Regional Water Quality Control Board in Order No. 01182, Permit No. CAS0040001, in Part 4F5c3, to the extent that these local agencies are not or were not subject to coverage under a trash ‘Total Maximum Daily Load’, or TMDL requirement.

III. PERIOD OF REIMBURSEMENT

The test claim executive order (Los Angeles Regional Quality Control Board Order No. 01-182, Permit CAS004001, in Part 4F5c3 took effect on December 13, 2001, the same date as the Permit.

The requirements to initially install trash receptacles commenced with the effective date of the Permit and continued until February 3, 2003 for all trash receptacles. The requirement to maintain the trash receptacles is continuing.

Government Code section 17557, as amended by Statutes of 1998, Chapter 681 (which became effective on September 22, 1998), states that a test claim shall be submitted on or before June 30 following a fiscal year in order to establish eligibility for reimbursement for that fiscal year.

On September 30, 2003, the County of Los Angeles and the Cities of Arcadia, Baldwin Park, Bellflower, Cerritos, Covina, Downey, Monterey Park, Pico Rivera, Signal Hill, South Pasadena and West Covina filed test claims for this mandated program, establishing eligibility for reimbursement. The Commission originally refused jurisdiction of the test claims pursuant to Government Code section 17516. After litigation, the California Court of Appeal for the Second District held that the provisions of Section 17516 were unconstitutional and issued a writ directing the Commission to fully consider the test claims. The test claims were re-filed in October and November 2007 and were considered by the Commission to be filed as of September 30, 2003.

Therefore, the reimbursement period is considered to have begun on July 1, 2002.

Actual costs for one fiscal year shall be included in each claim. Pursuant to section 17561, subdivision (d)(1)(A) of the Government Code, all claims for reimbursement of initial fiscal year costs shall be submitted to the State Controller within 120 days of the issuance date 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 except where reasonable reimbursement methodology (RRM) rates are adopted as set forth in Section IV.B. To claim repetitive trash collection activities, claimants may elect to use RRM rates, their own time study or actual costs.

IV.A. Actual Costs

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, including time survey forms, time logs, sign-in sheets, and, invoices, receipts and unit cost studies using source documents.

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.

Claimants may use time studies to support labor [salary, benefit and associated indirect] costs when an activity is task-repetitive. Time study usage is subject to the review and audit conducted by the State Controller's Office. The reimbursable time recorded on each time survey form must be for specific reimbursable activities as detailed herein. Further time study guidance is available from the State Controller's Office web site www.sco.ca.gov.

IV.B. Reasonable Reimbursement Methodology

Claimants may elect to be reimbursed for their transit trash collection costs using a reasonable reimbursement methodology (RRM) as set fourth below. Under this RRM, the annual standard or unit cost for each trash collection or 'pick-up' is multiplied by the annual number of trash collections to compute reimbursement for trash collection activities.

The standard unit RRM rate per trash collection is \$6.75 and applies to the entire initial reimbursement period (2002-03 through 2008-09) without a cost of living adjustment. The RRM rate will be increased in 2009-2010 and subsequent years by the implicit price deflator for that respective year.

Scope of Reimbursable Activities

The claimant is only allowed to claim, and be reimbursed for, increased costs for reimbursable activities identified below. Increased cost are limited to the costs 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. Installation of Trash Receptacles. These activities include: planning (identifying transit stops; evaluating and selecting trash receptacle and pad type, evaluation of placement of trash receptacles and pads and specification and drawing preparation); preliminary engineering work (construction contract preparation and specification review, bid advertising and award process); construction and installation of trash receptacles (including fabrication and installation of pads for receptacles and foundations and construction management). The four transit trash installation claiming categories are:

1. Identification of locations of all transit stops within the jurisdiction required to have a trash receptacle pursuant to the Permit.
2. Selection of receptacle and pad type, evaluate proper placement of receptacles and prepare specifications and/or drawings.
3. Contract preparation, specification review process, bid, advertising, and review and award of bid.
4. Purchase of receptacles and/or construct receptacles and in install receptacles.

B. Maintenance of Trash Receptacles. These activities include repairing, removing and installing trash receptacles and/or pads, as needed. The five transit trash maintenance claiming categories are:

1. Collection of trash on routine basis, including trash collection and disposal at disposal/recycling facility.

2. Inspection of receptacles and pads for wear, cleaning, emptying, and other maintenance needs.
3. Maintenance of receptacles and pads, including painting, cleaning and repair of receptacles and replacement of liners, and cost of paints, cleaning supplies and liners.
4. Replacement of individual damaged or missing receptacles, including costs of purchase and installation of replacement receptacles and disposal/recycling of replaced receptacles or pads.
4. Movement (including replacement if required) of receptacles and pads to reflect changes in transit stops, including costs of removal and restoration of property at former receptacle location and installation at new location.
5. Replacement of receptacles, including the steps identified in IV.A (2-4) above.

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 chapter 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 SAVINGS AND REIMBURSEMENTS

Any offsetting savings 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 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.

**County of Los Angeles
Transit Trash Receptacle Installation Requirements
Municipal Storm Water and Urban Runoff Discharges Test Claim
California Regional Water Quality Control board
Executive Order Number 01-182, December 13, 2001
Permit Number CAS004001, Part 4, Section F.5.c.3.**

Declaration of William Yan

William Yan makes the following declaration and statement under oath:

I, William Yan, Associate Civil Engineer, in the Program Development Division of the Los Angeles County Department of Public Works, declare that I have examined the review prepared by Nona Martinez of the State Department of Finance (Finance) regarding the proposed revised parameters and guidelines (Ps&Gs) and reasonable reimbursement methodology (RRM) submitted by the County of Los Angeles (County) and various municipalities (claimants) for Claim no. 03-TC-04, 03-TC-20, and 03-TC-21 "Municipal Storm Water and Urban Runoff Discharges".

I declare that it is my information or belief that Finance's conclusion, that "... a fair and accurate RRM rate, if agreed upon by all relevant parties, would be an efficient way to streamline the reimbursement process", supports the claimants' objective of developing an acceptable RRM rate.

I declare that the League of California Cities and the California State Association of Counties (CSAC) filed their joint endorsement of claimants' \$6.75 unit cost RRM calculation with the Commission on State Mandates (Commission) on May 24, 2010 and indicated that "... the League and CSAC are in full support of this calculation".

I declare that it is my information or belief that Finance's recommendation to have the same \$6.75 RRM rate apply to the entire initial reimbursement period (2002-03 through 2008-09) without a cost of living adjustment is reasonable and proper because the \$6.75 RRM rate "... is based on local costs incurred over a seven year period".

I declare that it is my information or belief that Finance's recommendation to have "... the proposed RRM rate ... increase in 2009-2010 and subsequent years by the implicit price deflator for that respective year" is necessary to ensure that 2009-2010 and subsequent year RRM reimbursements are not diminished by inflation.

I declare that it is my information or belief that routine cleaning of trash receptacles and the 10-foot area around each trash receptacle is reasonably necessary to implement the mandate, contrary to the opinion of Finance's Nona Martinez that "... cleaning costs ... are not reasonably necessary to implement the mandate".

I declare that it is my information or belief that trash receptacles and the 10-foot area around each trash receptacle must be thoroughly cleaned of any graffiti, stickers, posters, litter, dust, dirt, weeds and any residue in order to prevent the flow of any waste to enter the storm drain and/or street gutters.

I declare that it is my information or belief that the County provides 48 to 52 visits per year to clean trash receptacles and the 10-foot area around each trash receptacle.

I declare that it is my information and belief that during each cleaning visit the County routinely cleans, washes and removes all graffiti, stickers, posters, litter, dust, dirt and weeds from each trash receptacle and immediate 10-foot area around each trash receptacle. The trash receptacle is to be maintained in a continual like new condition.

I declare that it is my information and belief that during each cleaning visit the County shall carry an adequate supply of clean aluminum liners during the cleaning visits to ensure that liners are kept in a clean condition. County shall not allow any waste or liquid from trash receptacles or liners to enter the storm drains and/or street gutters during the cleaning of trash receptacles and liners.

I declare that it is my information or belief that the costs of providing the (above) cleaning activities were calculated from two separate Bus Stop Amenities Maintenance contracts (North and South County) using three variables: (1) the average number of trash receptacles, (2) the unit cleaning cost per visit, and (3) the frequency of cleanings per month.

I declare that I have analyzed the annual cleaning cost increases of \$7,275 (from 2005-06 to 2006-07) and of \$32,501 (from 2006-07 to 2007-08) that are questioned by Finance's Nona Martinez in her July 23, 2010 commentary.

I declare that it is my information or belief that the (above) increases were due to the following factors:

FY2005-06 to FY2006-07: \$7,275 increase

- North County: The cost increase was due to the living wage adjustments which increased the unit cost from \$3.25 to \$3.38 per visit. We were also charged for 48 cleaning visits per receptacle in FY2005-06 versus 52 cleaning visits in FY 2006-07.
- South County: The cost increase was due to the living wage adjustments which increased the unit cost from \$3.25 to \$3.38 per visit and an increase in the number of number of trash receptacles. We were also charged for 48 cleaning visits per receptacle versus in FY2005-06 versus 52 cleaning visits in FY 2006-07.

FY2006-07 to FY2007/08: \$32,501 increase

- North County: The cost increase was due to the revised Living Wage Program which increased the unit cost from \$3.38 to \$4.59 per visit. With the award of a new contract, the unit cost increased again from \$4.59 to \$8.00 per visit.
- South County: The cost increase was due to the revised Living Wage Program which increased the unit cost from \$3.38 to \$4.43 per visit.

I declare that it is my information or belief that the major cause of the (above) increases was a change in the unit cost for cleaning as noted below:

Both the North County and the South County maintenance contracts included a clause which allowed for a Living Wage Adjustment for the first (April 2006- March 2007) and second (April 2007- March 2008) option years of the contract. The increases were 2.5% and 1.87% respectively. In addition, the rates were increased again. Prior to the end of the second option year, the County Board of Supervisors adopted a revised Living Wage Program (Los Angeles County Code Sections 2.201.010-2.201.100); this further increased the price by about 30% effective July 1, 2007.

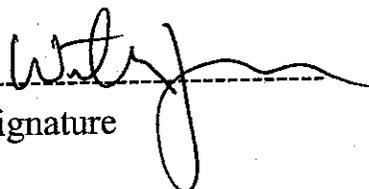
In addition, on March 2008, the County awarded a new contract for the North County Maintenance Program, which included an increase in the unit cleaning cost from \$4.59 to \$8.00.

Accordingly, I declare that it is my information or belief that the (above) cleaning activities are reasonably necessary in implementing the reimbursable Municipal Storm Water and Urban Runoff Discharges" mandate as defined in Commission's Statement of Decision on test claims 03-TC-04, 03-TC-20, 03-TC-21 and that associated cleaning costs are reasonable, proper and fairly stated.

I am personally conversant with the foregoing facts and if so required, I could and would testify to the statements made herein.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct of my own knowledge, except as to the matters which are therein stated as information or belief, and as to those matters I believe them to be true.

8/16/10 ALHAMBRA, CA
Date and Place


Signature



**COUNTY OF LOS ANGELES
DEPARTMENT OF AUDITOR-CONTROLLER**

Exhibit 2

KENNETH HAHN HALL OF ADMINISTRATION
500 WEST TEMPLE STREET, ROOM 525
LOS ANGELES, CALIFORNIA 90012-3873
PHONE: (213) 974-8301 FAX: (213) 626-5427

WENDY L. WATANABE
AUDITOR-CONTROLLER

MARIA M. OMS
CHIEF DEPUTY

ASST. AUDITOR-CONTROLLERS

ROBERT A. DAVIS
JOHN NAIMO
JUDI E. THOMAS

**Los Angeles County's Review of State Agency Comments
Revised Parameters and Guidelines and Proposed Standard Costs
Municipal Storm Water and Urban Runoff Discharges Test Claims**

Declaration of Leonard Kaye

Leonard Kaye makes the following declaration and statement under oath:

I, Leonard Kaye, Los Angeles County's [County] representative in this matter, have prepared the attached revised parameters and guidelines and proposed standard costs for the Municipal Storm Water and Urban Runoff Discharges reimbursement program as adopted by the Commission on July 31, 2009.

Specifically, I declare that I have examined the County's State mandated duties and resulting costs in implementing the test claim legislation, and find that such costs as set forth in the attached revised parameters and guidelines for the Municipal Storm Water and Urban Runoff Discharges reimbursement program, are, in my opinion, reimbursable "costs mandated by the State", as defined in Government Code section 17514:

" ' Costs mandated by the State' means any increased costs which a local agency or school district is required to incur after July 1, 1980, as a result of any statute enacted on or after January 1, 1975, or any executive order implementing any statute enacted on or after January 1, 1975, 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."

I am personally conversant with the foregoing facts and if so required, I could and would testify to the statements made herein.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct of my own knowledge, except as to the matters which are therein stated as information or belief, and as to those matters I believe them to be true.

8/18/10, Los Angeles, CA
Date and Place


Signature

Exhibit 3

Los Angeles County's Average Annual Cleaning Cost Increases: July 1, 2003 - June 30, 2009

<u>Fiscal Year (a)</u>	[a] # Trash Receiptacles	[b] Cleaning Cost	[b]/[a]=c Cost @ Receiptacle	Annual \$ change	Annual % change	Average % Change	
2008-09	470	\$100,233	\$213.26	-\$34.55	-13.94%	5.91%	
2007-08	429	\$106,312	\$247.81	\$71.23	40.34%	5.91%	
2006-07	418	\$73,811	\$176.58	\$11.89	7.22%	5.91%	
2005-06	404	\$66,536	\$164.69	-\$10.70	-6.10%	5.91%	
2004-05	406	\$71,211	\$175.40	\$3.52	2.05%	5.91%	
2003-04	386	\$66,346	\$171.88				
Total % increase						29.56%	29.56%

(a) 2002-03 Fiscal Year for Los Angeles County was not used in above analysis or in computing RRM as during this period the cleaning was first handled in-house and later by contract. Also the number of trash receptacles was not a fixed number during this period. Therefore, it was difficult to accurately annualize the unit cost for 2002-03 and so none was used.



JOHN CHIANG
California State Controller
Division of Accounting and Reporting

April 1, 2010

Ms. Paula Higashi
Executive Director
Commission on State Mandates
980 Ninth Street, Suite 300
Sacramento, CA 95814

RE: Revised Proposed Parameters and Guidelines
Interagency Child Abuse and Neglect (ICAN) Investigation Reports, 00-TC-22
Penal Code Sections 11165.1, 11165.2, 11165.3, 11165.4, 11165.5, 11165.6, 11165.7,
11165.9, 11165.12, 11166, 11166.2, 11166.9, 11168 (Including Former Penal Code
Section 11161.7), 11169, and 11170;
Statutes 1977, Chapter 958; Statutes 1980, Chapter 1071; and Subsequent Statutes
Through Statutes 2000, Chapters 287 and 916;
California Code of Regulations, Title 11, Sections 901, 902, and 903;
Department of Justice Forms SS8572 and SS8583
County of Los Angeles, Claimant

Dear Ms. Higashi:

We have reviewed the revised proposed parameters and guidelines for the above named program as communicated by the Commission on February 10, 2010. Comments and recommendations follow; proposed additions are underlined and deletions are indicated with strikethrough:

I. SUMMARY OF THE MANDATE

Page 21 On December 19, 2007 the Commission on State Mandates (Commission)-issued adopted a Statement of Decision [00-TC-22]

III. PERIOD OF REIMBURSEMENT

Page 22 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...~~

COMMENT: Chapter 6, Statutes of 2008 (effective February 16, 2008), eliminated

the option of filing an estimated reimbursement claim.

IV. REIMBURSABLE ACTIVITIES –

Page 22 To be eligible for mandated cost reimbursement for any fiscal year, only actual costs may be claimed except where ~~standard cost claiming~~ reasonable reimbursement methodology rates are adopted ~~is permitted~~ as set forth in Section IV B

COMMENT: The term “reasonable reimbursement methodology” means a formula for reimbursing local agency and school districts mandated by the state. (GC 17518.5)

Page 23 **IV B. ~~Standard Costs~~ Reasonable Reimbursement Methodology**

Specified Reimbursable labor costs may be recovered for performing law enforcement and county welfare agency activities by using ~~standard times~~ reasonable reimbursement methodology set forth ~~forth~~ below. These times would then be multiplied by the claimant’s blended average productive hourly rate, computed in accordance with State Controller’s Office claiming instructions to obtain a standard unit cost. The cost is then multiplied by the number of units to determine reimbursable costs.

GENERAL COMMENTS:

The activities specified in Section IV B do not clearly identify the mandated activities in the Statement of Decision adopted by the Commission on December 19, 2007.

- SCO requests these activities with standard times be correlated to the reimbursable activities specified on the Statement of Decision
- The activities need to be segregated between One-time and On-going Activities
- Each activity may contain supervisory review and approval which should not be duplicated in the indirect cost rate
- All reimbursable and non-reimbursable activities should be clearly identified
- SCO is reserving the right to comment on the recommended Reasonable Reimbursement Methodology times established prior to approval

Page 24 **IV.C. Reimbursable Activities**

Claimants must use ~~a combination of actual cost and or standard cost methodologies~~ reasonable reimbursement methodology rates adopted by the Commission ~~but should take care to ensure that the same reimbursable activity is not claimed under both methods.~~

COMMENT: We recommend that only RRM rate be used if adopted by the Commission.

Page 25 One-time Activities:

- A. ~~Annually, update~~ Develop and establish Departmental policies and procedures necessary to comply with ICAN's requirements.

Ongoing Activities:

- B. ~~Periodically, Participation~~ in meetings with State and local agencies in coordinating ICAN cross-reporting and collaborative efforts.

One-time Activities:

- C. ~~Annually, Develop and~~ train ICAN staff in State Department of Justices' [DOJ] ICAN requirements. Reimbursable specialized ICAN training costs include those incurred to compensate participants and instructors for their time in participating in an annual training session and to provide necessary facilities, training materials and audio visual presentations. (One time per employee)
- D. ~~Periodically, to Develop, update or obtain~~ or procure computer software and ~~obtain~~ equipment necessary for ICAN cross-reporting and reporting to DOJ. Prorate only the costs related to the mandate.

Ongoing Activities:

- E. ~~Testing and evaluation costs that are incurred when reasonably necessary to make an evidentiary findings. Reimbursement is provided for the costs of tests and evaluations on suspects as well as victims. Victim costs include those incurred for medical exams for sexual assault and/or physical abuse, mental health exams, and, where the victim dies, for autopsies. Gather and evaluate evidence when reasonably necessary to make evidentiary findings on suspects and victims. Victim costs include medical exams for sexual assault and/or physical abuse, mental health exams, and autopsies. Suspect costs include those incurred for DNA and polygraph testing. Also included, when reasonably necessary to make an evidentiary finding, are the costs of video taping interviews of victims and suspects.~~

One-time Activities:

- A. ~~Due process costs incurred by law enforcement and county welfare agencies to~~ Develop and maintain establish ICAN due process procedures reasonably necessary to comply with deferral due process procedural protections under the 14th Amendment which need to be afforded suspects reported to the DOJ's Child Abuse Central Index [CACI].

COMMENT: We recommend that reimbursable activities be delineated between One-time and Ongoing Activities.

Page 26 *Reporting Between Local Departments*

Cross-Reporting of Suspected Child Abuse or Neglect from County Welfare and Probation Departments to the Law Enforcement Agency with Jurisdiction and the District Attorney's Office:

A county probation department shall:

- l. Report by telephone, fax or electronic transmission immediately, or as soon as practically possible to the law enforcement agency having jurisdiction over the case, to the agency given the responsibility for investigation of cases under Section 300 of the Welfare and Institutions Code, and to the district attorney's office every known or suspected instance of child abuse, as defined in Penal Code section ~~1116.5-11165.6~~ except acts or omissions coming within subdivision 9(b) of section 11165.2,... (Penal Code section 11166 subdivision (h), now subdivision (j)).

Page 27 A county welfare department shall:

- l. Report by telephone, fax or electronic transmission immediately, or as soon as practically possible to the law enforcement agency having jurisdiction over the case, to the agency given the responsibility for investigation of cases under Section 300 of the Welfare and Institutions Code, and to the district attorney's office every known or suspected instance of child abuse, as defined in Penal Code section ~~1116.5-11165.6~~ except acts or omissions coming within subdivision 9(b) of section 11165.2,... (Penal Code section 11166 subdivision (h), now subdivision (j)).
2. Send a written report thereof within 36 hours of receiving the information concerning the incident to ~~any~~ any agency...

Page 28 ***Cross-Reporting of Suspected Child Abuse or Neglect from the Law Enforcement Agency to the County Welfare and Institutions Code Section 300 Agency, County Welfare, and the District Attorney's Office:***

A City or county law enforcement agency shall:

1. Report by telephone, fax or electronic transmission immediately, or as soon as practically possible Penal Code section ~~1116.5-11165.6~~ except acts or omissions coming within subdivision 9(b) of section 11165.2,... (Penal Code section 11166 subdivision (h), now subdivision (j)).
- l. Send a written report thereof within 36 hours of receiving the information concerning the incident to ~~any~~ any agency...

Page 28 ***Receipt of Cross-Reports by District Attorney's Office***

A district attorney's office shall:

- Receive reports of every known or suspected instance of child abuse ~~reported~~ reported to law enforcement

Page 29 *Additional Cross-Reporting in Cases of Child Death:*

A city or county law enforcement agency shall:

- ~~Create a record in the Child Welfare Services/Case Management System (CWS/CMS) on all cases of child death suspected to be related to child abuse or neglect. (Pen Code Sec. 11166.9, subd. (l), now section 11174.34, subd. (l).)~~

COMMENT: According to the Statement of Decision adopted on December 19, 2007, this activity is to be performed by the County Welfare Department.

A county welfare department shall:

- Cross-report all cases of child death suspected to be related to child abuse or neglect to law enforcement. (Penal Code section 11166.9, subdivision (k), now section 11174.34, subdivision (k).)
- Create a record in the Child Welfare Services/Case Management System (CWS/CMS) on all cases of child death suspected to be related to child abuse or neglect. (Penal Code Section 11166.9, subdivision (l), now section 11174.34, subdivision. (l).)

- Page 30**
- Enter information into the CWS upon notification that the death was subsequently determined not to ~~be~~ be related to child abuse...

Page 30 *Notifications following Reports to the Central Child Abuse Index*

Any city or county police or sheriff's department, county probation department if designated by the county to receive mandated reports or county welfare department shall:

- Notify in writing the known or suspected child abuser... filed with the Department of Justice. (Penal Code Section ~~11166.9~~ 11169 subdivision (b)).

- Page 31**
- Notify, in writing, the person listed in the Child Abuse Central Index... The notification shall include the name of the reporting agency and the date of the report. (Penal Code, Section 11170, subdivision (b) (5), now subdivision (b) (6) (7).

Ms. Paula Higashi

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April 1, 2010

Page 31 *Any city or county police or sheriff's department, county probation department if designated by the county to receive mandated reports or county welfare department shall:*

- Obtain the original investigative report from the reporting agency... (Penal Code Section 11170, subdivision (b) (6) (A), now (b)(8)(10) (A)).

Any city or county law enforcement agency, county probation department, or county welfare shall: ~~(f)-~~

Page 32 *Record Retention*

Any city or county police or sheriff's department, county probation department if designated by the county to receive mandated reports, shall:

- Retain child abuse or neglect investigation reports... for a minimum of 8 years for counties and cities (a higher level of service above the two-year record retention requirement pursuant to GC sections 26202 (cities) and 34090 (counties).)

Please contact Ellen Solis at (916) 323-0698, or Ginny Brummels at (916) 324-0256, if you have any questions.

Sincerely,



JILL KANEMASU, Chief
Bureau of Payments

JK/GB/ecs