STATE OF CALIFORNIA EDMUND G. BROWN JR., Governor

COMMISSION ON STATE MANDATES
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October 2, 2013

Ms. Hasmik Yaghobyan
County of Los Angeles
Auditor-Controller's Office
500 W. Temple Street, Room 603
Los Angeles, CA 90012
And Parties, Interested Parties, and Interested Persons (See Mailing List)

Re: **Adopted Statement of Decision and Draft Expedited Parameters and Guidelines**
Accounting for Local Revenue Realignments, 05-TC-01
Health and Safety Code Section 33681 et al.
County of Los Angeles, Claimant

Dear Ms. Yaghobyan:

On September 27, 2013, the Commission on State Mandates adopted the statement of decision partially approving the above-entitled matter. State law provides that reimbursement, if any, is subject to Commission approval of parameters and guidelines for reimbursement of the mandated program, approval of a statewide cost estimate, a specific legislative appropriation for such purpose, a timely-filed claim for reimbursement, and subsequent review of the claim by the State Controller's Office.

Following is a description of the responsibilities of all parties and of the Commission during the parameters and guidelines phase.

- **Draft Expedited Parameters and Guidelines**. Pursuant to California Code of Regulations, title 2, section 1183.12, the Commission staff is expediting the parameters and guidelines process by enclosing draft parameters and guidelines to assist the claimant. The proposed reimbursable activities are limited to those approved in the statement of decision by the Commission.
- **Claimant's Review of Draft Parameters and Guidelines**. Pursuant to California Code of Regulations, title 2, sections 1183.12(b) and (c), the successful test claimant may file modifications and comments on the proposal with Commission staff by **October 22, 2013**. The claimant may also propose a reasonable reimbursement methodology pursuant to Government Code section 17518.5 and California Code of Regulations, title 2, section 1183.13.

  State Agencies and Interested Parties Comments and Rebuttals. State agencies and interested parties may submit recommendations and comments by **October 17, 2013**. (Cal. Code Regs., tit. 2, § 1183.11(d).) State agencies and interested parties may also submit written rebuttals within 15 days of service of the claimant's modifications and comments. (Cal. Code Regs., tit. 2, § 1183.12(d).)

  Claimant Rebuttals to State Agency and Interested Party Comments. The claimant and other interested parties may submit written rebuttals within 15 days of service of state agency and interested party modifications and comments. (Cal. Code Regs., tit. 2, § 1183.11(f).)

- **Adoption of Parameters and Guidelines**. After review of the draft expedited parameters and guidelines and all proposed modifications and comments, Commission staff will prepare the proposed parameters and guidelines and statement of decision and recommend adoption by the Commission.

Reasonable Reimbursement Methodology and Statewide Estimate of Costs

- **Test Claimant and Department of Finance Submission of Letter of Intent**. Within 30 days of the Commission's adoption of a statement of decision on a test claim, the test claimant(s) and the Department of Finance may notify the executive director of the Commission in writing of their intent to follow the process described in Government Code sections 17557.1–17557.2 and section 1183.30 of the Commission's regulations to develop a *reasonable reimbursement methodology* and *statewide estimate of costs* for the initial claiming period and budget year for reimbursement of costs mandated by the state. The letter of intent shall include the date on which the test claimant and the Department of Finance will submit a plan to ensure that costs from a representative sample of eligible claimants are considered in the development of a reasonable reimbursement methodology.

- **Test Claimant and Department of Finance Submission of Draft Reasonable Reimbursement Methodology and Statewide Estimate of Costs.** Pursuant to the plan, the test claimant and the Department of Finance shall submit the *Draft Reasonable Reimbursement Methodology and Statewide Estimate of Costs* to the Commission. See Government Code section 17557.1 for guidance in preparing and filing a timely submission.

- **Review of Proposed Reasonable Reimbursement Methodology and Statewide Estimate of Costs.** Upon receipt of the jointly developed proposals, Commission staff shall notify all recipients that they shall have the opportunity to review and provide written comments or recommendations concerning the draft reasonable reimbursement methodology and proposed statewide estimate of costs within fifteen (15) days of service. The test claimant and Department of Finance may submit written rebuttals to Commission staff.

- **Adoption of Reasonable Reimbursement Methodology and Statewide Estimate of Costs.** At least ten days prior to the next hearing, Commission staff shall issue review comments and a staff recommendation on whether the Commission should approve the draft reasonable reimbursement methodology and adopt the proposed statewide estimate of costs pursuant to Government Code section 17557.2.

You are advised that comments filed with the Commission are required to be simultaneously served on the other interested parties on the mailing list, and to be accompanied by a proof of service. However, this requirement may also be satisfied by electronically filing your documents. Please see http://www.csm.ca.gov/dropbox.shtml on the Commission's website for instructions on electronic filing. (Cal. Code Regs., tit. 2, § 1181.2.) 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.

The parameters and guidelines are tentatively set for hearing on **January 24, 2014**.

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

Sincerely,

Heather Halsey
Executive Director

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DRAFT EXPEDITED PARAMETERS AND GUIDELINES

Health & Safety Code Sections 33681.12, 33681.13, 33681.14, 33681.15; Revenue & Taxation Code Sections 97.68, 97.70, 97.71, 97.72, 97.73

Statutes 2003, Chapter 162; Statutes 2004, Chapter 211; Statutes 2004, Chapter 610

Accounting for Local Revenue Realignments

05-TC-01

County of Los Angeles, Claimant

I. SUMMARY OF THE MANDATE

On September 27, 2013, the Commission on State Mandates (Commission) adopted a test claim statement of decision finding that the test claim statutes impose a partially reimbursable state-mandated program upon local agencies within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514.

The test claim statutes shifted and swapped revenue in three areas: the Educational Revenue Augmentation Fund (ERAF) established by each county; making the Vehicle License Fund (VLF) Swap permanent; and the "triple flip" of sales and use taxes to service debt payments on State Economic Recovery Bonds, "back-filled" from the ERAF, which was in turn replaced by direct subventions from the General Fund. The end result was a savings to the state of $1.3 billion.[1] The three revenue realignment programs created by the test claim statutes imposed reimbursable activities upon counties to establish new accounts within the treasury of the county, and to reduce and reallocate funds as directed by the statutes, and in amounts identified by the Department of Finance or the Controller, respectively. The test claim statutes do not, by the plain language, require counties to calculate, or to verify, the amounts required to be reduced during the 2004-2005 and 2005-2006 fiscal years, but the VLF Swap does require counties to calculate the adjustment amount beginning in the 2006-2007 fiscal year. None of the statutory exclusions from reimbursement found in section 17556 are applicable to these activities in the 2004-2005 and 2005-2006 fiscal years, but beginning in 2006-2007, all counties, except for the City and County of San Francisco, are authorized by Revenue and Taxation Code section 97.75 to charge cities within their jurisdiction fees in an amount sufficient to pay for the administrative costs of the VLF Swap and the Triple Flip required by sections 97.70 and 97.68 of the Revenue and Taxation Code. Therefore, reimbursement for the VLF Swap and Triple Flip must end in the 2006-2007 fiscal year for all counties, except the City and County of San Francisco, because they no longer incur increased costs mandated by the state, by virtue of their authority to charge the incurred costs to cities. However, because the City and County of San Francisco is not relieved of any incurred costs by the operation of the fee authority provided, the City and County continues to be eligible for reimbursement during and after the 2006-2007 fiscal year for the VLF Swap and the Triple Flip.

[1] Exhibit B, Test Claim Volume II, at p. 165 [Committee Analysis of AB 2115].

II. ELIGIBLE CLAIMANTS

Any county, or city and county, 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 test claim on August 12, 2005, establishing eligibility for reimbursement for the 2004-2005 fiscal year. Therefore, costs incurred are reimbursable on or after July 1, 2004, or later periods for statutes or amendments enacted after July 1, 2004. Statutes 2003, chapter 162 (AB 1766) has an effective date of August 2, 2003, but does not require any activities until the beginning of fiscal year 2004-2005. Statutes 2004, chapter 211 (SB 1096) has an effective date of August 5, 2004. Statutes 2004, chapter 610 (AB 2115) has an effective date of September 20, 2004.

All activities under Revenue and Taxation Code sections 97.71, 97.72, 97.73, and Health and Safety Code sections 33681.12, 33681.13, and 33681.14 are mandated **only** for the 2004-2005 and 2005-2006 fiscal years, and therefore are no longer reimbursable after June 30, 2006. One remaining activity under Health and Safety Code section 33681.15, as discussed below, may, where applicable, result in state-mandated increased costs other than during fiscal years 2004-2005 and 2005-2006, and therefore may be reimbursable on or after July 1, 2006.

In addition, section 97.75 provides for fee authority for activities mandated by sections 97.68 and 97.70, beginning in fiscal year 2006-2007. Specifically, counties are authorized to charge the administrative costs of the Triple Flip and the VLF swap against their subordinate cities, beginning in fiscal year 2006-2007. The Commission determined in the test claim decision that the fee authority is sufficient to pay for the mandated program, within the meaning of Government Code section 17556(d), for all counties except for the City and County of San Francisco, which cannot, either legally or as a practical matter, avail itself of the fee authority granted. Therefore, the Commission found that reimbursement for the activities required by sections 97.68 and 97.70 ends, for all claimants except the City and County of San Francisco, on June 30, 2006.

The relevant period of reimbursement for each of the activities is specified below under section *IV. Reimbursable Activities*.

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 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 filing an

annual reimbursement claim shall have 120 days following the issuance date of the revised claiming instructions to file a claim. (Government Code section 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 and supported by source documents that show the validity of such costs, when they were incurred, and their relationship to the reimbursable activities. A source document is a document created at or near the same time the actual cost was incurred for the event or activity in question. Source documents may include, but are not limited to, employee time records or time logs, sign-in sheets, invoices, and receipts.

Evidence corroborating the source documents may include, but is not limited to, worksheets, cost allocation reports (system generated), purchase orders, contracts, agendas, training packets, and declarations. Declarations must include a certification or declaration stating, "I certify (or declare) under penalty of perjury under the laws of the State of California that the foregoing is true and correct," and must further comply with the requirements of Code of Civil Procedure section 2015.5. Evidence corroborating the source documents may include data relevant to the reimbursable activities otherwise in compliance with local, state, and federal government requirements. However, corroborating documents cannot be substituted for source documents.

The claimant is only allowed to claim and be reimbursed for increased costs for reimbursable activities identified below. Increased cost is limited to the cost of an activity that the claimant is required to incur as a result of the mandate.

For each eligible claimant that incurs increased costs, the following activities are reimbursable:

A. ERAF III Shift

The following requirements of the test claim statutes impose a reimbursable state-mandated program upon all counties beginning in the 2004-2005 fiscal year.

1. <u>ERAF Shift from Counties and Cities</u>

   <u>For 2004-2005 and 2005-2006 fiscal years only, beginning August 5, 2004</u>:

   a. Reduce revenue otherwise required to be allocated to each county by the amounts listed in Revenue and Taxation Code section 97.71(a)(1), and deposit that amount in the county's ERAF.[2]

   b. Reduce revenue otherwise required to be allocated to a city and county by an amount identified by the Controller pursuant to Revenue and Taxation Code section 97.71(b)(2-3), and deposit that amount in the county's ERAF.[3]

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[2] Revenue and Taxation Code section 97.71(a)(1); (c) (Stats. 2004, ch. 211 (AB 1096); Stats. 2004, ch. 610 (AB 2115)).

c. Reduce revenue otherwise required to be allocated to each city within the county by an amount identified by the Controller pursuant to Revenue and Taxation Code section 97.71(b)(2-3), and deposit that amount in the county's ERAF.[4]

d. Where applicable, accept from a city, in lieu of reduction of that city's revenues, an amount equal to the required reduction, and deposit those moneys in the county's ERAF.[5]

Reimbursement is not required for calculating the amounts of revenue otherwise required to be allocated to a city, county, or city and county, which must be reduced and deposited in the county ERAF.[6]

2. ERAF Shift from Special Districts

For fiscal years 2004-2005 and 2005-2006 only, beginning August 5, 2004:

a. Reduce the amount of ad valorem property tax otherwise required to be allocated to an enterprise special district, including an enterprise special district located in more than one county, in amounts determined by the Controller and received from the Director of Finance, for each enterprise special district in the county.[7]

b. Deposit the amounts reduced from each enterprise special district in the county's ERAF.[8]

c. Reduce the amount of ad valorem property tax otherwise required to be allocated to a nonenterprise special district, including a nonenterprise special district located in more than one county, in amounts determined by the Controller for each special district in each county.[9]

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[3] Revenue and Taxation Code section 97.71(b); (c) (Stats. 2004, ch. 211 (AB 1096); Stats. 2004, ch. 610 (AB 2115)).

[4] Revenue and Taxation Code section 97.71(c) (Stats. 2004, ch. 211 (AB 1096); Stats. 2004, ch. 610 (AB 2115)).

[5] Revenue and Taxation Code section 97.71(b)(5) (Stats. 2004, ch. 211 (AB 1096); Stats. 2004, ch. 610 (AB 2115)).

[6] Revenue and Taxation Code section 97.71(a)(1); (b)(3) (Stats. 2004, ch. 211 (AB 1096); Stats. 2004, ch. 610 (AB 2115)).

[7] Revenue and Taxation Code section 97.72(a)(2) (Stats. 2004, ch. 211 (SB 1096); Stats. 2004, ch. 610 (AB 2115)).

[8] Revenue and Taxation Code section 97.72(b) (Stats. 2004, ch. 211 (SB 1096); Stats. 2004, ch. 610 (AB 2115)).

[9] Revenue and Taxation Code section 97.73(a)(2) (Stats. 2004, ch. 211 (SB 1096); Stats. 2004, ch. 610 (AB 2115)).

d. Deposit the amounts reduced from each nonenterprise special district in the county's ERAF.[10]

Reimbursement is not required for calculating the amounts of ad valorem property tax otherwise required to be allocated to an enterprise or nonenterprise special district which must be reduced and deposited in the county ERAF.[11]

3. ERAF Shift from Redevelopment Agencies

   For fiscal years 2004-2005 and 2005-2006 only, beginning August 5, 2004:

   a. Receive funds directly from a redevelopment agency in the amount identified by the Director of Finance, and deposit those funds in the county's ERAF.[12]

   b. Receive from the legislative body of the community associated with a redevelopment agency by March 1 of the applicable fiscal year, a report as to how the redevelopment agency intends to secure the funds required to be transferred to the county.[13]

   c. If a redevelopment agency fails to transmit the full amount of funds required by Section 33681.12, is precluded by court order from transmitting that amount, or is otherwise unable to meet its full obligation pursuant to section 33681.12 the county auditor, by no later than May 15 of the applicable fiscal year, shall transfer any amount necessary to meet the obligations determined under section 33681.12 from the legislative body's allocations pursuant to Chapter 6 (commencing with Section 95) of the Revenue and Taxation Code.[14]

   d. If the legislative body of the community associated with a redevelopment agency, pursuant to Section 33681.12(d), reported to the county auditor that it intended to remit the amount required on behalf of the redevelopment agency and the legislative body fails to transmit the full amount as authorized by section 33681.12 by May 10 of the applicable fiscal year: the county auditor shall, no later than May 15 of the applicable fiscal year, transfer an amount necessary to meet the redevelopment agency's obligation pursuant to section 33681.12 from the legislative body's allocations pursuant to Chapter 6 (commencing with Section 95) of the Revenue and Taxation Code. If the amount of the legislative body's allocations are not sufficient to meet the redevelopment agency's obligation pursuant to section 33681.12, the county auditor shall transfer an

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[10] Revenue and Taxation Code section 97.73(b) (Stats. 2004, ch. 211 (SB 1096); Stats. 2004, ch. 610 (AB 2115)).

[11] Revenue and Taxation Code sections 97.72(a)(2); 97.73(a)(2) (Stats. 2004, ch. 211 (SB 1096); Stats. 2004, ch. 610 (AB 2115)).

[12] Health and Safety Code section 33681.12(a)(1) (added by Stats. 2004, ch. 211 (SB 1096); amended by Stats 2004, ch. 610 (AB 2115)).

[13] Health and Safety Code section 33681.12(d) (added by Stats. 2004, ch. 211 (SB 1096); amended by Stats 2004, ch. 610 (AB 2115)).

[14] Health and Safety Code section 33681.13(e) (added by Stats. 2004, ch. 211 (SB 1096)

additional amount necessary to meet the redevelopment agency's obligation from the property tax increment revenue apportioned to the redevelopment agency pursuant to Section 33670, provided that no moneys allocated to the agency's Low and Moderate Income Housing Fund shall be used for this purpose.[15]

Reimbursement is not required to calculate the amount of moneys to be remitted to the county auditor by a redevelopment agency.[16]

4. ERAF Shift from Redevelopment Agencies

Beginning September 20, 2004:

If a redevelopment agency enters into an agreement with an authorized issuer, as defined, pursuant to section 33681.15, in order to obtain a loan, financed by bonds, to make the payment required by section 33681.12 to the county auditor for deposit in the county's ERAF, the county auditor shall receive a schedule of payments for that loan. And in the event the redevelopment agency fails to timely repay the loan in accordance with the schedule, the county auditor shall receive notification from the trustee for the bonds of the amount that is past due. The county auditor shall then reallocate funds from the legislative body of the community associated with a redevelopment agency and shall pay to the authorized issuer, on behalf of the redevelopment agency, the past due amount on the loan from the first available proceeds of the property tax allocation that would otherwise be transferred to the legislative body pursuant to Chapter 6 (commencing with Section 95) of Part 0.5 of Division 1 of the Revenue and Taxation Code. This transfer shall be deemed a reallocation of the property tax revenue from the legislative body to the agency for the purpose of payment of the loan, and not as a payment by the legislative body on the loan.[17]

B. Vehicle License Fee Swap

The following requirements of the test claim statutes impose a reimbursable state-mandated program upon *all counties for the 2004-2005 and 2005-2006 fiscal years*, beginning August 5, 2004, and for the *City and County of San Francisco ONLY, beginning in the 2006-2007 fiscal year*.

1. Establish a Vehicle License Fee Property Tax Compensation Fund in the treasury of the county.[18] This is a one-time activity, by definition.
2. Reduce the total amount of ad valorem property tax otherwise required to be allocated to a county's ERAF by the countywide vehicle license fee adjustment amount.[19]

[15] Health and Safety Code section 33681.14(c) (added by Stats. 2004, ch. 211 (SB 1096)).

[16] Health and Safety Code section 33681.12 (added by Stats. 2004, ch. 211 (SB 1096); amended by Stats 2004, ch. 610 (AB 2115)).

[17] Health and Safety Code section 33681.15(e-g) (added by Stats 2004, ch. 610 (AB 2115)).

[18] Revenue and Taxation Code section 97.70(a)(2) (Stats. 2004, ch. 211 (SB 1096); Stats. 2004 ch. 610 (AB 2115)).

3. If, after performing the adjustments and allocations required by section 97.68, there is not enough ad valorem property tax revenue that is otherwise required to be allocated to a county ERAF for the auditor to complete the allocation reduction, the auditor shall also reduce the total amount of ad valorem property tax revenue otherwise required to be allocated to all school districts and community college districts in the county, in order to produce the remainder of the countywide vehicle license fee adjustment amount. Reductions to school districts and community college districts shall be made in proportion to each district's share of total ad valorem property tax revenue. School districts and community college districts subject to reductions when ERAF moneys are insufficient shall not include any districts that are excess tax school entities, as defined in Revenue and Taxation Code section 95.[20]
4. Allocate the countywide vehicle license fee adjustment amount to the Vehicle License Fee Property Tax Compensation Fund established in the treasury of each county.[21]
5. Allocate the moneys in the Vehicle License Fee Property Tax Compensation Fund to each city in the county, and to the county or city and county, based on each entity's vehicle license fee adjustment amount.[22] Allocate one-half of the entity's vehicle license fee adjustment amount on or before January 31 of each fiscal year, and the other one-half on or before May 31 of each fiscal year.[23]
6. On or before June 30 of each fiscal year, report to the Controller the vehicle license fee adjustment amount for the county and each city in the county for that fiscal year.[24]

Reimbursement for activities B 1-6 is not required for calculating each entity's vehicle license fee adjustment amount for the 2004-2005 and 2005-2006 fiscal years.[25]

7. For the City and County of San Francisco only: Beginning in the 2006-2007 fiscal year calculate each entity's vehicle license fee adjustment amount, and the countywide vehicle license fee adjustment amount, defined as the sum of the vehicle

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[19] Revenue and Taxation Code section 97.70(a)(1)(A) (Stats. 2004, ch. 211 (SB 1096); Stats. 2004 ch. 610 (AB 2115)).

[20] Revenue and Taxation Code section 97.70(a)(1)(B) (Stats. 2004, ch. 211 (SB 1096); Stats. 2004 ch. 610 (AB 2115)).

[21] Revenue and Taxation Code section 97.70(a)(2) (Stats. 2004, ch. 211 (SB 1096); Stats. 2004 ch. 610 (AB 2115)).

[22] Revenue and Taxation Code section 97.70(b)(1) (Stats. 2004, ch. 211 (SB 1096); Stats. 2004 ch. 610 (AB 2115)).

[23] Revenue and Taxation Code section 97.70(b)(2) (Stats. 2004, ch. 211 (SB 1096); Stats. 2004 ch. 610 (AB 2115)).

[24] Revenue and Taxation Code section 97.70(c)(3) (Stats. 2004, ch. 211 (SB 1096); Stats. 2004 ch. 610 (AB 2115)).

[25] Revenue and Taxation Code section 97.76 (added, Stats. 2004, ch. 211 (SB 1096); amended Stats. 2004, ch. 610 (AB 2115)).

license fee adjustment amounts of all entities in the county, pursuant to section 97.70(c)(1)(C).[26]

This activity includes increasing the prior year's vehicle license fee adjustment amount for each entity based on the percentage change from the prior fiscal year to the current fiscal year in gross taxable assessed valuation within the jurisdiction of the entity, as reflected in the equalized assessment roll for those fiscal years.

C. Triple Flip

The following requirements of the test claim statutes impose a reimbursable state-mandated program upon *all counties for the 2004-2005 and 2005-2006 fiscal years*, and for the *City and County of San Francisco ONLY*, *beginning in the 2006-2007 fiscal year*.

1. Establish a Sales and Use Tax Compensation Fund in the treasury of the county.[27] This is a one-time activity, by definition.

2. During the fiscal adjustment period, reduce, by the countywide adjustment amount provided by the Department of Finance, the amount otherwise required to be allocated to a county's ERAF, and deposit that amount in the Sales and Use Tax Compensation Fund.[28]

   Reimbursement is not required to calculate the countywide adjustment amount; the amount is annually estimated by the Department of Finance, pursuant to section 97.68(b)(2), except in a fiscal year in which the suspension of 0.25 percent taxing authority is ended, pursuant to Revenue and Taxation Code section 7203.1.

3. During the fiscal adjustment period, allocate revenues in the Sales and Use Tax Compensation Fund among the county and the cities in the county pursuant to the portions of the countywide adjustment amount identified by the Department of Finance for each city and for the county. Allocate one half of the amount identified for each city and for the county in each January during the fiscal adjustment period, and one half the amount identified for each city and for the county in each May during the fiscal adjustment period.[29]

   Reimbursement is not required to calculate the portion of the countywide adjustment amount attributable to the county and each city within the county; the amounts are provided by the Department of Finance, pursuant to section 97.68(c)(1), and recalculated after the end of each fiscal year, pursuant to section 97.68(c)(3),

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[26] Revenue and Taxation Code section 97.70(c)(1)(C) (Stats. 2004, ch. 211 (SB 1096); Stats. 2004 ch. 610 (AB 2115)). See also Revenue and Taxation Code section 97.76 (Stats. 2004, ch. 211 (SB 1096)).

[27] Revenue and Taxation Code section 97.68(a)(2) (Stats.2003, ch. 162 (AB 1766); Stats. 2004, ch. 211 (SB 1096)).

[28] Revenue and Taxation Code section 97.68(a-b) (Stats. 2003, ch. 162 (AB 1766); Stats. 2004, ch. 211 (SB 1096)).

[29] Revenue and Taxation Code section 97.68(c) (Stats. 2003, ch. 162 (AB 1766); Stats. 2004, ch. 211 (SB 1096)).

except a fiscal year in which the suspension of 0.25 percent taxing authority is ended, pursuant to Revenue and Taxation Code section 7203.1.

4. If the amount recalculated by the Department of Finance after the end of each fiscal year based on the actual amount of sales and use taxes not transmitted for the prior fiscal year is greater than the amount allocated to a city or to the county based on the portion of the countywide adjustment amount estimated by the Department of Finance, transfer an amount of ad valorem property tax revenue equal to this difference from the Sales and Use Tax Compensation Fund to that local agency.[30]

5. If the amount recalculated by the Department of Finance after the end of each fiscal year based on the actual amount of sales and use taxes not transmitted for the prior fiscal year is less than the amount allocated to a city or to the county based on the portion of the countywide adjustment amount estimated by the Department of Finance, in the fiscal year following the fiscal year for which the allocation was made, reduce the total amount of ad valorem property tax revenue otherwise allocated to that city or county from the Sales and Use Tax Compensation Fund by an amount equal to this difference and instead allocate this difference to the county ERAF.[31]

6. If there is an insufficient amount of moneys in a county's Sales and Use Tax Compensation Fund to make the necessary transfers, transfer from the county ERAF to the Sales and Use Tax Compensation Fund an amount sufficient to make the full amount of these transfers.[32]

7. If the suspension of sales and use tax authority under section 7203.1 ceases to be operative on October 1 of any fiscal year:

    a. Allocate that portion of the countywide adjustment amount attributable to the county and each city within the county on or before January 31 of that fiscal year. The countywide adjustment amount shall be defined as the combined total revenue loss to the county and each city within the county, as estimated by the director of the Department of Finance based on the prior year's *first quarter* sales and use tax revenues transmitted under section 7204; *plus* the difference between 1) the total amount allocated from the Sales and Use Tax Compensation Fund among the county and the cities in the county pursuant to the portions of the countywide adjustment amount identified by the Department of Finance in the prior year; and 2) the actual amount of sales and use tax not transmitted to all entities in the county for the prior year as a result of the 0.25% suspension of local sales and use tax authority.

    b. If, for any county or city, the portion of the countywide adjustment amount allocated to that entity from the Sales and Use Tax Compensation Fund is greater than the actual total amount of local sales and use tax revenue that was not transmitted to the entity for the prior fiscal year as a result of the 0.25

[30] *Ibid.*

[31] *Ibid.*

[32] *Ibid.*

percent suspension of local sales and use tax authority applied by Section 7203.1, on or before January 31 of the following fiscal year, reallocate from the entity to the county ERAF the difference between those amounts.

c. If, for any county or city, the portion of the countywide adjustment amount allocated to that entity from the Sales and Use Tax Compensation Fund is less than the actual total amount of local sales and use tax revenue that was not transmitted to the entity for the prior fiscal year as a result of the 0.25 percent suspension of local sales and use tax authority applied by Section 7203.1, on or before January 31 of the following fiscal year, reallocate from the county ERAF to that entity the difference between those amounts.[33]

Reimbursement is not required, under Section 97.68(d)(1), to calculate or identify countywide adjustment amount, or the portion attributable to the county and to each city within the county, or the difference between the countywide adjustment amounts allocated to the county and to each city and the actual sales and use tax revenues not transmitted to the county and to each city as a result of the suspension of sales and use tax authority; the county auditor shall be notified of those amounts by the director of the Department of Finance.[34]

8. If the suspension of sales and use tax authority under section 7203.1 ceases to be operative on January 1 of any fiscal year:

   a. Allocate that portion of the countywide adjustment amount attributable to the county and each city within the county; one half of the amount on or before January 31 of that fiscal year, and the remaining half of the amount on or before May 31 of that fiscal year. The countywide adjustment amount shall be defined as the combined total revenue loss to the county and each city within the county, as estimated by the director of the Department of Finance based on the sales and use tax revenues transmitted under section 7204 for the *first two quarters* of the prior fiscal year as determined by the Board of Equalization and reported to the director on or before that August 15; *plus* the difference between the total amount allocated to all entities in the county in the prior year and the actual amount of sales and use tax not transmitted to all entities in the county for the prior year.

   b. If, for any county or city, the portion of the countywide adjustment amount allocated to that entity from the Sales and Use Tax Compensation Fund is greater than the actual total amount of local sales and use tax revenue that was not transmitted to the entity for the prior fiscal year as a result of the 0.25 percent suspension of local sales and use tax authority applied by Section 7203.1, on or before January 31 of the following fiscal year, reallocate from the entity to the county ERAF the difference between those amounts.

   c. If, for any county or city, the portion of the countywide adjustment amount allocated to that entity from the Sales and Use Tax Compensation Fund is less than the actual total amount of local sales and use tax revenue that was not

[33] Revenue and Taxation Code section 97.68(d)(1) (Stats. 2004, ch. 211 (SB 1096)).

[34] Revenue and Taxation Code section 97.68(d)(1)(C)(ii) (Stats. 2004, ch. 211 (SB 1096)).

transmitted to the entity for the prior fiscal year as a result of the 0.25 percent suspension of local sales and use tax authority applied by Section 7203.1, on or before January 31 of the following fiscal year, reallocate from the county ERAF to that entity the difference between those amounts.[35]

Reimbursement is not required, under Section 97.68(d)(2), to calculate or identify countywide adjustment amount, or the portion attributable to the county and to each city within the county, or the difference between the countywide adjustment amounts allocated to the county and to each city and the actual sales and use tax revenues not transmitted to the county and to each city as a result of the suspension of sales and use tax authority; the county auditor shall be notified of those amounts by the director of the Department of Finance.[36]

9. If the suspension of sales and use tax authority under section 7203.1 ceases to be operative on April 1 of any fiscal year:

   a. Reduce the amount otherwise required to be allocated in May of that fiscal year from the Sales and Use Tax Compensation Fund by the amount reported by director representing that portion of the countywide adjustment amount attributable to the estimated sales and use tax revenue losses resulting from the rate suspension applied by section 7203.1 for the fourth quarter of that fiscal year for the county and each city in the county.

   b. After May allocations have been made, transfer any moneys remaining in the county Sales and Use Tax Compensation Fund to the county ERAF.

   c. If, for any county or city, the portion of the countywide adjustment amount allocated to that entity from the Sales and Use Tax Compensation Fund is greater than the actual total amount of local sales and use tax revenue that was not transmitted to the entity for the prior fiscal year as a result of the 0.25 percent suspension of local sales and use tax authority applied by Section 7203.1, on or before January 31 of that fiscal year, reallocate from the entity to the county ERAF the difference between those amounts.

   d. If, for any county or city, the portion of the countywide adjustment amount allocated to that entity from the Sales and Use Tax Compensation Fund is less than the actual total amount of local sales and use tax revenue that was not transmitted to the entity for the prior fiscal year as a result of the 0.25 percent suspension of local sales and use tax authority applied by Section 7203.1, on or before January 31 of the following fiscal year, reallocate from the county ERAF to that entity the difference between those amounts.[37]

Reimbursement is not required, under Section 97.68(d)(3), to calculate or identify countywide adjustment amount, or the portion attributable to the county and to each city within the county, or the difference between the countywide adjustment amounts

[35] Revenue and Taxation Code section 97.68 (d)(2) (Stats. 2004, ch. 211 (SB 1096)).

[36] Revenue and Taxation Code section 97.68(d)(2)(C)(ii) (Stats. 2004, ch. 211 (SB 1096)).

[37] Revenue and Taxation Code section 97.68(d)(3) (Stats. 2004, ch. 211 (SB 1096)).

allocated to the county and to each city and the actual sales and use tax revenues not transmitted to the county and to each city as a result of the suspension of sales and use tax authority; the county auditor shall be notified of those amounts by the director of the Department of Finance.[38]

10. If the suspension of sales and use tax authority under section 7203.1 ceases to be operative on July 1 of any fiscal year:

    a. If, for any county or city, the portion of the countywide adjustment amount allocated to that entity from the Sales and Use Tax Compensation Fund is greater than the actual total amount of local sales and use tax revenue that was not transmitted to the entity for the prior fiscal year as a result of the 0.25 percent suspension of local sales and use tax authority applied by Section 7203.1, on or before January 31 of that fiscal year, reallocate from the entity to the county ERAF the difference between those amounts.

    b. If, for any county or city, the portion of the countywide adjustment amount allocated to that entity from the Sales and Use Tax Compensation Fund is less than the actual total amount of local sales and use tax revenue that was not transmitted to the entity for the prior fiscal year as a result of the 0.25 percent suspension of local sales and use tax authority applied by Section 7203.1, on or before January 31 of the following fiscal year, reallocate from the county ERAF to that entity the difference between those amounts. [39]

    Reimbursement is not required, under Section 97.68(d)(4), to calculate or identify countywide adjustment amount, or the portion attributable to the county and to each city within the county, or the difference between the countywide adjustment amounts allocated to the county and to each city and the actual sales and use tax revenues not transmitted to the county and to each city as a result of the suspension of sales and use tax authority; the county auditor shall be notified of those amounts by the director of the Department of Finance.[40]

All other test claim statutes and allegations not specifically approved above do not result in a reimbursable state-mandated program subject to article XIII B, section 6 of the California Constitution and are, therefore, denied.

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.

[38] Revenue and Taxation Code section 97.68(d)(3)(C)(ii) (Stats. 2004, ch. 211 (SB 1096)).

[39] Revenue and Taxation Code section 97.68(d)(4) (Stats. 2004, ch. 211 (SB 1096)).

[40] Revenue and Taxation Code section 97.68(d)(4)(B)(2) (Stats. 2004, ch. 211 (SB 1096)).

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

Report the purchase price paid for fixed assets (including computers) necessary to implement the reimbursable activities. The purchase price includes taxes, delivery costs, and installation costs. If the fixed asset 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, 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 2 CFR Part 225 (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 2 CFR Part 225, Appendix A and B (OMB Circular A-87 Attachments A and B) and the indirect costs shall exclude capital expenditures and unallowable costs (as defined and described in 2 CFR Part 225, Appendix A and B (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 of 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 of allowable indirect costs bears to the base selected.

VI. RECORD RETENTION

Pursuant to Government Code section 17558.5(a), a reimbursement claim for actual costs filed by a local agency or school district pursuant to this chapter[41] 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

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

the Controller during the period subject to audit, the retention period is extended until the ultimate resolution of any audit findings.

VII. OFFSETTING REVENUES AND REIMBURSEMENTS

Any offsetting revenue 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(b), the Controller shall issue claiming instructions for each mandate that requires state reimbursement not later than 90 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(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(d), and California Code of Regulations, title 2, section 1183.2.

X. LEGAL AND FACTUAL BASIS FOR THE PARAMETERS AND GUIDELINES

The statements of decision adopted for the test claim and parameters and guidelines are legally binding on all parties and provide the legal and factual basis for the parameters and guidelines. The support for the legal and factual findings is found in the administrative record. The administrative record is on file with the Commission.