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October 19, 2017
**Commission on
State Mandates**

BETTY T. YEE
California State Controller

October 17, 2017

Heather Halsey
Executive Director
Commission on State Mandates
980 Ninth Street, Suite 300
Sacramento, CA 95814

Re: Incorrect Reduction Claim
Animal Adoption, 17-9811-I-04
Civil Code Sections 1834 and 1846;
Food and Agriculture Code Sections 31108, 31752, 31752.5, 31753, 32001, and 32003;
Statutes of 1998, Chapter 752; Statutes of 2004, Chapter 313
Fiscal Years 2007-2008 and 2008-09
Town of Apple Valley, Claimant

Dear Ms. Halsey:

The State Controller's Office is transmitting our response to the above-named IRC.

If you have any questions, please contact me by telephone at (916) 323-5849.

Sincerely,

A handwritten signature in blue ink, appearing to read "Jim L. Spano".

JIM L. SPANO, CPA
Assistant Division Chief, Division of Audits

JLS/kw

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**RESPONSE BY THE STATE CONTROLLER’S OFFICE
TO THE INCORRECT REDUCTION CLAIM (IRC) BY
THE TOWN OF APPLE VALLEY**

Animal Adoption Program

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Note: References to Exhibits relate to the Town’s IRC filed on August 1, 2017, as follows:

- Exhibit 1, Appendix A – PDF page 30
- Exhibit 1, Appendix A – PDF pages 112-120
- Exhibit 1, Appendix C – PDF pages 204-205
- Exhibit 1, Appendix C - PDF pages 208-209
- Exhibit 2 – PDF pages 210-276
- Exhibit 3 – PDF pages 338-346

- Exhibit 3 – PDF pages 349-350
- Exhibit 3 – PDF pages 351-361
- Exhibit 3 – PDF pages 385-400
- Exhibit 4 – PDF page 404
- Exhibit 4 – PDF pages 441-444
- Exhibit 4 – PDF page 642
- Exhibit 4 – PDF pages 652-662

Tab 1

1 **OFFICE OF THE STATE CONTROLLER**
2 3301 C Street, Suite 725
3 Sacramento, CA 94816
4 Telephone No.: (916) 323-5849

5 BEFORE THE
6 COMMISSION ON STATE MANDATES
7 STATE OF CALIFORNIA

8
9
10 INCORRECT REDUCTION CLAIM (IRC)
11 ON:

12 *Animal Adoption Program*

13 Civil Code Sections 1834 and 1846 and
14 Food and Agriculture Code
15 Sections 31108, 31752, 31752.5, 31753,
16 32001, and 32003
17 (Statutes of 1998, Chapter 752; and
18 Statutes of 2004, Chapter 313)

19 TOWN OF APPLE VALLEY, Claimant

No.: IRC 17-9811-I-04

AFFIDAVIT OF ASSISTANT
DIVISION CHIEF

20 I, Jim L. Spano, make the following declarations:

- 21 1) I am an employee of the State Controller's Office (SCO) and am over the age of 18
22 years.
- 23 2) I am currently employed as an assistant division chief, and have been so since July 1,
24 2017. Before that, I was employed as a bureau chief for 17 years and two months, and as
25 an audit manager for two years and three months.
- 26 3) I am a California Certified Public Accountant.
- 27 4) I reviewed the work performed by the SCO auditor.
- 28 5) Any attached copies of records are true copies of records, as provided by the Town of
29 Apple Valley or retained at our place of business.

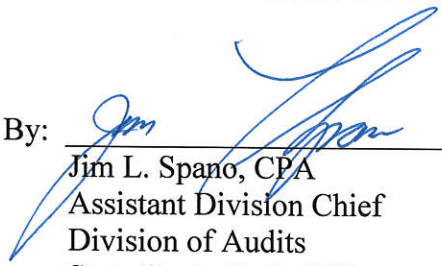
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- 6) The records include claims for reimbursement, along with any attached supporting documentation, explanatory letters, or other documents relating to the above-entitled Incorrect Reduction Claim.
- 7) A field audit of the claims for fiscal year (FY) 2007-08 and FY 2008-09 started on June 15, 2015 (issuance of the audit start letter) and ended on August 15, 2016 (issuance of the final report).

I do declare that the above declarations are made under penalty of perjury and are true and correct to the best of my knowledge, and that such knowledge is based on personal observation, information, or belief.

Date: October 17, 2017

OFFICE OF THE STATE CONTROLLER

By: 

Jim L. Spano, CPA
Assistant Division Chief
Division of Audits
State Controller's Office

Tab 2

**STATE CONTROLLER'S OFFICE ANALYSIS AND RESPONSE
TO THE INCORRECT REDUCTION CLAIM BY
TOWN OF APPLE VALLEY**

For Fiscal Year (FY) FY 2007-08 and FY 2008-09

**Animal Adoption Program
Civil Code Sections 1834 and 1846; and Food and Agriculture Code
Sections 31108, 31752, 31752.5, 31753, 32001, and 32003
(Statutes of 1998, Chapter 752; and Statutes of 2004, Chapter 313)**

SUMMARY

The following is the State Controller's Office's (SCO) response to the Incorrect Reduction Claim (IRC) that the Town of Apple Valley submitted on August 1, 2017. The SCO audited the town's claims for costs of the legislatively mandated Animal Adoption Program for the period of July 1, 2007, through June 30, 2009. The SCO issued its final report on August 15, 2016 (**Exhibit 1- pages 285-336**).

The town submitted amended reimbursement claims totaling \$2,256,209—\$878,735 for fiscal year (FY) 2007-08 (**Exhibit 2 - pages 401-407**), and \$1,377,474 for FY 2008-09 (**Exhibit 3 - pages 640-645**). Subsequently, the SCO audited these claims and determined that \$215,608 is allowable and \$2,040,601 is unallowable because the town overstated allowable costs, claimed unallowable and unsupported costs, claimed misclassified costs and ineligible animals, and misstated animal census data.

The following table summarizes the audit results:

Cost Elements	Actual Costs Claimed	Allowable Per Audit	Audit Adjustments
<u>July 1, 2007, through June 30, 2008</u>			
Direct costs:			
Acquiring space/facilities	\$ 745,135	\$ -	\$ (745,135)
Care and maintenance of dogs, cats, and other animals	76,034	18,562	(57,472)
Increased holding period	57,566	45,483	(12,083)
Maintaining non-medical records	-	31,065	31,065
Procuring equipment	-	5,252	5,252
Total direct costs	878,735	100,362	(778,373)
Indirect costs	-	6,627	-
Total direct and indirect costs	878,735	106,989	(771,746)
Less late filing penalty	(10,000)	-	10,000
Total program costs	<u>\$ 868,735</u>	106,989	<u>\$ (761,746)</u>
Less amount paid by the State		-	
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 106,989</u>	

Acquiring space/facilities	\$ 1,233,364	\$ -	\$ (1,233,364)
Care and maintenance of dogs, cats, and other animals	77,199	14,097	(63,102)
Increased holding period	66,911	46,496	(20,415)
Lost and found lists	-	995	995
Maintaining non-medical records	-	31,912	31,912
Procuring Equipment	-	8,113	8,113
Total direct costs	1,377,474	101,613	(1,275,861)
Indirect costs	-	6,081	6,081
Total direct and indirect costs	1,377,474	107,694	(1,269,780)
Less late filing penalty	-	-	-
Total program costs	<u>\$ 1,377,474</u>	<u>107,694</u>	<u>\$ (1,269,780)</u>
Less amount paid by the State		-	
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 107,694</u>	

Summary: July 1, 2007, through June 30, 2009

Direct costs:			
Acquiring space/facilities	\$ 1,978,499	\$ -	\$ (1,978,499)
Care and maintenance of dogs, cats, and other animals	153,233	32,659	(120,574)
Increased holding period	124,477	91,979	(32,498)
Lost and found lists	-	995	995
Maintaining non-medical records	-	62,977	62,977
Procuring equipment	-	13,365	13,365
Total direct costs	2,256,209	201,975	(2,054,234)
Indirect costs	-	12,708	12,708
Total direct and indirect costs	2,256,209	214,683	(2,041,526)
Less late filing penalty	(10,000)	-	10,000
Total program costs	<u>\$ 2,246,209</u>	<u>214,683</u>	<u>\$ (2,031,526)</u>
Less amount paid by the State ¹		-	
Allowable costs claimed in excess of (less than) amount paid		<u>\$ 214,683</u>	

¹ Payment information current as of October 10, 2017.

I. ANIMAL ADOPTION PROGRAM CRITERIA

Adopted Parameters and Guidelines—February 28, 2002

Food and Agriculture Code sections 31108, 31752, 31753, 32001, and 32003 (added and amended by Statutes of 1998, Chapter 752) attempted to end the euthanasia of adoptable and treatable animals. It expressly identifies the state policy that no adoptable animal should be euthanized if it can be adopted into a suitable home, and that no treatable animal should be euthanized. The legislation also increases the holding period for stray and abandoned dogs, cats, and other specified animals. It also requires public or private shelters to:

- Verify the temperament of feral cats;
- Post lost-and-found lists;
- Maintain records for impounded animals; and
- Ensure that impounded animals receive necessary and prompt veterinary care.

The Commission on State Mandates (Commission) determined that Chapter 752, Statutes of 1998, imposed a state mandate reimbursable under Government Code (GC) section 17561.

The program's parameters and guidelines establish the state mandate and define reimbursement criteria. The Commission adopted the parameters and guidelines on February 28, 2002 and corrected them on March 20, 2002. On January 26, 2006, the Commission adopted amended parameters and guidelines for the Animal Adoption program (**Exhibit 2 -pages 257-276**). In compliance with GC section 17558, the SCO issues claiming instructions to assist local agencies and school districts in claiming mandated-program reimbursable costs. The amended parameters and guidelines are applicable to the town's FY 2007-08 and FY 2008-09 claims.

The amended parameters and guidelines clarify the source documentation requirements by defining the terms "actual costs" and "source documents." In addition, these parameters and guidelines state that corroborating documents cannot be substituted for source documents.

The amended parameters and guidelines also provide a specific formula for claimants to use when calculating costs under the Acquiring Space and Facilities, Remodeling/Renovating, and Care and Maintenance cost components. The eligible costs for these components take into account the increased holding period as a result of the mandate relative to the animal census (the total days an animal is impounded).

SCO Claiming Instructions

The SCO annually issues mandated cost claiming instructions, which contain filing instructions for mandated cost programs. The SCO issued amended claiming instructions on October 26, 2009 (**Exhibit 2 - pages 210-256**). These claiming instructions are believed to be, for the purposes and scope of the audit period, substantially similar to the version extant at the time the town filed its FY 2007-08 and FY 2008-09 mandated cost claims.

II. ACQUISITION OF ADDITIONAL SPACE AND/OR CONSTRUCTION OF NEW FACILITIES COSTS

Issue

The town objects to the SCO's determination that the entire amount the town claimed for this component is unallowable. The SCO concluded that the town did not provide a Board Agenda or other

similar documentation to support claims that the construction of new facilities was a direct result of the increased holding period requirements of this mandated program. In addition, many of the costs claimed were incurred outside of the audit period. The town did not document the calculations required by the parameters and guidelines to show the proportionate share (percentage) of costs attributable to this cost component. The town claimed services and supplies costs totaling \$1,978,499 for construction of new facilities. Our audit found that the entire amount is unallowable (**Exhibit 3 - pages 285-400**).

SCO's Analysis:

The town did not provide sufficient supporting documentation showing that the construction of the new animal shelter was necessary as a result of the legislative requirements of the Hayden Bill, which extended the holding period requirements of sheltered animals. Specifically, per the Statutes of 1998, Chapter 752, the town must demonstrate that due to the increased holding periods, the existing facilities do not reasonably accommodate impounded stray or abandoned dogs, cats, and other specified animals that are ultimately euthanized. The town argues that it did provide the proper documentation. We disagree. Based on documentation provided in the town's claims and documentation gathered during the course of the audit, the town constructed a new shelter due to reasons such as population growth, the temporary nature of the town's existing animal shelter, and the cost-effectiveness of building a new shelter at that point in time. Also, the parameters and guidelines require the claimant to provide calculations showing the proportionate share of costs incurred to plan, design, acquire, and/or build facilities in a given fiscal year. These calculations are based on the pro-rata representation of impounded stray or abandoned dogs, cats, and other animals that are held during the increased holding period (or are euthanized after the increased holding period) to the population of animals housed in the facility during the entire holding period.

Even if the town had provided sufficient documentation to show that the shelter was constructed due to the increased holding period requirements of this mandated program, it did not show how it calculated the pro-rata percentages that it applied to its total costs for each fiscal year. Furthermore, the amount the town claimed was based on "total facility costs". Per the transaction detail report provided in the town's FY 2008-09 claim, these costs ranged from July 1, 2006, through October 25, 2010. Therefore, as we document later, many of these costs were incurred outside of the audit period.

Town's Response

ISSUE 1 — DENIAL OF PORTION OF ANIMAL SHELTER CONSTRUCTION COSTS CLAIMED

The State Controller's Office (SCO) denied reimbursement for cost claimed for the construction of the new Animal Shelter.

***SCO Response 1:* "Town did not support, through Board Agenda or other similar document, that the construction was a direct result of the Increased holding period requirements of this mandate program."**

The Town disputes this conclusion and believes they did provide material that shows that the construction of a new facility was necessary to provide appropriate and adequate shelter space to comply with the mandate activities. Further, only an eligible share of the costs related directly to the increased holding period mandated were claimed.

In the late 1990s through almost the end of FY 2003-04 (May 2004), the Town contracted with Victor Valley Animal Protective League for their shelter services. This arrangement ended because of increased costs for sheltering services being presented by Victor Valley Animal Protective League without audited records to support the increased fee request. (See Appendix C)

In June of 2004, the Town contracted with the City of Hesperia to care and shelter their animals because the Town ended their contract with Victor Valley Animal Protective League and needed emergency animal sheltering services while the Town constructed a temporary animal shelter for Apple Valley animals. Sheltering with the City of Hesperia ended when the Town completed the renovation of an old residential dwelling and warehouse

structure in March of 2005. The renovation provided a temporary animal sheltering facility within the Town's jurisdiction and eliminated the need for animal services staff to travel outside of their jurisdiction to place impounded animals into a contract shelter for housing and an easy accessible facility where town residents could look for their lost pets. (Appendix C)

It soon became evident that this facility was inadequate because the building was not purpose built and did not provide necessary, isolation, quarantine or kennel space for an increasing number of impounded animals or adequate rooms to provide necessary medical treatment. Discussion and planning began to construct a new Shelter Facility in September 2008, with specific consideration for increased kennel capacity, quarantine rooms, isolation facilities for sick/injured animals, increased holding times and a ventilation system to filter airborne diseased and minimize cross contamination of animals. (See Appendix C)

Page 2 of the April 2007, Request for Qualifications to Design the Animal Shelter Facility stated, "The Proposed Animal Control Shelter will be designed to increase the hold time for potentially adoptable animals..." (see Town of Apple Valley's June 17, 2016 Response to the Draft Audit – SCO website- beginning on page 63. http://sco.ca.gov/Files-AUD/MandCosts/08_2016_applevalley_animal.pdf)

Further, at the July 10, 2007 Council meeting audio recording (at 1:32:37 of the recording) contains Councilman Jasper's statement that the need to build new animal shelter is because it is "Mandated by the State to take care of our animals".

The formula in the claiming instruction formulas, limit reimbursement to those costs which are attributable to the passage of the Hayden Bill and not normal population growth. The statistical information requirements in the instructions (such as animal census statistics) are all included in the claim backup under the formula section. The percentage of eligible construction costs were claimed based on the calculation of this formula; however, the method was not reviewed or discussed by the SCO as they denied the costs as completely ineligible due to their conclusion that Board documentation was lacking.

The claimant believes that they did provide support adequate to show that the project was necessary and due in part to the requirements of the passage of the new State Mandate program which required increased space due to the increased hold time for animals and also because the facility was not configured or equipped properly. (see Appendix C)

State Law requires that local agencies be reimbursed for the increased cost incurred to comply with Costs Mandated by the State. The computed percentage of construction costs claimed are the direct result of increased animal population that were experienced to comply with the State Mandate Animal Adoption program, and thus should be reimbursed by the State.

SCO Response 2: Many of the costs claimed occurred outside of the audit period.

The record shows in its original and amended claims that the Town did incur costs in the eligible time period. Cost incurred includes obligated and expended costs during the fiscal years claimed.

SCO Response 3: Calculations to support the percentages claimed per fiscal year not provided.

The records shows that the Town did provide the calculations used to determine the percentage of facility costs claimed were included in both the FY 2007-08 and the FY 2008-09 actual and amended claims. Town also provided the page again showing percentages claimed in its June, 2016 Response letter to the Draft Audit. If the auditor felt something further was missing or lacking, they could have requested the information from the Town.

Town request that the allowable share of facility construction costs be restored.

SCO's Comments

The town's comments in its IRC filed on August 1, 2017, related to the audit finding for unallowable acquisition of additional space and/or construction of new facilities costs, are very similar to the comments that it provided on June 17, 2016, for the SCO's draft audit report. In our final audit report, we noted that the services and supplies costs claimed in FY 2007-08 and FY 2008-09 for the

construction of new facilities were unallowable because “the town did not support, through a Board agenda or other similar supporting documentation that the construction was a direct result of the increased holding period requirements of this mandated program.” This is the primary reason for the unallowable costs. The two other issues noted in our final report (costs incurred outside of the audit period and lack of calculations to support the pro-rata percentages claimed per fiscal year) are secondary. We will address the town’s comments related to the primary reason first.

Lack of required documentation for costs incurred

In its IRC filing, the town provides a brief summary of its animal shelter services from the late 1990s through the present time. However, a more detailed chronology of events would include the following:

- Late 1990s through March 31, 2004 – The town operated under a contract for animal shelter services with the Victor Valley Animal Protection League.
- Town Council meeting on February 10, 2004 – Item #6 (**Exhibit 1 – Appendix C, pages 204-205**) – Various council members expressed concerns with the Victor Valley Animal Protection League. The Council voted to continue under the current contract for animal control services with the Protection League, but directed staff to look for other entities that provided sheltering services and to enter into negotiations for temporary shelter services.
- April 1, 2004 – An emergency animal sheltering arrangement was negotiated with the City of Hesperia.
- August 10, 2004 – Town Council meeting – Item #6 (**Exhibit 1 – Appendix C, page 208**) – The Council finalized a formal animal sheltering agreement with the City of Hesperia for the remainder of FY 2004-05.
- June 2004 through March 2005 – The town operated under a contract for animal shelter services with the City of Hesperia. (Note: Hesperia is approximately 11 miles southwest of Apple Valley.)
- March 2005 – A temporary animal shelter was completed within the Town of Apple Valley. According to the claimant, “The renovation provided a temporary animal sheltering facility within the town’s jurisdiction and eliminated the need for animal services staff to travel outside of their jurisdiction to place impounded animals into a contract shelter for housing and an easily accessible facility where town residents could look for their lost pets.”
- July 2005 – The contract with City of Hesperia concluded and the town started offering animal services at its temporary shelter facility.
- February 16, 2007 – Town Council Special Meeting (Workshop) (**Tab 7**) – The Deputy Town Manager noted that “Apple Valley has experienced a population growth” and that “the existing animal shelter was always a temporary solution.” The Council directed staff to proceed with an RFP (Request for Proposals) for architectural design for various capital projects, which included an animal shelter.
- April 2, 2007 – The town issued a Request for Proposals to obtain architectural services for a new animal shelter facility (**Exhibit 1, Appendix C – pages 351-361**).
- May 8, 2007 – Town Council Meeting (**Exhibit 4, pages 441-444**) – The Town Council passed RDA Resolution No. 2007-02 authorizing the sale of \$33,500,000 in tax allocation bonds related to the Apple Valley Redevelopment Project Area No. 2.
- July 7, 2007 – Town Council Meeting (**Tab 8**) – Acknowledging the discussion that took place during “the 2007 edition of the Council/Staff strategic planning and goal-setting workshop,” the council “authorized staff to commence the process of issuing redevelopment tax allocation bonds for the ... Animal Shelter facilities,” awarded a Professional Services Agreement to an architectural firm related to the animal shelter, and directed staff to issue an RFP for construction management services for various capital projects, which included the animal shelter facility.
- September 9, 2008 – Town Council meeting – Item #6 (**Exhibit 1 – Appendix C, page 209**) – The Council reviewed and approved the construction plans for “a purpose built Animal Shelter Facility including office space” and directed staff to proceed with the project.

- February 25, 2009 – The town’s website announced the groundbreaking for its new Apple Valley Municipal Animal Shelter (**Tab 9**), noting that \$8 million in project funding came from bonds issued against increased tax revenues from redevelopment areas.
- October 25, 2010 – Construction was completed for the new animal shelter (**Tab 9**).

This chronology of events does not support that the town began construction of a 36,000 square foot animal shelter starting in February of 2009 due to the increased holding period requirements of the Hayden bill (the test claim legislation). The evidence in the record shows that:

- The town contracted with the Victor Valley Animal Protection League from “the late 1990s through almost the end of FY 2003-04 (May 2004).” It ended its contract with the League on March 31, 2004 “because of increased costs for sheltering services being presented by Victor Valley Animal Protective League without audited records to support the increased fee request.”
- The town then began contracting with the City of Hesperia under an “emergency sheltering arrangement” followed by a formal contract which continued through June 30, 2005. The town terminated this contract and began offering animal services in a renovated facility within the town’s jurisdiction because it “eliminated the need for animal services staff to travel outside of their jurisdiction to place impounded animals into a contract shelter for housing and an easily accessible facility where town residents could look for their lost pets.”
- The town stated that “this facility was inadequate because the building was not purpose built and did not provide necessary, isolation, quarantine or kennel space for an increasing number of impounded animals or adequate rooms to provide necessary medical treatment.” The Town Council’s workshop held on February 16, 2007, notes that the town had experienced population growth and that “the existing animal shelter was always a temporary solution.”

This record of evidence does not include language stating that acquiring additional space and/or construction of new facilities is necessary for the increased holding period requirements of the mandated program. In addition, the record of evidence does not provide a statement that “remodeling existing facilities is not feasible and/or is more expensive than acquiring additional space and/or constructing new facilities” or that “contracting with existing private or public shelters in the area to house the increase of impounded stray or abandoned dogs, cats, or other animals...is not feasible or is more expensive than acquiring additional space and/or constructing new facilities.”

We also noted that the amended parameters and guidelines state on pages 5 and 6 that:

Statutes 2004, Chapter 313 specifies that costs incurred to address preexisting shelter overcrowding or animal population growth are not reimbursable. The mandate reimburses the costs required due to the increased holding period requirement required by Statutes 1998, Chapter 752.

The claimant indicates in its IRC filing that then-Mayor Pro Tem Jasper stated at a Town Council meeting held on July 10, 2007, that a new animal shelter is needed because it is “[m]andated by the State to take care of our animals.” However, that is not a new requirement resulting from the test claim legislation. The test claim legislation merely imposed new requirements that resulted in this mandated program. In its response to the draft audit report, the claimant also made the same assertion and provided a link to a recording of that Town Council meeting (see **Exhibit 3-page 298**). A review of that recording confirms that Mr. Jasper made that statement, although there was no discussion at that meeting concerning shelter overcrowding due to the increased holding period or any other topics related to the requirements of the mandated program.

However, after listening to the recorded meeting and reviewing relevant documents for our response to the town's IRC filing, we found an issue that was not addressed in the SCO's audit report dated August 15, 2016. That issue concerns the funding mechanism used to finance the construction of the town's new animal shelter, which was through the issuance of redevelopment tax allocation bonds. This was noted in the following items:

- Special Meeting (Workshop) of Town Council on February 16, 2007 (**Tab 7**) – During that meeting, the then-Deputy Town Manager explained that the animal shelter facility “could be designed and constructed using RDA funds.”
- Town Council Meeting on May 8, 2007 (**Exhibit 4, pages 441-444**) – The Town Council passed RDA Resolution No. 2007-02 authorizing the sale of \$33,500,000 in tax allocation bonds related to the Apple Valley Redevelopment Project Area No. 2.
- Town Council meeting on July 10, 2007 – Documentation for agenda item #15 (**Tab 8**) – Notes that subsequent to the February 16, 2007, workshop, town staff was authorized to issue redevelopment tax allocation bonds for the Public Works and Animal Shelter facilities. In addition, listening to the recording of that meeting disclosed that the tax allocation bonds had already been issued and sold. Town Council members were urged at that meeting to approve an agreement in the amount of \$670,000 with an architectural firm to begin design work for the new animal shelter facility. Concerns expressed at that meeting included a statement that since the bonds had already been sold, the town now had a three-year window to use the bond proceeds to complete the project. Bond proceeds not used during that time frame would have to be refunded and the town's credit rating would be put at risk.
- February 25, 2009 – The town's website announced the groundbreaking for its new Apple Valley Municipal Animal Shelter (**Tab 9**), noting that \$8 million in project funding came from bonds issued against increased tax revenues from redevelopment areas.
- We reviewed the town's Comprehensive Annual Financial Report for FY 2007-08 and found that the Notes to the Financial Statements (Note IV)(E) – Detailed Notes On All Funds – Long-Term Debt) (**Tab 12**) discloses the 2007 Tax Allocation Bonds issued in July of 2007 for the Redevelopment Agency of the Town of Apple Valley for Project Area No. 2.

To gain more information about this issue, we reviewed the proposed decision provided by Commission staff to an Incorrect Reduction Claim filed by the City of Los Angeles (IRC 13-9811-I-02) related to our audit of its Animal Adoption Program claims for FYs 1998-99 through 2007-08. The proposed decision was scheduled to be Item #4 for the Commission hearing held on October 28, 2016. However, the city withdrew its IRC before the hearing date. On page 72 of that document, Commission staff discussed their review of the city's claim that using tax funds acquired through a voter-approved proposition did not disqualify it from seeking reimbursement for costs incurred to construct new animal shelters. In their analysis, Commission staff noted that “Redevelopment agencies, in particular, have been identified by the courts as being exempt from the restrictions of article XIII B, because they are funded by additional levies in excess of the base property tax.” Staff concluded “that reimbursement is not required when a mandate is paid for with funds other than local tax revenues.” It appears then that this same issue may exist for the Town of Apple Valley through its use of RDA funding for its new animal shelter.

Construction costs incurred during the audit period

After reviewing the first issue in the claimant's IRC filing, we next reviewed the second issue, which is the town's assertion that “[t]he record shows in its original and amended claims that the Town did incur costs in the eligible time period. Costs incurred includes obligated and expended costs during the fiscal years claimed.” In its IRC filing, the town included a Transaction Detail Report for construction costs incurred for the Animal Shelter Facility dated July 1, 2006, through October 25, 2010 (**Exhibit 4 – pages 652 through 662**).

We analyzed this report and found that the total project cost of \$11,008,301 contains costs incurred covering a four-year period, as follows:

- FY 2007-08 - \$1,437,396
- FY 2008-09 - \$3,044,818
- FY 2009-10 - \$6,522,080
- FY 2009-10 - \$ 4,007

The town's claim for FY 2008-09 (**Exhibit 4 – page 642**) supports that the town based its costs incurred for FY 2008-09 related to constructing its animal shelter on the full project cost of \$11,008,301 less the amount incurred and included in its claim for FY 2007-08 (\$1,437,231). However, the costs incurred for FY 2008-09 should have been based on the \$3,044,818 amount that its Transaction Detail Report supports.

Proportionate share of actual costs calculations

The third issue raised by the claimant is that “the Town did provide the calculations used to determine the percentage of facility costs claimed were included in both the FY 2007-08 and the FY 2008-09 actual and amended claims.” In the amended claims received, the town pro-rated its costs for constructing an animal shelter at 51.8% (**Exhibit 4 – page 404**) and 12.9% (**Exhibit 4 – page 642**) respectively; the calculations to show how it arrived at these percentages were not included. In its response to the Draft Audit report, the town provided worksheets titled “State Formula,” for both fiscal years showing how it arrived at these percentages (**Exhibit 1 – Appendix C, pages 349 - 350**). However, the calculations on these worksheets are incorrect.

The mandated program allows reimbursement under this cost component only for a proportionate share of actual costs incurred. The amended parameters and guidelines include a specific formula to determine the proportionate share of actual costs. The worksheets provided by the claimant notes that “there was no facility in 1998.” In addition, the formula calculations for the two fiscal years use different numbers reflecting the average daily census of animals, the number of eligible animals, and the square footage of the existing shelter for FY 1998-99. As the claimant did not provide any support for this information, it is not possible to determine which calculation, if any, is correct. It also appears that the calculations for FY 2007-08 include shelter square footage data based on the claimant's temporary facility used in 2005. Also, as indicated within Finding 2 of the final audit report, the claimed statistics used for the average daily census of animals and the total number of eligible animals for the town's FY 2007-08 and FY 2009-10 claims were misstated. The SCO conducted the audit based on the town's amended claims for both FY 2007-08 and FY 2008-09. However, as stated in our Final Audit report, the computations showing how the town arrived at the pro-rata percentages claimed are not a consideration at this point.

III. THE TOWN DID NOT CLAIM NECESSARY AND PROMPT VETERINARY CARE COSTS

Issue

The town states in its IRC that it included costs for Necessary and Prompt Veterinary Care activities in its cost per animal per day calculations under the Care and Maintenance cost component. As a result, the Town did not include any costs in its claims specifically under the Necessary and Prompt Veterinary Care cost component. Throughout the course of the audit, the town was given ample opportunity to conduct time studies to determine the amount of time that staff may have spent on reimbursable activities for this component, which includes performing initial physical exams and administering wellness vaccines. Furthermore, the town was given the opportunity to submit invoices to support the materials and supplies costs that it incurred for the wellness vaccines that it administered. During the

course of the audit, the town did not conduct the time studies necessary to determine allowable salary and benefit costs, despite numerous requests from the SCO. The town also did not submit any invoices supporting actual allowable materials and supplies costs. The town is now contending that “no costs were allowed” for this component and is requesting that the results of a time study conducted post-exit conference be used to determine allowable salary and benefit costs for the audit period. The town is also requesting that materials and supplies costs be reimbursed based on the information provided in its response to the draft audit report.

SCO’s Analysis:

The town did not claim costs under the Necessary and Prompt Veterinary Care costs component for either fiscal year of the audit period; therefore, there was no finding or determination of unallowable costs. There cannot be a reinstatement of costs that were never claimed. We advised the town in an email on July 13, 2015, (**Tab 5-pages 1 and 2**) that for it to properly support salary and benefit costs potentially incurred during the audit period performing reimbursable activities for this component, it would need to conduct time studies (one for performing an initial physical exam to determine an animal’s baseline health and one for administering wellness vaccines). We also advised the town that it would need to submit invoices to support any material and supplies costs incurred. We first advised the town about time studies in our Entrance Conference handout dated July 7, 2015, (**Exhibit 1, Appendix A-page 30**). We subsequently advised and/or followed-up with the town via email messages on July 13, 2015, (**Tab 5-pages 1 and 2**); October 14, 2015, (**Tab 5-page 3**); February 29, 2016, (**tab 5-page 4**); March 15, 2016, (**Tab 5-pages 5-10**); March 18, 2016, (**Tab 5-pages 11-13**); and March 28, 2016, (**Tab 5-page 14**). We also inquired about the town initiating time studies via telephone on September 29, 2015; October 26, 2015; and October 29, 2015 (**Tab 6**).

The town did not provide any feedback to these requests indicating that it would perform time studies for this or any other cost component. In an email dated March 28, 2016 (**Tab 5-page 14**), the SCO Audit Manager advised the town’s Assistant Director of Finance that due to the town’s lack of response, the SCO would move forward with concluding the audit, which included scheduling an exit conference. The town then conducted a time study for this cost component more than two weeks after the exit conference. The town submitted the results of that time study in its response to the draft audit report and requested reimbursement for salary and benefit costs. The town also requested reimbursement for wellness vaccine costs in its response to the draft audit report based on email correspondence between the town and its mandated cost consultant. We believe that the town had more than adequate time to properly plan and perform any time studies during the course of the audit. In addition, the results of the time study that the town conducted do not appear to be adequate to determine allowable costs for the audit period, nor did it provide proper supporting documentation for material and supplies costs.

Town’s Response

ISSUE 2 – MISSING ITEM 1 – PROMPT AND NECESSARY VETERINARY CARE – Initial Physical Examination and administration of wellness vaccine

SCO Response 1: Town did not claim any costs for this component for the audit period.

The Town did claim these costs in the composite cost per animal per day under the care and maintenance component. During the audit, the Town was informed that the costs were not calculated in an acceptable manner, and that they would be given the opportunity to conduct time studies to support eligible costs. Page 6 of the SCO **Entrance Conference Agenda** states, under the section Time Studies: “From our prior experience with this program, we have found that some components may not be properly supported. If the costs are not claimed correctly, the agency will be given the option to properly support costs and/or conduct time studies to properly support costs during the course of the audit.”

SCO Response 2: The Town was notified numerous times that they would need to conduct a time study for this cost component.

The Town was working with the auditor and was in the process of conducting time studies as late as the end of April, 2016. The first time study for "Maintaining Non-Medical Records" was scheduled for completion on April 29, 2016. Less than a week later, the SCO sent their notification that they wished to conduct the exit conference.

Page 2 of the April, 2016 Time Study Plan document (that was reviewed and approved by the State Controller's Office) narrative states in the heading that the Town could chose to do other time studies for similarly repetitive activities. "The reason for this time study is to document the time spent to carry Town's the maintaining of non-medical records component contained in this mandate. There may be other activities in this mandate that are repetitive in nature and that the Town of Apple Valley reserves the right to perform a separate time study at a later date."

Days later on May 4, 2016, the SCO contacted the Town and stated that they wanted to schedule a date for their exit conference to be held via phone conference call for the following day, May 5. On May 4, 2016 they sent the City an Exit Conference Info Sheet, a pre exit status handout titled "Findings and Recommendations" with a number of schedules. (Attached in APPENDIX A).

This was the first opportunity the Town had to see the comprehensive results of the audit review and were only given a day to review before the Exit Conference all to discuss the results. The Town was assured that they would have the opportunity to review, respond, and provide additional support in response to the Preliminary Findings both during the Exit phone conference and after the formal Draft Audit Report was issued.

During the Exit Conference phone call on May 5, 2016, the Town voiced a number of questions and concerns about the preliminary findings. One of the issues raised was that no costs were allowed for the "Prompt and Necessary Vet Care" component. The Town also requested additional detailed reports to understand the calculations made by the auditor, requested reinstatement of a number of costs (such as utility charges), use of Actual indirect cost rates calculated by the Town in lieu of the 10% default rate allowed by the SCO, submission of an additional time study conducted by the Town for "Prompt and Necessary Veterinary Care."

After the conference call on May 5, 2016, Jim Venneman, SCO Audit Manager sent an email recapping issues raised in the Exit meeting conference call. Mr. Venneman stated in this May 5, 2016 email that, Note – time study results must be submitted to us prior to issuance of our audit report. Any information submitted after that date supporting allowable costs will not be considered." *(Note that the time study in question was not for "Lost and Found" lists (as was incorrectly stated by Mr. Venneman in his email), but for the "Prompt and Necessary Veterinary Care" component.*

The following day, May 6, Mr. Venneman emailed and reversed his decision to accept a time study or to consider Town's actual ICRP calculations. He stated that, "I misspoke yesterday about accepting a time study...After discussing this audit with upper management today, we would need to re-open field work *(though the SCO auditor did not visit on site or conduct any field work related to the first time study – everything was organized and reviewed via email and telephone)* in order to adequately review any time study results. The same for an Indirect Cost rate Proposal." "We realize your positions on these three issues. You can include your objections and/or any additional information about these issues in your response to the draft report. The report may be issued in 3-4 weeks from today."

SCO's refusal to consider the Town's "Prompt and Necessary Veterinary Care" time study, despite the SCO's earlier assurances that the Town would still be able to provide additional documentation and support of costs up until the Final Audit Report was issued denied the Town of eligible costs which we now request to be restored.

SCO Response 3: In addition, the results of a two-day time study that the town conducted post-exit conference do not appear adequate to determine allowable costs for the audit period.

The Town, with the OFF-SITE approval of the SCO Auditor, developed and conducted the first Time Study Plan in April of 2016 (See Appendix A- Time Study Information) and conducted a time study for the "Maintaining Non-Medical Records" cost component. On page 3 of the Time Study document in Appendix A stated, "The process and procedures to carry out the mandated activity have not significantly fluctuated by fiscal year so the results can be reasonably projected to approximate actual cost... The time study period will be conducted for a two week period."

The same conditions existed for the “Prompt and Necessary Veterinary Care” component. The process and procedures (administering a wellness vaccine) had not significantly fluctuated by fiscal year.

In an email from the SCO auditor April 13, 2016, the Town was instructed to shorten their time study from a two week to a one week time study period. “A slight change for the upcoming time study. Currently the time study is scheduled to begin on Saturday, April 16th and end on Friday, April 29th. Go ahead and keep this same schedule. However, at the end of the first week of the time study, which would be Friday, April 22nd, go ahead and email me the daily time study logs as one PDF document. If after reviewing the logs” (NOTE, THIS REVIEW WAS DONE OFF SITE AND FIELD WORK WAS NOT NEEDED) “we determine that there is enough data to approximate the results for the audit period, and the data is relatively free of any inconsistencies, you can end the time study at that point. ... This particular activity is very repetitive in nature, as it takes place every day, throughout the entire day, so it is likely that one week will be sufficient.”

After seeing the Preliminary Audit Finding, the Town decided that they wished to pursue the reinstatement of costs for the Prompt and Necessary Component and they would provide this additional information in their response to the Draft report. Because the SCO accepted a one week time study for the first “Maintenance of Non-Medical Records” Time Study, and because the eligible Prompt and Necessary Vet Care activities of – “conduct an initial physical exam to determine if the animal is adoptable, treatable, or non-rehabilitatable “and then to “administer a wellness vaccine” were also equally “repetitive in nature”, and the results varied so little in time, the Town conducted a week long time study for this activity (May 18, 19, 30, and 31). The study was conducted over a 4 day – not a 2 day period as stated by the SCO).

This time study determined that it took a Registered Veterinary Technician an average of 86 seconds (or 1.43 minutes per animal) to conduct an initial exam upon intake and to determine whether the animal is treatable and then to administer a wellness vaccine to the treatable animals in compliance with the State Mandate.

SCO’s stated that they denied the Town’s request in May, 2016 to perform another Time Study for the “Prompt and Necessary Veterinary Care” component because the Town was too late in making this request, however the Town had just completed their first time study about a week before this. The narrative of this Time Study (which was reviewed and approved by the SCO in April, 2016) stated clearly that the Town “reserved the right to perform a separate time study at a later date for other mandated activities that were repetitive in nature” indicated that the Town was requesting the opportunity to conduct additional time studies to support other mandated activities. Requesting to do a time study for additional activities in May, 2016 (only about a week later) does not seem to be “too long” in making the request.

Also, the SCO assured the Town that having the Exit Conference didn’t mean that they would not be able to submit and further support. Audit Manager Jim Venneman further stated in his May 5th email that, “time study results must be submitted to us prior to the issuance of our audit report.” He also stated in his May 10, 2016 email to the Town, “You can include your objections and/or any additional documentation about these issues in your response to the draft report.”

The Town did respond and provide additional documentation by required deadlines and their objections including the Time Study, the actual ICPR (overhead rate) calculations, and support for other costs, all of which were denied without review or consideration.

The SCO justification was that “examining the town’s time study at this time would require us to re-open the audit and conduct additional fieldwork to analyze and verify the accuracy of the information provided.” Town believes the SCO did not have to conduct additional fieldwork to review the information provided since they did not conduct any fieldwork to review the information in the first time study conducted using the same parameters. And even if they did have to conduct additional field work – why didn’t they?

Further, the Town believes this denial of opportunity to have their additional documentation supporting allowable costs considered was arbitrary and capricious: the SCO had plenty of time yet to conduct their audit; and the SCO had just approved a similar time study without requiring any auditor field work.

ISSUE 2 – MISSING ITEM 1 – PROMPT AND NECESSARY VETERINARY CARE – Cost of Wellness Vaccine (See APPENDIX A)

In addition to the time spent to administer the wellness vaccine, the Town requested reimbursement for the cost of the wellness vaccines administered to eligible animal as documented in its emailed correspondence and the response to the Draft Audit Findings.

The Town identified \$13,280 in costs during the FY 2007-08 time period and \$16,160 in FY 2008-09. These amounts did not even include the cost of syringes and needles, which the Town later determined by reviewing other audits, that were also allowable costs, but never mentioned by the SCO auditor to our staff.

Town computed average cost per vaccine using a method allowed by the SCO in other audits:

The SCO audit determined that 5,961 animals were taken in during that fiscal year, therefore:

Wellness Vaccine Costs: $\$13,280.13 / 5,961 = \2.23 per animal for wellness vaccine

$\$2.23 \times 1,622$ eligible animals allowed for FY 2007-08 = \$3,614 requested

In FY 2008-09, the Town expended \$16,160 for purchasing wellness vaccines.

The SCO audit determined that 5,480 animals were taken in during that fiscal year, therefore:

Wellness Vaccine Costs: $\$16,160 / 5,480 = \2.95 per animal for wellness vaccine

$\$2.95 \times 1,366$ eligible animals allowed for FY 2008-09 = \$4,030 requested

We submit that this is a reasonable and fair approach to capturing some of these eligible costs denied us in the audit. Having had the opportunity to review other agencies Audit Reports for this program, we discovered that these costs were allowed for other agencies using an identical methodology (which consequently is also allowable pursuant to the Claiming instructions). We request that these costs be allowed.

SCO Response: "We informed the town that in order to determine allowable material and supply costs for the purchase of wellness vaccines, the town would need to provide supporting documentation in the form of invoices in order to determine a unit cost per vaccine."

The SCO also stated that costs for immunization costs were denied because the Town could not provide detailed invoices showing adequate proof of costs because the Town was not able to locate all the detailed invoices. However, the Town did provide other actual documentation providing the expenditure of costs for that purpose (wellness vaccines). The Town used one vendor for this supply and the costs are consistent from year to year. Departmental accounting systems showing vendor name, date of payment, as well as expenditure and accounting system reports can detailed the vendor and the actual cost expended for the wellness vaccines. The Town also could have provided invoices from a more current year, had they been offered that option as other cities which were audited had been.

Due to the age of the records, the Town was unable to provide copies of the actual invoices documenting purchase of wellness vaccines. Town did have expenditure documents and other reports that showed the vendor from whom these supplies were acquired, the purchase dates, payment information, and the purchase costs. This information was not accepted by the Auditor.

In preparing for this IRC, the Town discovered that the SCO allowed other agencies in a similar position (they also could not locate the actual invoices from old time periods to support costs) other alternatives to support their costs were suggested and allowed by the SCO. See page 28 of City of Antioch Audit Report, "However, the city was unable to provide copies of invoices or any related cost information for any years during the audit period. So, we (SCO) used the FY 2011-12 data that the city provided and adjusted the costs incurred for vaccines by using the Consumer Price Index (CPI)." The SCO in that audit allowed \$3.66 for FY 2006-07 costs for a cat wellness vaccine and \$4.20 for a dog wellness vaccine.

In the case of County of Contra Costa Audit of the same program, we discovered that in that audit (see page 46, paragraph 2, "Subsequent to the Issuance of the draft report, the county provided invoices for our review representing allowable costs incurred for the purchase of wellness vaccines administered to dogs and cats. As a result, we determined that these invoices supported allowable services and supplies totaling \$26,186 for the audit period."

In the case of County of El Dorado, page 42 of audit report, was also allowed to use a later year as a base for calculate eligible vaccine costs with CPI adjustments. "The county was unable to obtain invoices detailing wellness vaccine costs for FY 02-03, 02-03 and 06-07. The County proposed and we accepted that vaccine costs for these three fiscal years be based on actual costs for FY 2007-08 as reduced by the CPI."

The Town of Apple Valley could also have provided invoices from other, more recent years had that option been mentioned by the auditor. This inconsistent treatment of agencies constitutes unfair and arbitrary treatment. What is deemed acceptable documentation for one agency, should be consistent and acceptable for all agencies. The Town should have been given the same opportunities to provide alternate support of vaccine purchases. Town documentation of costs for vaccine purchases should be reexamined and allowable costs computed in a similar method allowed for other agencies.

SCO's Comments

The town contends in its IRC filing that it did claim costs for this cost component under the Care and Maintenance component. The town also states that "costs were denied" and requests that "costs be restored." In our final audit report, we noted that the town used an incorrect methodology to claim costs for this mandated program. To summarize, the town took the total expenditures for the animal shelter, subtracted costs for its spay and neuter program, added an overhead factor, and applied the results to the care and maintenance formula. This methodology is problematic because it assumes that all remaining costs were 100% related to the care and maintenance of animals. Furthermore, factors unique to claiming costs for care and maintenance are not found within other cost components. It is impossible to correctly determine or segregate out which portion of the care and maintenance costs claimed were actually attributable to the Necessary and Prompt Veterinary Care cost component or any other cost component. A cursory review of the town's claims for the audit period confirms that the town did not claim any costs for this cost component. Therefore, as stated previously, costs cannot be "reinstated" or "restored" for something that was not claimed.

In instances such as this, where a claimant does not claim costs that it incurred or incorrectly claims costs for a specific cost component, the claimant may be given the opportunity to properly support costs and/or conduct time studies. It is important to note that performing a time study is the entity's sole responsibility. This includes making a definitive decision as to whether it is going to perform the study; then properly planning the study; and finally, promptly and correctly carrying out the study. This includes providing adequate documentation maintained by the time study participants supporting how long it took them to perform any reimbursable activities. Ultimately, the burden of proof is on the entity to properly support all reimbursable costs that it may have incurred. The SCO may provide guidance on time studies, but it is not responsible for ensuring that the entity performs them. During the course of the audit, we gave the town more than ample opportunity to conduct time studies in order to determine the salary and benefit costs it incurred for this mandated program, as well as to provide supporting documentation to determine materials and supplies costs incurred for performing the mandated activities of this component. The town did neither during the fieldwork stage of the audit. The town is now requesting that costs be "restored" for salaries and benefits in addition to materials and supplies. We will begin our comments with a timeline of events.

Timeline of events

In its IRC filing, the town makes several misrepresentations regarding the timeline of events. First, it asserts that it was not given sufficient opportunity or time to conduct time studies for this cost component. It states "[t]he Town was working with the auditor and was in the process of conducting time studies as late as the end of April, 2016. The first time study for 'Maintaining Non-Medical Records' was scheduled for completion on April 29, 2016. Less than a week later, the SCO sent their notification that they wished to conduct the exit conference." As detailed under "SCO's Analysis" above, the audit began on July 7, 2015, and we notified the town on numerous occasions that it could perform time studies for cost components not claimed. The first written notification was in the Entrance

Conference handout dated July 7, 2015 (**Exhibit 1, Appendix A- page 30**). The topic of time studies was also discussed in person at the entrance conference. The town acknowledges receipt of this handout and the language contained therein in its IRC filing when it states that “[d]uring the audit, the Town was informed that the costs were not calculated in an acceptable manner, and that they would be given the opportunity to conduct time studies to support eligible costs.” Page 6 of the SCO Entrance Conference Agenda states, under the section Time Studies, “the agency will be given the option to properly support costs and/or conduct time studies to properly support costs during the audit.” Subsequent to the entrance conference, we documented a total of six different email communications in which the SCO contacted town representatives regarding time studies (**Tab 5-pages 1-14**). We also documented three different phone communications (**Tab 6**). These communications span from July 7, 2015, through March 28, 2016, a total of eight months.

During this timeframe, the town did not respond to our communications. The time study for the Maintaining Non-Medical Records cost component that the town references as being carried out “as late as the end of April” was because the town made a last-minute decision to perform a time study for this component. The SCO Audit Manager notified the town’s Assistant Director of Finance via email on March 28, 2017, that due to the town’s unresponsiveness, it was the SCO’s intention to end fieldwork and conclude the audit. Shortly after this, on March 30, the Assistant Director of Finance left a voicemail for the Audit Manager requesting a telephone conference (**Tab 5-pages 15-17**). The telephone conference took place later that day, and the status of the audit was discussed.

During the call, the Assistant Director expressed interest in performing a time study for the Maintaining Non-Medical Records cost component. However, he stated that he needed to consult with the shelter staff to see if this was something they could do. He stated that he would have the shelter staff contact us the following Monday (April 4) to let us know their decision. At the end of the day on April 4, after not hearing back from the shelter staff, the SCO auditor followed up and left a voicemail for the Assistant Director. On Wednesday, April 6, the auditor called the Assistant Director once again. The Assistant Director indicated that shelter staff did want to perform the time study, but they had questions on how to go about it. Based on this, shelter staff had not made a firm decision to perform the time study.

Later that day on April 6, the auditor spoke with the shelter’s Administrative Secretary, who stated that the shelter staff would perform the time study. Per this discussion, the Administrative Secretary agreed that the shelter would draft a Time Study Plan and have it ready by Friday, April 8 so that it could begin the study on Tuesday, April 12. The auditor followed up with an email message documenting our understanding (**Tab 5-page18**). On April 8, the auditor emailed the Administrative Secretary to see if shelter staff had completed the time study plan as promised (**Tab 5-page 19**). Four days later, on April 12, the shelter submitted its time study plan. The town ended up initiating its time study on April 16 rather than April 12. As evidenced in the chronology of events, this time study almost did not take place. Throughout the course of the audit, even at the continual urging of SCO, the town showed no particular interest in performing time studies. Only toward the end of the audit did the town express interest, and even then, it was unsure about its level of commitment and ultimately committed to performing the time study only for the Maintaining Non-Medical Records cost component.

Audit Status Updates

The second misrepresentation that we would like to clarify is the timeline of the SCO providing status updates for the audit and scheduling the exit conference. On page 3 of its IRC filing, the town states:

...on May 4, 2016, the SCO contacted the Town and stated that they wanted to schedule a date for their exit conference to be held via phone conference call for the following day, May 5. On May 4, 2016 they sent the City an Exit Conference Info Sheet, a pre exit status handout titled Findings and Recommendations with a number of schedules. This was the first opportunity the Town had to see the

comprehensive results of the audit review and were only given a day to review before the Exit conference...

The town is stating that prior to the exit conference, it had received *no* updates on the status of the audit and was essentially caught off guard with the results. The town is also stating that the SCO gave it a one-day notice to schedule the exit conference. That chronology of events is incorrect.

Following is the actual sequence of events as they concern the SCO keeping the town up-to-date on audit findings and for scheduling an exit conference:

- In an email dated March 15, 2016 (**Tab 5-pages 5-10**), the SCO Audit Manager contacted the Assistant Director of Finance and the Animal Shelter Manager to provide an update on the audit. The email stated that the town had been unresponsive to auditor requests, noted that the audit was approaching the one-year mark, and requested that the town respond within three days. Attached to that email was a thorough, five-page narrative detailing the status of the audit for all of the components claimed, the components not claimed, documentation still needed, and another reminder about conducting time studies.
- The Assistant Director responded by email on March 18 (**Tab 5-pages 11-13**), apologizing for the delay and asking whether the town could have another week to respond; we granted that request. However, we received no response from the town during the following week.
- Ten days later, in an email dated March 28, 2016 (**Tab 5-page 14**), the Audit Manager contacted the Assistant Director and Animal Shelter Manager again. In this email, the Audit Manager provided another update, this time also identifying the dollar amounts of the allowable costs to date, while noting that we could not determine allowable salary and benefit costs in the absence of requested town payroll information. The Audit Manager also informed the town that the SCO had not received a response to the March 18 email; that the SCO's policy is to conclude audits within one year of initiation; and that the SCO was going to finalize fieldwork, begin preparing the audit report, and contact the Town to schedule an exit conference.
- The Assistant Director contacted the Audit Manager by email on March 30, 2016 (**Tab 5-pages 16-17**), requesting a telephone conference that afternoon to discuss how best to proceed. During that conversation, we discussed outstanding documentation requests that we needed to determine additional allowable costs for the town. The Assistant Director responded later that afternoon (**Tab 5-page 15**) with payroll reports from the town's payroll system that we had requested as early as the audit's entrance conference (July 7, 2015).
- On the morning of April 12, the SCO auditor emailed (**Tab 5-page 20**) the Assistant Director of Finance to discuss options for claiming indirect costs and requested a phone conference. The SCO Audit Manager and auditor spoke with the Assistant Director later that day about this issue. It was during this conversation that the Assistant Director stated that the best option going forward would be the 10% of direct labor, excluding fringe benefits, option. He explained that the town, due to its record-retention policies, would not have sufficient support to prepare an Indirect Cost Rate Proposal.
- On April 13, the Assistant Director contacted the SCO auditor, proposing to change the date of the exit conference to May 5 (**Tab 5-pages 21-22**).
- Between April 13 and April 28, the auditor worked with town representatives for the Non-Medical Records time study that it conducted in April and submitted for review on April 22. On April 28, the auditor provided the town with the preliminary results of our review of its time study (**Tab 5-page 23**).
- On May 4, the auditor emailed (**Tab 5-page 24**) copies of the exit conference documents to the town for the exit conference on May 5.
- During the exit conference on May 5, the town and the Audit Manager prepared a list of items that each was going to provide the other. The Audit Manager emailed this understanding to the town later that day. Subsequently, the Audit Manager contacted the town by email on May 6, (**Tab 5-pages 25-27**) to provide the information requested and to explain our position concerning the

percentages of time staff spent on care and maintenance activities, and acceptance of further time studies or indirect cost rate information.

As evidenced in the complete chronology of events, the town was given more than a one-day notice regarding the exit conference and actually participated in scheduling for the conference. Furthermore, in addition to regular phone conversations and routine email communications, the town was also given written status updates. The town states on page 4 of its IRC that “[a]fter seeing the Preliminary Audit Finding, the Town decided that they wished to pursue the reinstatement of costs for the Prompt and Necessary Component.” As stated earlier, there were no costs claimed for which to pursue reinstatement, and the SCO had already inquired of the town multiple times about performing a time study for this component.

Audit fieldwork

The last misrepresentation we would like to clarify is the definition of “fieldwork” and the sufficiency of the Necessary and Prompt Veterinary Care time study that the town initiated two weeks after the exit conference. The SCO notified the town of its position on May 6 that the fieldwork stage of the audit had concluded and accepting a time study to review post-exit conference would not be acceptable. The town proceeded to conduct a time study two weeks later anyway. In our final audit report, we explained that examining the town’s time study at that point in time would require us to re-open the audit and conduct additional fieldwork to analyze and verify the accuracy of the information provided. In its IRC filing, the Town compares the Maintaining Non-Medical Records time study it had completed to the Necessary and Prompt Veterinary Care time study.

The town states “... the SCO did not have to conduct additional fieldwork to review the information in the first time study conducted using the same parameters.” They further state “THIS REVIEW WAS DONE OFF SITE AND FIELDWORK WAS NOT NEEDED and “with the OFF-SITE approval of the SCO Auditor, developed and conducted the first Time Study Plan...” The town is equating fieldwork to onsite visits. In auditing, the term “fieldwork” relates to the process of gathering evidence, and then analyzing and evaluating that evidence. Fieldwork begins with the initiation of the entrance conference and ends with the exit conference. Furthermore, fieldwork is conducted both onsite (at the entity’s place of business) and offsite at the offices of the SCO. Therefore, the town’s argument that we should accept this second time study because we accepted the first without performing any sort of fieldwork is incorrect.

Necessary and Prompt Veterinary Care time study results

As stated in our Final Audit report, the results of the time study that the town performed for the Prompt and Necessary Veterinary Care cost component are not sufficient to determine allowable costs for the audit period. First, in our Final Audit Report, we state that the time study was conducted over a two-day period. In its IRC, the town argues that the study was conducted over a four-day period (May 18, 19, 30, and 31). However, the cover sheet for the town’s time study plan that it provided in its response to the draft audit report (**Exhibit 1, Appendix C–page 342**) states that the start date is May 18, 2016, and the end date is May 20, 2016. However, the two tables behind the cover sheet (**Exhibit 1, Appendix C- pages 344-345**) show that the study was conducted in two separate two-day blocks of time. During the first two days, the town time-studied performing initial physical exams on felines only (May 19 and 20). During the second two days, the town time-studied canines only (May 30 and 31). The two tables also show that on May 19 and 20, there were a total of 26 records (transactions), and on May 30 and 31 there were a total of 14 records (transactions). Therefore, the town calculated the average time increment required to perform an initial physical exam based on only 40 transactions. This is not enough data to approximate results for the audit period.

Second, the SCO auditor had previously provided the town with a copy of the SCO’s Time Study Guidelines (**Tab 4**) on April 6, 2016. While these guidelines are not authoritative, they are provided to

claimants as a guide to conducting effective time studies. We also provided the town with an example of a time study plan (redacted as necessary) that had been prepared by another claimant. The town conducted its study in two, two-day blocks, with more than a week in between. In its IRC filing, the town once again compares this time study to the first time study, indicating that we allowed the town to shorten the first time study from two weeks to one week. Therefore, the town concludes that the second study conducted for four days should be adequate. This is incorrect for several reasons. Each cost component of the mandated program is uniquely different. A time study for one component should be planned and carried out differently than a study for another component. The first time study for Non-Medical Records was conducted over the course of eight relatively consecutive days (April 16, 18, 19, 20, 21, 23, 24, and 25). Furthermore, the first time study yielded a total of 182 records (transactions) for the intake of animals, and a total of 115 records for the outcome of animals, for a grand total of 297, compared to a total of only 40 for the time study in question.

Third, the town did not provide any actual source documentation supporting the data contained in the two tables referenced above (**Exhibit 1, Appendix C—pages 344-345**). Actual source documentation would include the individual daily logs that record the activity performed by each employee participating in the study. The daily logs should include actual start and stop times. The town did not provide this information.

Fourth, the town's calculations of allowable costs are incorrect. In its response to the draft audit report, the town shows how it applied the time study results to calculate how much it believes it should be reimbursed for this component (**Exhibit 1, Appendix C— pages 338-339**). In its calculations, the town took the time increment derived from the time study and multiplied it by the number of "eligible" animals (5,961 animals for FY 2007-08 and 5,480 animals for FY 2008-09). These are not the correct number of "eligible" animals for this cost component. The town incorrectly used the number of "eligible animals" from the Maintaining Non-Medical Records cost component. The eligible animals for that component is basically a count of *all* animals that entered the shelter in a given fiscal year, with no exclusions applied. In contrast, the number of eligible animals for the Necessary and Prompt Veterinary Care cost component includes various exclusions of reimbursement for certain populations of animals.

The parameters and guidelines state:

Eligible claimants are *not* entitled to reimbursement for providing "necessary and prompt veterinary care" to the following population of animals:

- Animals that are irremediably suffering from a serious illness or severe injury;
- Newborn animals that need maternal care and have been impounded without their mothers;
- Animals too severely injured to move or where a veterinarian is not available and it would be more humane to dispose of the animal;
- Owner relinquished animals; and
- Stray or abandoned animals that are ultimately redeemed, adopted, or released to a nonprofit animal rescue or adoption organization.

The town did not apply these exclusions to calculate the number of "eligible" animals for this component. Our calculations show that after applying these exclusions, the number of "eligible" animals for FY 2007-08 is 1,638 and the number for FY 2008-09 is 1,379.

Fifth, it is unclear whether the time study conducted was limited to performing an initial physical exam or whether it also included the activity of administering a wellness vaccine. The town first submitted its time study plan and results in its response to the draft audit report (**Exhibit 1, Appendix C—pages 338-346**). The town submitted the time study plan and results again as supporting documentation in its IRC filing (**Exhibit 1, Appendix A—pages 112-120**). However, what the town submitted in its IRC filing is slightly different from what was originally provided. In its response to the draft audit report, the town states that "[p]ersonnel costs to conduct the animal check up to determine if it is treatable and

to administer the wellness vaccine was calculated based on time study staff conducted after receiving the SCO preliminary draft audit response” (**Exhibit 1, Appendix C–page 338**). It also states on the same page, “[i]t was determined that an average of 86 seconds (or 1.43 minutes) was spent by the Registered Veterinary Technician per animal to conduct an initial exam upon intake and to determine whether the animal is treatable and then to give a wellness vaccine to the treatable animals.” On the following page where the town provides its calculations, the top reads “time study for vet tech = 1.43 min (or to examine animal to determine if it is treatable & give vaccine” (**Exhibit 1, Appendix C–page 339**). It appears that the town included two separate and distinct activities in its time study. However, the two-page time study plan itself (**Exhibit 1, Appendix C–pages 342-343**) mentions only the activity of performing an initial physical exam. In contrast, in its IRC filing, the town provides a time study plan for performing an initial physical exam (**Exhibit 1, Appendix A–page 118**), as well as a separate time study plan for administering wellness vaccines (**Exhibit 1, Appendix A–page 119**). In addition, these two plans both state that the time study ran for just two days – May 18, 2016 to May 20, 2016.

Performing one time study for these two separate activities is incorrect for several reasons. First, the activities involved in performing an initial physical exam on an animal are distinctly different from those involved in administering wellness vaccines. Therefore, two separate time studies must be conducted, each yielding its own average time increment. Second, the average time increment derived from each separate time study should then be applied to a different population of “eligible” animals. For an initial physical exam, the time increment is applied to all “eligible” animals for this component (as described above). This would include any type of animal (dogs, cats, birds, rabbits, etc.). For the administration of a wellness vaccine, the time increment is applied only to eligible dogs and cats. Based on the reasons detailed above, it is evident that the Necessary and Prompt Veterinary Care time study that the town conducted two weeks post-exit conference is not only inadequate to determine allowable costs for the audit period, but was also incorrectly planned and executed.

The town is also requesting reimbursement for material and supplies costs “denied them” in the audit. Again, the town did not claim costs for this component. In instances such as this, where a claimant does not claim costs, it is given the opportunity to properly support costs during the course of the audit. As with the time studies, the town was given ample opportunity to submit supporting documentation for material and supplies costs incurred. For this particular component, reimbursable materials and supplies costs for administering vaccines include the cost of wellness vaccines for dogs and cats; this includes the actual vaccines, needles, and syringes. In its IRC filing, the town indicates that it identified \$13,280 in costs for FY 2007-08 and \$16,160 in costs for FY 2008-09. However, the town makes several misrepresentations regarding material and supplies costs for this cost component.

First, the town states that “these amounts did not even include the cost of syringes and needles, which the town later determined by reviewing other audits, that were also allowable costs, but never mentioned by the SCO auditor to our staff.” We first discussed this item with shelter management during the entrance conference and the initial onsite fieldwork visit, which we later followed up with an email (**Tab 5–pages 1-2**). This was also discussed throughout the audit during telephone conversations. Furthermore, the town retained the services of a mandated cost consultant who should have also informed the town of these reimbursable items.

Second, the town states that due to the age of its records, it was unable to provide copies of the actual invoices documenting the purchase of wellness vaccines. The town goes on to state that in preparing for this IRC, it discovered that the SCO allowed other agencies in a similar position other alternatives to support their costs. We agree. However, this IRC filing is about the costs that were claimed and substantiated by the Town of Apple Valley for its claims, not any other animal service agency. In addition, the other agencies cited worked with SCO auditors to provide requested documentation in a timely manner. The town states that it “could have provided invoices from other, more recent years had that option been mentioned by the auditor,” and “should have been given the same opportunities to provide alternate support for vaccine purchases.” We believe the SCO has done its due diligence in

reaching out to the town to discuss the audit issues and provide alternatives to support reimbursable costs where needed; however, the town did not respond to our requests until after audit fieldwork ended.

A good example of SCO's willingness to work with the town is in an email dated March 15, 2016 (**Tab 5-pages 5-10**), in which the Audit Manager stated "I realize we have been asking the city to provide additional information that was not provided with its claims and that some of this information may no longer be available for the period being audited. Still – we are willing to work with you to resolve these issues as they arise." Another example of SCO's willingness to work with the town was determining allowable costs under the Procuring Equipment cost component. The town did not claim any costs for this component. However, during the course of the audit, we identified allowable costs under several different expense accounts totaling \$13,365 that the town was able to support. Also, under the Care and Maintenance cost component, the town did not provide salary information for FY 2008-09 due to record-retention and software issues. Therefore, in the absence of supporting documentation for FY 2008-09, we used FY 2007-08 salary amounts as a base and applied the 2008-09 Consumer Price Index of 1.01%. We believe that the town's assertion that it has received inconsistent, unfair, and arbitrary treatment compared to that which the SCO has provided other agencies is incorrect.

Third, the town states that "Town did have expenditure documents and other reports that showed the vendor from whom these supplies were acquired, the purchase dates, payment information, and the purchase costs. This information was not accepted by the Auditor." We disagree. Throughout the course of the audit, documentation supporting materials and supplies costs for wellness vaccines was not provided or offered. As part of its response to the draft audit report, the town provided email correspondence between shelter staff and its mandated cost consultant, where shelter staff provided the total dollar amounts of its wellness vaccine costs for FY 2007-08 and FY 2008-09 (**Exhibit 1, Appendix C–pages 340-341**). However, no supporting documentation was included to support these dollar amounts. Furthermore, detailed invoices are needed to calculate allowable material and supplies costs for this cost component because the type and number of vaccines given to cats are different than that given to dogs. Therefore, the unit cost per vaccine must be calculated separately for the two types of animals. Once the unit cost for each is calculated, it must then be applied to the count of eligible cats and the count of eligible dogs separately. Furthermore, rabies vaccines are usually administered by shelters as part of the wellness vaccine protocol for dogs. Per the parameters and guidelines, rabies vaccines are not reimbursable and therefore must be subtracted out of any total wellness vaccine costs to determine reimbursable costs for a given fiscal year. Therefore, the "computed average cost per vaccine" as provided by the town under Issue 2 above is not adequately supported; nor do we believe that it is correctly calculated. Only additional audit fieldwork would have resolved this.

IV. CARE AND MAINTENANCE COSTS

Issue

The town objects to the SCO's calculation of allowable salary and benefit costs for care and maintenance of dogs, cats, and other animals. Specifically, the town disagrees with the SCO's determination of the percentage of the daily workload that the Animal Shelter Attendant and the Animal Shelter Supervisor classifications spent on care and maintenance activities. The town believes that the Animal Shelter Attendant classification spends 85% of their time performing care and maintenance activities, rather than the 60% as determined by the audit. The town also believes the Animal Shelter Supervisor classification spends 10% of their time performing care and maintenance activities, rather than the 5% as determined by the audit.

SCO's Analysis:

As noted in the final audit report issued on August 15, 2016, the town did not claim salaries and benefits for the audit period. Instead, it claimed costs for salaries and benefits, materials and supplies, contract services, and indirect costs under the category of services and supplies. In the absence of supporting

documentation for actual salary and benefit costs incurred specifically for the care and maintenance of animals during the audit period, we requested two items: 1) actual salary amounts paid to those employee classifications directly involved with the care and maintenance function; and 2) the duty statements for the identified classifications to help determine approximately how much of their workload is devoted to care and maintenance functions. Care and maintenance functions include activities such as feeding, watering, grooming, and cleaning the animals. Any other activities are not directly related to caring for and maintaining the animals. We worked with shelter staff and ultimately identified a total of six classifications that had varying levels of involvement in care and maintenance.

When considering care and maintenance, we view the activity as a whole, where the responsibilities are divided among various employee classifications, and the sum of the responsibilities performed by the employees equals 100%. Some classifications perform care and maintenance duties more than others. Duty statements are actual documents generated by an entity and provide reliable guidance to assist in determining a reasonable allocation of time spent on certain tasks. We worked with shelter staff and asked that they propose an allocation for each of the six identified classifications. We then compared their proposal to the information provided in duty statements to make a determination of whether their allocation seemed reasonable. For the two classifications in question, we found that 60% is a reasonable allocation for the Animal Shelter Attendant, and 5% a reasonable allocation for the Animal Shelter Supervisor.

Town's Response

ISSUE 3 Care and Maintenance Costs

SCO did not allow actual time allotment for various employees for Care and Maintenance calculation and erroneously concluded that staff time should be allowed as originally requested by the Town and not reduced arbitrarily as required by the auditor:

Animal Shelter Attendant's time should be classified as 85% directly related to care and maintenance activities as originally identified by the Shelter representative before the SCO auditor required that the Town reduce their time spend on care and maintenance activities to 60%.

Animal Shelter Supervisor's time should be classified as 10% directly related to care and maintenance instead of the 5% allowed. The original allocation of 10% had to be arbitrarily cut back to satisfy the SCO auditors demand to reduce allocations.

The June 17, 2016 Town Response to the SCO Audit Report (located at the back of that document) provides copies of the email correspondences that took place on April 13, 2016 between the Auditor and the Shelter representative, Adriana Atteberry documenting this process.

First the SCO auditor asks that the Town detail the time spent by each position caring for and maintaining the animals. When Ms. Atteberry responds and state that the Animal Shelter Attendant position spent 85% of their total time on animal care/maintenance, the auditor called her and instructed her to reduce her allocations of time so that everyone's time (Shelter Supervisors, Animal Control Officers, and the Vet Techs) added together total to 100%. When Ms. Atteberry arbitrarily reduces the percentages to satisfy the SCO request, the auditor again emails and instructed Ms. Atteberry to make further reductions. Another 5% of time was deducted from the Shelter Supervisors allocation to satisfy the SCO auditor.

These demands made by the auditor were incorrect and resulted in improper reductions of eligible Town costs. While it is logical that the total time allotted for each individual on various activities must total to 100% - there is no reason why the total time spent by a GROUP of different individuals on a mandated activity must add to 100% between all of them. We asked the SCO to examine this finding and to explain their reasoning, but the SCO did not respond either formally or informally and provided no explanation.

The SCO instructions to the Town to lower their allocation of time spent on mandated activities was illogical, incorrect, and arbitrary. State statute requires the reimbursement of actual costs. The Town provided the

allocation of actual time spent on the mandated activity by position as requested. However, when the allocated times were higher than expected, the SCO required the Town to reduce their allocations arbitrarily.

We request that the allocations of time spent be based on actual amounts originally specified by the Shelter Manager, and the subsequent calculation of eligible care and maintenance costs be restored.

SCO's Comments

The town contends in its IRC filing that the SCO "arbitrarily" reduced time for two employee classifications when calculating allowable salary and benefit costs. We disagree. As stated above, the town did not claim salary and benefit costs for this component. In order to determine allowable costs, we used an appropriate and reasonable methodology and informed shelter staff of this methodology. The methodology does not become arbitrary simply because the town now disagrees with it. As explained above and in our final audit report, the town's job-duty statements are very detailed; and in this case, helped determine to what extent an employee classification's duties are directly related to care and maintenance activities, and to what extent they are related to administrative or other types of activities. In addition, the town did not provide any other type of supporting documentation detailing the percentages of time various classifications of employees spent on care and maintenance or any other activities.

For the Animal Shelter Attendant classification, the town states that employees in this position spend 85% of their total time on animal care and maintenance. However, it did not provide any analysis to support this conclusion. We analyzed the duty statement for Animal Shelter Attendants (**Tab 10**) and found that the 85% allocation preferred by the town is not supported. The duty statement lists a total of 11 bulleted "essential job functions". Only the second bullet qualifies as being mostly directly related to care and maintenance activities. That bullet states: "[p]rovides care to impounded animals by providing food, water, and comfort; observes animal behavior and health; isolates sick, quarantined, or injured animals; notifies supervisor or other staff members if an animal needs immediate veterinary care." The remaining bullets describe activities such as "cleans office areas, reviews adoption applications, assists in screening calls and visitors, takes photographs of the animals, maintains shelter and office supplies, updates and modifies impound records, oversees volunteers and work release orders, assists Registered Veterinary Technician and other staff with medical exams," etc. Based on these descriptions, this classification is also performing many other activities, some of which are reimbursable under other components of this mandated program (e.g., necessary and prompt veterinary care, maintaining non-medical records, lost and found lists), as well as various administrative activities and non-mandated activities. We believe the 60% allocation to care and maintenance activities is more representative of this classification's daily duties. In fact, it is possible that the allocation is actually lower than 60%.

For the Animal Shelter Supervisor classification, the town states that the employee in this position spends 10% of their total time on animal care and maintenance. However, it did not provide any analysis to support this conclusion. We also analyzed this position's duty statement (**Tab 11**) and found that a 5% allocation is reasonable. The "Class Characteristics" section of the duty statement says, "[w]hile the incumbents may respond to calls for service or become involved with animal care activities, the primary responsibilities are supervisory and administrative, including the coordination of activities with those of other Town departments." The duty statement lists a total of 21 bulleted "essential job functions," one of which includes care and maintenance activities. Most of the remaining activities are supervisory in nature while others are reimbursable under other components of this mandated program. Therefore, we believe the 5% allocation of care and maintenance activities is more representative of this classification's duties.

We believe the 60% allocation for the Animal Shelter Attendant classification and the 5% allocation for the Animal Shelter Supervisor classification are reasonable determinations of the actual time spent by these employees performing care and maintenance activities. Further, the allocations were not assigned or determined arbitrarily, but rather are based on information detailed in the town's own duty statements.

V. MISSTATED INDIRECT COSTS

Issue

The town did not directly claim reimbursement for indirect costs for either year of the audit period. Instead, the town incorporated overhead costs into the Care and Maintenance cost component by adding a 40% overhead factor for the Municipal Services Director when computing total annual shelter costs. However, including a factor for overhead within a cost component is not an option outlined in the parameters and guidelines for claiming indirect costs. The parameters and guidelines state:

Claimants have the option of using 10% of direct labor, excluding fringe benefits, or preparing an Indirect Cost Rate Proposal (ICRP) pursuant to the Office of Management and Budget (OMB) Circular A-87.

We worked directly with the town's Assistant Director of Finance to determine the best approach for calculating allowable indirect costs for the audit period. As noted in our comments within Issue 2 (Audit Status Updates), we noted that due to record retention and software issues experienced with the other components of this audit, the Assistant Director decided that applying the 10% to direct labor, excluding fringe benefits, would be the better of the two options. However, in its response to the draft audit report, the town decided to submit an ICRP for both fiscal years of the audit period. In our final audit report, we explained that accepting two ICRPs at such a time would require us to re-open the audit and conduct further fieldwork to analyze and verify the indirect cost rates that the town was proposing. The town is requesting that it be allowed to reverse its original decision to use the 10% option and submit ICRPs for consideration instead.

SCO's Analysis:

As noted in the final audit report issued on August 15, 2016, the town computed a 40% overhead factor and included this in its alternative formula for claiming costs using the Actual Cost Method reserved for Care and Maintenance costs. Therefore, the town did not directly claim reimbursement for indirect costs.

During the audit, we explained to the town's Assistant Director of Finance that the town did not claim salaries and benefits for the audit period and, therefore, did not claim indirect costs. However, as a result of our audit, we identified allowable salaries and benefits; therefore, we could also determine allowable indirect costs. We explained that there are two options available per this program's parameters and guidelines: the town could prepare an ICRP for both fiscal years, and after a review of the proposal, we could determine allowable indirect costs by applying the allowable indirect cost rate to allowable salaries and benefits; or, the town could apply a flat 10% to allowable salaries, excluding fringe benefits. The Assistant Director decided that due to the town's record-retention issues and unavailability of supporting documentation, using the flat 10% would be the best option. His reasoning was that all of the necessary data to compile an accurate and complete ICRP for the audit period would likely be unavailable. We concurred, and calculated allowable indirect costs using the flat 10% method.

Town's Response

ISSUE 7 Overhead costs allowed by the SCO were understated

Town calculated cost of care and maintenance by taking all of the actual Shelter Division expenditures, and dividing it by total animal days of service to derive a cost per animal per day. Because this method took into account all departmental costs, it was inappropriate to include additional departmental overhead (other than other Town wide administrative overhead).

During the Audit, the SCO explained that this method of computing actual costs was not acceptable, therefore, they then began to calculate the costs as they deemed appropriate. Under the SCO method, overhead (ICRP) costs were appropriate to include, and during the course of field work on the audit, the SCO and Assistant Director had informal conversations about the ICRPs. During the discussions, the Town believed, based on discussions with the auditor, that the best course of action was to accepting the 10% default rate. It should be noted that the Assistant Director was new to the Town and to the position and had no experience with State Mandate Claims process or the calculation of ICRP rates.

After the SCO released its Draft Audit report in May, 2016 with preliminary findings, the Finance Director and Consultant, who helped prepare the claims, had the opportunity to review the formal findings. The Consultant informed staff that the actual documentation to prepare the ICRP rates did indeed exist and that to do so would not be time consuming and would be in the best interest of the Town.

When the Town expressed their desire to calculate and preset their actual ICRP rates to the SCO for consideration, Jim Venneman, Audit Manager, stated that those rates would not be considered. (See Appendix A – Chronology). The Town felt that this was an unfair decision since “actual costs” are allowable for reimbursement and the request to provide that additional support material was made during the required audit response period.

Holding the Town to an informal agreement made before the Actual Draft Findings were provided to the claimant is not fair to the claimant. The Town had no way of assessing the impact on cost claimed based on a general conversation. Not allowing an agency to change their minds upon receipt of new information (the Assistant Director was not aware that the records required to prepare an actual ICRP in fact did exist) resulted in an incorrect reduction of costs.

When the issue was raised, the audit was still active and the decision to end field work was made solely by the SCO and not consented to by the claimant. There is no reason why the audit couldn't be continued in order to review the Town's two ICRP's. There was still at least another year in which the audit had to conclude statutorily. Further the Town was told that they would have the opportunity to comment and respond to the Draft Findings. The reality seems to be that while they could respond- their response would not be considered. If the Claimant had further issues and material to present and provide to support actual costs, they should have been allowed to do so.

There is no reason we are aware of that field work would be required to review ICRP documents. The ICRP is simply the departmental expenditure report along with salaries and job descriptions of support and administrative staff. These pieces of information can and have been reviewed via transmittal of documents electronically and via telephone discussion based on other audits the Town's Consultant, Cost Recovery Systems, has been involved with (SEAACA Animal Adoption Audit, City of Fresno DVAP and Crime Statistics Audits, currently South Lake Tahoe, Interagency Child Abuse Audit) where the SCO reviewed all the ICRP documents off site. No fieldwork was necessary in those cases to review the ICRPs.

The Town requests that the Commission have the SCO consider the actual ICRPs that were prepared and submitted. These ICRPs were based on Actual data and were prepared in compliance with claiming instructions and OMB A-87. They were also submitted to the SCO in a timely manner after the release of draft findings and within the audit response period of time allotted to the Claimant. The Town asserts that the 10% default rate grossly underestimates Actual Costs incurred, which are allowable under State Statutes and claiming instructions and should be reconsidered.

SCO's Comments

As noted previously, we worked with the town's Assistant Director of Finance to come to an agreement as to which of the two available options for calculating indirect costs was most appropriate for the town. The option ultimately agreed upon is an acceptable method outlined in the parameters and guidelines, and was chosen by the town. However, in its IRC filing, the town states that SCO “began to calculate the costs as they deemed appropriate.” The town later contradicts itself when it goes on to state “the Town believed, based on discussion with the auditor that the best course of action was to accepting the 10% default rate.” The town also suggests that the SCO's decision not to accept ICRPs created post-exit conference was made because the town changed its mind, resulting in an incorrect reduction of costs. As stated previously, the town did not claim indirect costs; therefore, no reductions were made.

In its IRC filing, the town makes some misrepresentations, two of which have already been addressed. One repeated misrepresentation relates to the SCO ending fieldwork and concluding the audit. In its IRC, the Town states “the decision to end fieldwork was made solely by the SCO and not consented to by the claimant.” While the SCO is not obligated to get the claimant’s consent to end fieldwork, the SCO did give the town more than adequate notice of its intention to do so (**Tab 5-pages 5-10, 14, and 21-22**). As already discussed, the SCO also informed the town of our intention to schedule an exit conference, and the town selected the date for the conference. At no time did the town object to holding an exit conference to conclude the audit.

Another repeated misrepresentation is the town’s use of the term “fieldwork” when arguing that fieldwork is not needed for the SCO to consider its ICRPs. Again, the town is equating fieldwork to onsite visits. As already noted, fieldwork is the process of gathering evidence and then analyzing and evaluating that evidence. This can be done both onsite and offsite. Therefore, fieldwork would need to be re-opened in order to thoroughly analyze and verify the information provided in the ICRPs for both years. For example, we performed a cursory review of the ICRP information provided by the town, which revealed various flaws. One flaw was the methodology used, in which any expenditures not included as direct costs within the town’s mandated cost claims are considered to be indirect costs. This is not consistent with the indirect cost principles derived by the Office of Management and Budget. Therefore, additional fieldwork *would* have been required to conduct a thorough analysis of the information provided.

Lastly, the town argues that statutorily, the audit could have remained open for another year and, therefore, there is no reason why the audit could not be continued in order to review the town’s two ICRPs. This is misleading. Pursuant to GC section 17558.5, subdivision (b), the SCO is required to complete an audit no later than two years after the date the audit commenced. This requirement should not be misconstrued to mean the SCO is statutorily obligated to keep an audit open for two years. In fact, it is the SCO’s responsibility to conduct an audit in the most efficient and effective manner as possible. There is no reason why an audit of claims for only two fiscal years should be kept open for two years just because that is how long statute allows SCO to conclude it. We do not believe that keeping an audit open is effective or efficient because a claimant *may* change its mind on cost claiming options, discover additional documentation that *may* support reimbursable costs, or, because (as in this case) its mandated cost consultant advised it to pursue other cost claiming options after fieldwork concluded.

VI. CONCLUSION

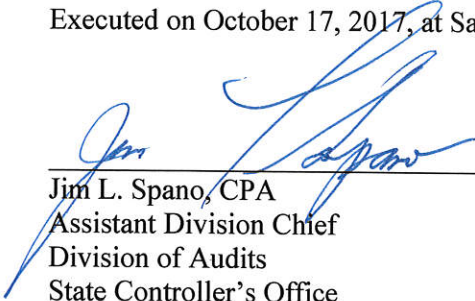
The SCO audited the Town of Apple Valley’s claims for costs of the legislatively mandated Animal Adoption Program (Statutes of 1998, Chapter 752; and Statutes of 2004, Chapter 313) for the period of July 1, 2007, through June 30, 2009. The town claimed \$2,256,209 for the mandated program. Our audit found that \$215,608 is allowable and \$2,040,601 is unallowable. The costs are unallowable primarily because the town overstated allowable costs, claimed unallowable costs and unsupported costs, claimed misclassified costs and ineligible animals, and misstated animal census data.

The Commission should find that: (1) the SCO correctly reduced the town’s FY 2007-08 claim by \$770,821; and (2) the SCO correctly reduced the town’s FY 2008-09 claim by \$1,269,780.

VII. CERTIFICATION

I hereby certify by my signature below that the statements made in this document are true and correct of my own knowledge, or, as to all other matters, I believe them to be true and correct based upon information and belief.

Executed on October 17, 2017, at Sacramento, California, by:



Jim L. Spano, CPA
Assistant Division Chief
Division of Audits
State Controller's Office

Tab 3

**BEFORE THE
COMMISSION ON STATE MANDATES
STATE OF CALIFORNIA**

IN RE TEST CLAIM:

Civil Code Sections 1815, 1816, 1834, 1834.4, 1845, 1846, 1847, and 2080;
Food and Agricultural Code Sections 17005, 17006, 31108, 31752, 31752.5, 31753, 31754, 32001, and 32003;
Penal Code Sections 597.1 and 599d; and
Business and Professions Code Section 4855,

As Added or Amended by Statutes of 1978, Chapter 1314; and Statutes of 1998, Chapter 752; and

California Code of Regulations, Title 16, Division 20, Article 4, Section 2031 (Renumbered 2032.3 on May 25, 2000); and

Filed on December 22, 1998;

By the County of Los Angeles, City of Lindsay, County of Tulare, County of Fresno, and Southeast Area Animal Control Authority, Claimants.

NO. CSM 98-TC-11

Animal Adoption

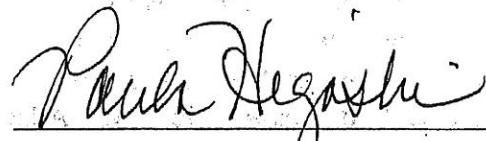
STATEMENT OF DECISION
PURSUANT TO GOVERNMENT
CODE SECTION 17500 ET SEQ.;
TITLE 2, CALIFORNIA CODE OF
REGULATIONS, DIVISION 2,
CHAPTER 2.5, ARTICLE 7

(Adopted on January 25, 2001)

STATEMENT OF DECISION

The attached Statement of Decision of the Commission on State Mandates is hereby adopted in the above-entitled matter.

This Decision shall become effective on February 2, 2001.



Paula Higashi, Executive Director

**BEFORE THE
COMMISSION ON STATE MANDATES
STATE OF CALIFORNIA**

IN RE TEST CLAIM:

Civil Code Sections 1815, 1816, 1834, 1834.4, 1845, 1846, 1847, and 2080; Food and Agricultural Code Sections 17005, 17006, 31108, 31752, 31752.5, 31753, 31754, 32001, and 32003; Penal Code Sections 597.1 and 599d; and Business and Professions Code Section 4855,

As Added or Amended by Statutes of 1978, Chapter 1314; and Statutes of 1998, Chapter 752; and

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NO. CSM 98-TC-11

Animal Adoption

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

(Adopted on January 25, 2001)

STATEMENT OF DECISION

On October 26, 2000, and November 30, 2000, the Commission on State Mandates (Commission) heard this test claim during regularly scheduled hearings.

At the October 26, 2000 hearing, Mr. Leonard Kaye appeared for the County of Los Angeles. Dr. Dennis Davis, Animal Care and Control Department, Lancaster Shelter, and Mr. Robert Ballenger, Senior Manager, Animal Care and Control Department, appeared as witnesses for the County of Los Angeles. Mr. Allan Burdick and Ms. Pam Stone appeared for the City of Lindsay and County of Tulare. Lt. Ramon Figueroa, Department of Public Safety, appeared as a witness for the City of Lindsay. Ms. Pat Claerbout appeared for the Southeast Area Animal Control Authority. Ms. Meg Halloran, Deputy Attorney General, and Mr. James Apps appeared for the Department of Finance.

At the October 26, 2000 hearing, the Commission received public testimony from the following persons: Mr. Richard Ward, State Humane Association of California; Ms. Dolores Keyes, Coastal Animal Services Authority; Mr. Greg Foss, County of Mendocino; Ms. Lois Newman, The Cat and Dog Rescue Association of California; Ms. Patricia Wilcox, California Animal Control Directors Association; Ms. Kate Neiswender, on behalf of Senator Tom Hayden, author of SB 1785; Dr. Dena Mangiamele and Mr. John Humphrey, County of San Diego; Ms. Virginia Handley, The Fund for Animals; Mr. Mike Ross, Contra Costa County; Ms. Teri Barnato, Association of Veterinarians for Animal Rights; and Mr. Howard J. Davies, Mariposa County Sheriff's Department. In addition, a statement prepared by Ms. Taimie L. Bryant was read into the record by Ms. Kate Neiswender.

At the November 30, 2000, hearing, Mr. Leonard Kaye and Mr. Robert Ballenger appeared for the County of Los Angeles. Mr. Allan Burdick and Ms. Pam Stone appeared for the City of Lindsay and the County of Tulare. Mr. Hiren Patel, Deputy Attorney General, and Mr. James Apps appeared for the Department of Finance.

At the hearings, oral and documentary evidence was introduced, the test claim was submitted, and the vote was taken.

The law applicable to the Commission's determination of a reimbursable state mandated program is article XIII B, section 6 of the California Constitution, Government Code section 17500 and following, and related case law.

The Commission, by a vote of 5 to 2, partially approved this test claim.

BACKGROUND

Test Claim Legislation

In 1998, the Legislature enacted Senate Bill 1785 (Stray Animals) in an attempt to end the euthanasia of adoptable and treatable stray animals by the year 2010. The test claim legislation expressly identifies the state policy that "no adoptable animal should be euthanized if it can be adopted into a suitable home" and that "no treatable animal should be euthanized."¹ Thus, the test claim legislation provides, in part, that:

- The required holding period for stray animals is increased from three days, to four to six business days as specified.² Stray animals shall be held for owner redemption during the first three days of the holding period. If the owner has not redeemed the stray animal within the first three days, the animal shall be available for redemption or adoption during the remainder of the holding period;
- The stray animal shall be released to a nonprofit animal rescue or adoption organization if requested by the organization prior to the scheduled euthanization of that animal. In addition to the required spay or neuter deposit, the pound or shelter has the authority to assess a fee, not to exceed the standard adoption fee, for animals released;

¹ See, Civil Code section 1834.4; Food and Agriculture Code section 17005; and Penal Code section 599d.

² The stray animals subject to this legislation include dogs, cats, rabbits, guinea pigs, hamsters, pot-bellied pigs, birds, lizards, snakes, turtles, and tortoises legally allowed as personal property.

- Shelter personnel are required to verify the temperament of an apparent feral cat by using a “standardized protocol” to determine if the cat is truly feral, or simply a frightened or difficult tame cat. If the cat is determined to be tame, then the cat is required to be held for the entire holding period. If the cat is truly feral, the cat may be euthanized or relinquished to a nonprofit animal adoption organization after the first three days of the holding period;
- Animals that are relinquished to a pound or shelter by the purported owner shall be held for two full business days, not including the day of impoundment. The animal shall be available for owner redemption on the first day, and shall be available for owner redemption or adoption on the second day. After the second required day, the animal may be held longer, euthanized, or relinquished to a nonprofit animal adoption organization;
- Public entities and private entities that contract with a public entity have the “mandatory duty” to maintain lost and found lists and other information to aid owners of lost pets;
- All public pounds and private shelters shall keep and maintain accurate records for three years on each animal taken up, medically treated, and impounded; and
- Impounded animals shall receive “necessary and prompt veterinary care.”

On October 2, 2000, the claimants amended their test claim to include Business and Professions Code section 4855, enacted in 1978, and section 2032.3 of the regulations issued by the California Veterinary Medical Board. These provisions require all veterinarians to keep a written record of all animals receiving veterinary services for a minimum of three years.

History

In 1981, the Board of Control approved a test claim filed by the County of Fresno on legislation requiring a 72-hour holding period prior to the euthanasia of stray cats (*Detention of Stray Cats*, SB 90-3948).³ The Parameters and Guidelines adopted by the Board of Control authorized reimbursement for the one-time costs of building modification; feeding, water and litter receptacles; and additional cages. The Parameters and Guidelines also authorized reimbursement for ongoing personnel activities, and the purchase of food, litter and cleaning supplies. Except for the County of Los Angeles, all cities and counties were eligible for reimbursement. The County of Los Angeles sponsored the “stray cat” legislation and, thus, was not entitled to reimbursement under the former Revenue and Taxation Code. In 1982, the Board of Control adopted a statewide cost estimate. However, the Legislature elected not to fund the mandate in 1984.⁴

Claimants’ Position

The claimants contend that the test claim legislation constitutes a reimbursable state mandated program pursuant to article XIII B, section 6 of the California Constitution and Government Code section 17514. The claimants are requesting reimbursement for the initial costs to obtain

³ Food and Agriculture Code section 31752, as added by Statutes of 1980, Chapter 1060.

⁴ Statutes of 1984, Chapter 268.

new and additional facilities, to develop new policies and procedures, and to develop new protocols such as the one required for feral cats. The claimants are also requesting continuing costs to maintain records; provide veterinary services; provide services to animals, other than dogs and cats; and costs resulting from the increased holding period.

On October 2, 2000, the claimants filed a response to the Draft Staff Analysis clarifying that they are seeking reimbursement for the following activities: construction of cat housing; construction of isolation/treatment facilities; construction of additional kennel buildings; extra kennel staffing; lost and found staffing; additional medical personnel; medical equipment and supplies; emergency treatment costs; and additional administrative costs. The County of Los Angeles estimates their initial costs to implement the program at \$5,762,662.

Department of Finance Position

The Department contends that the test claim should be denied. The Department argues that the test claim legislation imposes animal control activities on both public and private sector entities. Therefore, although the test claim legislation may result in additional costs to local agencies, those costs are not reimbursable because they are not unique to local government. The Department further states the duty imposed on local agencies to accept and care for lost or abandoned animals is not a new duty and, thus, does not constitute a new program or higher level of service. Finally, the Department contends that no reimbursement is required since there are no costs mandated by the state pursuant to Government Code section 17556, subdivisions (d) and (e).

Position of Interested Party, City of Fortuna

The City of Fortuna contends that the test claim legislation constitutes a reimbursable state mandated program by increasing the length of time animals can be held before they are euthanized, by adding new requirements related to adoption services, and by adding new requirements related to veterinary care. The City contends that the test claim legislation increased the cost of its animal control program by 284 percent.

Position of Interested Party, County of Mariposa

Howard Davies, assistant sheriff of Mariposa County, testified that the test claim legislation has resulted in increased costs in the form of housing animals, building a new facility, and increased staffing. He further testified that the four to six business-day holding period required by the test claim legislation essentially forces agencies to hold animals for six or seven days, when taking weekends into account.

Position of Interested Parties, Counties of San Diego, Fresno, and Mendocino

The Counties of San Diego, Fresno, Mendocino, and Contra Costa contend that the test claim legislation constitutes a reimbursable state mandated program. Both counties filed comments on the Draft Staff Analysis. The Counties of San Diego and Contra Costa contend that local agencies are required by the test claim legislation to provide "new" veterinary care services. The County of San Diego further contends that local agencies are required to perform new activities related to the seizure of animals. The County of Fresno filed comments, and Greg

Foss of the County of Mendocino provided testimony, clarifying the list of offsetting savings to be included in the parameters and guidelines.

Position of Interested Person, Senator Tom Hayden, Author of SB 1785

Kate Neiswender, staff to Senator Tom Hayden, testified that the test claim legislation does not impose a reimbursable state mandated program. The test claim legislation seeks to increase adoptions and reduce the rate, and costs, of killing animals. If all of the pieces of the test claim legislation are fully implemented, there is a net effect of no new costs.

Position of Interested Person, Taimie L. Bryant, Ph.D., J.D.

Ms. Bryant is a Professor of Law at UCLA Law School. She assisted in the design and drafting of the test claim legislation at the request of Senator Tom Hayden. She teaches a course entitled "Animals and the Law," which has been offered at UCLA each academic year since 1995. She is also the faculty sponsor for the UCLA Animal Welfare Association.

Ms. Bryant contends that this test claim should be denied. Ms. Bryant argues that the test claim legislation applies to both public and private entities and, thus, is not unique to local government pursuant to the court's holding in *County of Los Angeles v. State of California*.⁵ She further contends that the test claim legislation authorizes local agencies to assess fees sufficient to pay for the mandated program and that the legislation "has no net negative financial impact on local government." Therefore, Ms. Bryant contends that no reimbursement is required since there are no costs mandated by the state pursuant to Government Code section 17556, subdivisions (d) and (e).

Position of Other Interested Persons

Virginia Handley of the Fund for Animals, Inc., contends that the test claim legislation constitutes a reimbursable state mandated program. Ms. Handley filed comments on the Draft Staff Analysis supporting reimbursement for the entire holding period, for owner relinquished animals, and for increased veterinary care.

Lois Newman, founder and president of The Cat and Dog Rescue, states that the test claim legislation is cost-effective. Ms. Newman contends that the claimants' argument that the costs resulting from the test claim legislation are substantial is without merit. She further argues that some local agencies decided to expend monies for capital improvements before the test claim legislation was enacted and, thus, there is no proof that the test claim legislation resulted in costs mandated by the state.

The San Francisco Society for the Prevention of Cruelty to Animals (SPCA) states that it entered into a partnership called the "Adoption Pact" with the San Francisco Animal Care and Control Department in 1994. Several provisions and incentives provided in the Adoption Pact were written into the test claim legislation. The San Francisco SPCA contends that the test claim legislation is cost-effective and can be accomplished on a revenue-neutral or revenue-positive basis without expenditures for new facilities or increased space.

⁵ *County of Los Angeles v. State of California* (1987) 43 Cal.3d 46.

B. Robert Timone, Executive Director for the Haven Humane Society, states that the test claim legislation imposes a reimbursable state mandated program by increasing civil and criminal liability, by severely increasing mandatory shelter retention time for stray and owner released animals, and by subjecting animal sheltering agencies to open-ended veterinary medical expenses. The Haven Humane Society has contracted with the City of Redding for 15 years and can no longer provide animal care services as a result of the test claim legislation.

Jeffrey E. Zinder filed comments on behalf of Animal Issues Movement (a Los Angeles/Orange County nonprofit organization) and United Activists for Animal Rights (a Riverside County nonprofit organization) contending that the test claim legislation constitutes a reimbursable state mandated program. Mr. Zinder filed comments on the Draft Staff Analysis contending that veterinary care and care and treatment for owner-relinquished animals are reimbursable activities.⁶

Richard Ward of the State Humane Association of California contends that the test claim legislation constitutes a reimbursable state mandated program and supports the positions of the County of San Diego, Mr. Jeffrey Zinder, and the claimants.

Dolores Keyes of the Coastal Animal Services Authority, a small shelter providing animal care services for the cities of Dana Point and San Clemente, testified that she has seen a definite fiscal impact that includes higher veterinarian costs, higher staffing costs, and new in-house services as a result of the test claim legislation.

Patricia Wilcox of the California Animal Control Directors Association testified that the test claim legislation has resulted in increased costs for medical care for lost, stray, abandoned, and relinquished animals.

Teri Barnato of the Association of Veterinarians for Animal Rights testified that veterinary care is not a new activity imposed by the test claim legislation since prior law required care and treatment for stray and abandoned animals. She testified that many shelters have increased their veterinary care, not because of the test claim legislation, but as a result of public pressure.

FINDINGS

In order for a statute to impose a reimbursable state mandated program under article XIII B, section 6 of the California Constitution and Government Code section 17514, the statutory language must direct or obligate an activity or task upon local governmental agencies. If the statutory language does not mandate or require local agencies to perform a task, then compliance with the test claim statute is within the discretion of the local agency and a reimbursable state mandated program does not exist.

⁶ The comments filed by Yvonne Hunter of the League of California Cities and the comments filed by the Animal Care and Control Department of the City and County of San Francisco are helpful in providing background information. However, these comments do not address the issue before the Commission as to whether the test claim legislation imposes a reimbursable state mandated program within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514.

In addition, the required activity or task must constitute a new program or create an increased or higher level of service over the former required level of service. The California Supreme Court has defined the word "program" subject to article XIII B, section 6, of the California Constitution as a program that carries out the governmental function of providing a service to the public, or laws which, to implement a state policy, impose unique requirements on local governments and do not apply generally to all residents and entities in the state. To determine if the "program" is new or imposes a higher level of service, a comparison must be made between the test claim legislation and the legal requirements in effect immediately before the enactment of the test claim legislation. Finally, the new program or increased level of service must impose "costs mandated by the state."⁷

This test claim presents the following issues:

- Is the test claim legislation subject to article XIII B, section 6 of the California Constitution?
- Does the test claim legislation impose a new program or higher level of service on local agencies within the meaning of article XIII B, section 6 of the California Constitution?
- Does the test claim legislation impose "costs mandated by the state" within the meaning of Government Code sections 17514 and 17556?

The Commission also addresses a fourth issue raised by the claimants and interested party, County of San Diego, pertaining to seized animals under Penal Code section 597.1:

- Do the activities imposed by Penal Code section 597.1, relating to the seizure of animals, constitute a reimbursable state mandated program pursuant to article XIII B, section 6 of the California Constitution and Government Code section 17514?

These issues are addressed below.

Issue 1: Is the test claim legislation subject to article XIII B, section 6 of the California Constitution?

In order for the test claim legislation to be subject to article XIII B, section 6 of the California Constitution, the legislation must constitute a "program." The California Supreme Court, in the case of *County of Los Angeles v. State of California*⁸, defined the word "program" within the meaning of article XIII B, section 6 as a program that carries out the governmental function of providing a service to the public, or laws which, to implement a state policy, impose unique requirements on local governments and do not apply generally to all residents and entities in the state. Only one of these findings is necessary to trigger the applicability of article XIII B, section 6.⁹

⁷ Article XIII B, section 6 of the California Constitution; *County of Los Angeles v. State of California*, *supra*, 43 Cal.3d at 56; *Carmel Valley Fire Protection Dist. v. State of California* (1987) 190 Cal.App.3d 521, 537; *City of Sacramento v. State of California* (1990) 50 Cal.3d 51, 66; *Lucia Mar Unified School Dist. v. Honig* (1988) 44 Cal.3d 830, 835; Government Code section 17514.

⁸ *County of Los Angeles*, *supra*, 43 Cal.3d 46, 56.

⁹ *Carmel Valley Fire Protection Dist.*, *supra*, 190 Cal.App.3d at 537.

The Commission analyzes this issue in two parts. The first part addresses Senate Bill 1785, the stray animal legislation. The second part addresses the provisions added to the test claim by the claimants' test claim amendment; namely, Business and Professions Code section 4855 and section 2032.3 of the California Veterinary Medical Board's regulations.

Senate Bill 1785 – Stray Animals

Both the Department of Finance and Ms. Bryant contend that the test claim legislation on stray animals is not subject to article XIII B, section 6 of the California Constitution because the animal control activities required by the test claim legislation are not unique to local government. With the exception of posting lost and found lists, it is their position that the test claim activities are imposed on both public and private shelters.

The claimants disagree and contend that the test claim legislation is subject to article XIII B, section 6 of the California Constitution. The claimants argue that the Legislature has imposed a duty on local government to provide animal services in the state pursuant to Penal Code sections 597f and 597.1, Food and Agriculture Code section 31105, and Health and Safety Code section 121690, subdivision (e). Private animal shelters do not have similar duties and can refuse to accept a stray animal. Therefore, the claimants contend that the test claim legislation is unique to local government. The claimants also argue that the test claim legislation provides a service to the public and, thus, the test claim legislation qualifies as a program under article XIII B, section 6 of the California Constitution.

For the reasons stated below, the Commission finds that the test claim legislation constitutes a "program" within the meaning of article XIII B, section 6 of the California Constitution.

The purpose of the test claim legislation is to carry out the "state policy" that no adoptable animal should be euthanized if it can be adopted into a suitable home and that no treatable animal should be euthanized.¹⁰ In this respect, the test claim legislation does impose duties on both public and private animal shelters. In Section 1 of the test claim legislation, the Legislature declared that "public and private shelters and humane organizations share a common purpose in saving animals' lives" and that "public and private shelters and humane organizations should work together to end euthanasia of adoptable and treatable animals." Thus, the test claim legislation requires both public and private shelters to perform the following activities:

- keep stray animals for a longer holding period;
- provide the animal with necessary and prompt veterinary care, adequate nutrition, water, and shelter, and make reasonable attempts to notify the owner if the animal has identification;
- release the stray animal to an animal rescue and adoption organization upon request prior to the euthanization of the animal;
- determine whether an apparently feral cat is truly feral; and

¹⁰ Civil Code section 1834.4; Penal Code section 599d; and Food and Agriculture Code section 17005.

- keep and maintain accurate records on each animal for three years.¹¹

Although the test claim legislation applies to both public and private shelters, existing law, which was not amended or repealed by the test claim legislation, does *not* require private shelters to accept stray or abandoned animals. Instead, the act of accepting and caring for stray animals is within the discretion of the private shelter. Thus, the Commission finds that the requirements imposed by the test claim legislation apply to private shelters only if the private shelter decides to accept the stray or abandoned animal, and that existing law cannot be ignored.

For example, Civil Code section 1816, subdivision (a), provides that a private entity with whom a stray animal is deposited “is bound to take charge of it, *if able to do so.*”

The Department of Finance contends that Civil Code section 1816, subdivision (a), is not relevant to this analysis. Instead, the Department contends that it is subdivision (b) of section 1816 that applies and requires both public and private shelters to accept stray animals. That section states the following: “*A public agency or shelter* with whom a thing is deposited in the manner described in Section 1513 is bound to take charge of it, as provided in Section 597.1 of the Penal Code.” (Emphasis added.) The Department argues that the phrase “a public agency or shelter” means *both* public and private shelters. The Department supports its position with Senate and Assembly floor analyses that state that the test claim legislation applies to both private and public shelters.¹²

The Commission disagrees with the Department of Finance’s argument. When determining the intent of a statute, the first step is to look at the statute’s words and give them their plain and ordinary meaning. Where the words of the statute are not ambiguous, they must be applied as written and may not be altered in any way. Moreover, the intent must be gathered from the whole of a statute, rather than from isolated parts or words, in order to make sense of the entire statutory scheme.¹³

There is no evidence that the Legislature intended the phrase “a public agency or shelter” in Civil Code section 1816, subdivision (b), to include private shelters. Such a reading ignores the plain language of Civil Code section 1816, subdivision (a), which does address private shelters by the express reference to a “private entity.” In subdivision (a), the Legislature expressly stated that private entities are only required to take charge of stray animals “if able to do so.”

Moreover, other statutes enacted as part of Senate Bill 1785 specifically include the word “private” when referring to private shelters.¹⁴ Thus, had the Legislature intended to apply

¹¹ Ms. Lois Newman of The Cat and Dog Rescue Association submitted a survey revealing the number of private animal shelters operating in California. There are 187 private shelters and 246 public shelters.

¹² Department of Finance’s response to Draft Staff Analysis.

¹³ *City of Merced v. State of California* (1984) 153 Cal.App.3d 777; *Carrisales v. Department of Corrections* (1999) 21 Cal.4th 1132.

¹⁴ See Section 1, subdivision (a)(1) and (2), and subdivision (e), of Statutes of 1998, Chapter 752 (Legislature’s Findings and Declarations); Food and Agriculture Code section 32001 (Lost and Found Lists); and Food and Agriculture Code section 32003 (Maintaining Records).

Civil Code section 1816, subdivision (b), to private shelters, they would have included the word "private" in subdivision (b).

Finally, the Senate Floor Analysis of Senate Bill 1785, dated August 27, 1998, specifically recognizes that the duties imposed by the test claim legislation are mandatory duties for public entities and only those private entities which contract with the public entity to perform *their* required governmental duties.¹⁵

Accordingly, the Commission finds that Civil Code section 1816, subdivision (a), supports the conclusion that private animal shelters are not required to perform the activities imposed by the test claim legislation since the act of accepting and caring for stray animals is within the discretion of the private shelter.

Moreover, Civil Code section 2080 states that "any person who finds a thing lost [including a stray animal] is *not* bound to take charge of it, unless the person is otherwise required to do so by contract or law." In this regard, the Department of Finance and Ms. Bryant contend that many private shelters have the legal obligation to take in stray animals because their mission statements and by-laws require them to take in strays. However, there is *no state law* requiring private shelters to accept and care for an animal. Thus, only if the private shelter decides to accept and care for an animal, or enter into a contract with a local agency to perform such services, is the private shelter required to perform the activities imposed by the test claim legislation.

Public shelters, on the other hand, have a pre-existing legal duty to accept and care for stray animals. Food and Agriculture Code section 31105 requires the county board of supervisors to take up and impound stray dogs. That section states the following:

The board of supervisors *shall* provide for both of the following:

¹⁵ The Commission notes that the Senate Floor Analysis, analyzing the same version of the bill, changed for the August 30, 1998 hearing. The August 30, 1998 analysis did not contain the paragraph recognizing that the duties imposed by the test claim legislation are mandatory duties for public entities and those private entities that contract with the public entity. The vote on the bill by the Senate occurred on August 30, 1998.

The Commission notes, however, that the Senate Floor Analysis dated August 28, 1998 is consistent with Corporations Code section 14503, which provides that the governing body of a local agency may contract with private humane societies and societies for the prevention of cruelty to animals to provide animal care or protection services. In this regard, the private entity's jurisdiction is limited to the jurisdiction of the local agency. Corporations Code section 14503 states the following:

The governing body of a local agency, by ordinance, may authorize employees of public pounds, societies for the prevention of cruelty to animals, and humane societies, who have qualified as humane officers pursuant to Section 14502, and which societies or pounds have contracted with such local agency to provide animal care or protection services, to issue notices to appear in court

... for violations of state or local animal control laws. Those employees shall not be authorized to take any person into custody even though the person to whom the notice is delivered does not give his or her written promise to appear in court. The authority of these employees is to be limited to the jurisdiction of the local agency authorizing the employees.

(a) The taking up and impounding of all dogs which are found running at large in violation of any provision of this division.

(b) The killing in some humane manner or other disposition of any dog which is impounded. (Emphasis added.)¹⁶

Health and Safety Code section 121690, subdivision (e), also requires counties and cities to maintain a pound system. That section states the following:

(e) *It shall be the duty* of the governing body of each city, city and county, or county to maintain or provide for the maintenance of a pound system and a rabies control program for the purpose of carrying out and enforcing this section. (Emphasis added.)¹⁷

The test claim legislation, in Civil Code section 1816, subdivision (b), furthers this duty by stating that public agencies or shelters with whom a thing is deposited is “bound to take charge of it, as provided in Section 597.1 of the Penal Code.” Since 1991, Penal Code section 597.1 has required peace officers and animal control officers employed by local agencies to take possession of any stray or abandoned animal, and provide care and treatment for the animal.¹⁸ Penal Code section 597.1 states in relevant part the following:

Any peace officer, humane society officer, or animal control officer shall take possession of the stray or abandoned animal and shall provide care and treatment for the animal until the animal is deemed to be in suitable condition to be returned to the owner.

Although the above provision includes privately employed humane society officers, the law does *not* require humane societies and/or societies for the prevention of cruelty to animals to hire humane society officers. Rather, these private entities have the choice to hire such employees.¹⁹ Accordingly, the requirement in Penal Code section 597.1, to take possession of any stray or abandoned animal, imposes a state-mandated duty on local governmental agencies only.

Therefore, unlike private animal shelters, local agencies have no choice but to perform the activities required by the test claim legislation. Accordingly, the Commission finds that the

¹⁶ Added by Statutes of 1967, Chapter 15.

¹⁷ Added by Statutes of 1995, Chapter 415 (derived from Statutes of 1957, Chapter 1781).

¹⁸ Added by Statutes of 1991, Chapter 4.

¹⁹ Corporations Code section 14502. Pursuant to the provisions of Corporations Code section 14502, if the private entity decides to hire a humane society officer, the entity must first file an application with the court for the appointment of the prospective employee as a humane society officer. If the individual meets the requirements, then the individual will be appointed a humane society officer and possess limited peace officer powers to prevent the perpetration of any act of cruelty upon an animal. Corporations Code section 14502, subdivision (n), further states that “[a] humane society or a society for the prevention of cruelty to animals shall notify the sheriff of the county in which the society is incorporated, prior to appointing a humane officer, of the *society's intent* to enforce laws for the prevention of cruelty to animals.”

test claim legislation does impose unique requirements on local agencies to implement the state's policy to end euthanasia of adoptable and treatable animals.

The Commission further finds that the test claim legislation satisfies the second test that triggers the applicability of article XIII B, section 6 in that it constitutes a program that carries out the governmental function of providing a service to the public. As indicated above, only local agencies are mandated by the state to accept and care for stray and abandoned animals. The courts have held that the licensing and regulation of the manner in which animals are kept and controlled are within the legitimate sphere of governmental police power.²⁰ In this respect, the Legislature recognized in Section 1 of the test claim legislation that "taking in of animals is important for public health and safety, to aid in the return of the animal to its owner, and to prevent inhumane conditions for lost or free roaming animals." Although Ms. Bryant urges the Commission to deny this test claim, she acknowledges that "collection of stray animals has been deemed a legitimate and necessary function of government as opposed to a duty to be placed on private citizens."

Based on the foregoing, the Commission finds that Senate Bill 1785 (Stray Animals) constitutes a "program" within the meaning of article XIII B, section 6 of the California Constitution.

Sections Added by the Claimants' Test Claim Amendment

On October 2, 2000, the claimants amended their test claim to add Business and Professions Code section 4855 and section 2032.3 of the Veterinary Medical Board's regulations. These provisions require all veterinarians to keep a written record of all animals receiving veterinary services for a minimum of three years.

For the reasons stated below, the Commission finds that these provisions do *not* constitute a "program" within the meaning of article XIII B, section 6 of the California Constitution.

In order for a statute or an executive order to constitute a "program" subject to article XIII B, section 6 of the California Constitution, the statute or executive order must be unique to local government or carry out the governmental function of providing a service to the public. Neither test is satisfied here.

Business and Professions Code section 4855 states the following:

A veterinarian subject to the provisions of this chapter shall, as required by regulation of the [Veterinary Medical Board], keep a written record of all animals receiving veterinary services, and provide a summary of that record to the owner of animals receiving veterinary services, when requested. The minimum amount of information which shall be included in written records and summaries shall be established by the board. The minimum duration of time for which a licensed premise shall retain the written record or a complete copy of the written record shall be determined by the board. (Emphasis added.)

²⁰ *Simpson v. City of Los Angeles* (1953) 40 Cal.2d 271, 278 (where the California Supreme Court stated that "it is well settled that the licensing of dogs and the regulation of the manner in which they shall be kept and controlled are within the legitimate sphere of the police power, and that statutes and ordinances may provide for impounding dogs and for their destruction or other disposition.")

In response to Business and Professions Code section 4855, the Veterinary Medical Board issued section 2032.3 of its regulations. That regulation provides in pertinent part the following:

(a) *Every veterinarian* performing any act requiring a license pursuant to the provisions of Chapter 11, Division 2, of the [Business and Professions Code], upon any animal or group of animals shall prepare a legible, written or computer generated record concerning the animal or animals. . . . (Emphasis added.)

Based on the express language of these provisions, the Commission finds that the record keeping requirements imposed by Business and Professions Code section 4855 and the regulation issued by the Veterinary Medical Board apply to *all* veterinarians licensed in this state. Thus, these provisions are not unique to local government. Nor does the activity to keep records constitute a peculiarly governmental function since the activity is imposed on *all* veterinarians.

Therefore, the Commission finds that Business and Professions Code section 4855 and section 2032.3 of the Veterinary Medical Board's regulations do not constitute a "program" and, thus, are not subject to article XIII B, section 6 of the California Constitution.

Accordingly, the remainder of this analysis addresses only those provisions enacted as part of Senate Bill 1785 (Stray Animals).

Issue 2: Does the test claim legislation impose a new program or higher level of service on local agencies within the meaning of article XIII B, section 6 of the California Constitution?

To determine if the "program" is new or imposes a higher level of service, a comparison must be made between the test claim legislation and the legal requirements in effect immediately before the enactment of the test claim legislation.

Holding Period for Dogs and Cats

Food and Agriculture Code sections 31108 and 31752 describe the required holding period for impounded dogs and cats. Those sections provide that an impounded dog or cat shall be held for six business days, not including the day of impoundment. The six-day holding period can be reduced to four business days if the local agency complies with one of the following provisions:

- If the pound or shelter has made the dog or cat available for owner redemption on one weekday evening until at least 7:00 p.m., or one weekend day, the holding period shall be four business days, not including the day of impoundment.
- If the pound or shelter has fewer than three full-time employees or is not open during all regular weekday business hours, and if it has established a procedure to enable owners to reclaim their dog or cat by appointment at a mutually agreeable time when the pound or shelter would otherwise be closed, the holding period shall be four business days, not including the day of impoundment.

These test claim statutes further require, that prior to euthanizing an impounded dog or cat for any reason other than irremediable suffering, the impounded dog or cat shall be released to a nonprofit animal rescue or adoption organization, if requested by the organization, before the scheduled euthanization of the impounded animal. In addition to any spay or neuter deposit, the pound or shelter, at its discretion, may assess a fee, not to exceed the standard adoption fee, for the animals released.

The holding period and adoption requirements described above do not apply to animals that are irremediably suffering from a serious illness or severe injury and newborn animals that need maternal care and have been impounded without their mothers. Such animals may be euthanized without being held for owner redemption or adoption.²¹

Before the test claim legislation was enacted, public shelters were required to hold impounded dogs and cats for 72 hours from the time of capture. The 72-hour holding period did not apply to cats that were severely injured, seriously ill, or to newborn cats unable to feed themselves.²²

In addition, there was no requirement under prior law to release impounded animals to nonprofit animal rescue or adoption organizations, upon request of the organization, prior to euthanizing the animal.

Accordingly, the Commission finds that Food and Agriculture Code sections 31108 and 31752 impose a new program or higher level of service by:

- Requiring local agencies to provide care and maintenance during the increased holding period for impounded dogs and cats. The increased holding period shall be measured by calculating the difference between three days from the day of capture, and six business days from the day after impoundment, or four business days from the day after impoundment requiring local agencies to either:
 - (1) Make the animal available for owner redemption on one weekday evening until at least 7:00 p.m., or one weekend day; or
 - (2) For those local agencies with fewer than three full-time employees or that are not open during all regular weekday business hours, establish a procedure to enable owners to reclaim their animals by appointment at a mutually agreeable time when the agency would otherwise be closed;²³ and by
- Requiring the release of the animal to a nonprofit animal rescue or adoption organization upon request by the organization prior to euthanasia.

²¹ Food and Agriculture Code section 17006.

²² Food and Agriculture Code sections 31108 (as added by Statutes of 1967, Chapter 15) and 31752 (as added by Statutes of 1980, Chapter 1060)

²³ The claimants and several commentators contend that as a result of the increased holding period, the cost of veterinary care has increased. The Commission can consider the argument, that veterinary care during the increased holding period is reimbursable, at the parameters and guidelines phase.

Holding Period for Other Animals

Food and Agriculture Code section 31753 imposes the same holding period and adoption requirements for impounded rabbits, guinea pigs, hamsters, pot-bellied pigs, birds, lizards, snakes, turtles, or tortoises legally allowed as personal property, as is required for dogs and cats. Thus, section 31753 provides that the holding period for these other animals is six business days, not including the day of impoundment. The six-day holding period can be reduced to four business days if the local agency complies with one of the following provisions:

- If the pound or shelter has made the other animals available for owner redemption on one weekday evening until at least 7:00 p.m., or one weekend day, the holding period shall be four business days, not including the day of impoundment.
- If the pound or shelter has fewer than three full-time employees or is not open during all regular weekday business hours, and if it has established a procedure to enable owners to reclaim their animals by appointment at a mutually agreeable time when the pound or shelter would otherwise be closed, the holding period shall be four business days, not including the day of impoundment.

Ms. Bryant contends that Food and Agriculture Code section 31753 does not constitute a new program or higher level of service. Ms. Bryant contends that before the enactment of the test claim legislation, Penal Code sections 597f and 597.1 required peace officers, humane society officers, and animal control officers to take possession of any abandoned or neglected animal and care for the animal until the owner redeems the animal. Under these provisions, the animal control officer is required to perform a "due search" for the owner prior to euthanizing the animal. Thus, she argues that a holding period is legally implied from the requirement that owners be given a chance to redeem their animals.

Ms. Bryant further argues that the holding period established under prior law is equivalent to a "reasonable" period that allows the owner to redeem the animal. In this respect, Ms. Bryant argues that a five-day holding period has been deemed reasonable and, thus, required under prior law. In support of her position, Ms. Bryant cites a federal regulation, governing the sale of shelter animals to research labs, that deems five days the minimum necessary to provide owners a reasonable chance to reclaim their pets. She also cites California's vicious dog law, Food and Agriculture Code section 31621, which provides that an owner must receive five days notice to contest the "vicious dog" designation in order to reclaim the dog. Finally, Ms. Bryant states that the Humane Society of the United States promotes five days as the minimum reasonable holding period. Accordingly, Ms. Bryant contends that the test claim requirement to hold other animals for four days constitutes a lower level of service.

Government Code section 17565 states that "if a local agency or school district, at its option, has been incurring costs which are subsequently mandated by the state, the state shall reimburse the local agency or school district for those costs incurred after the operative date of the mandate." The Commission finds that Government Code section 17565 applies here.

Before the enactment of the test claim legislation, Penal Code sections 597f and 597.1 required animal control officers to take possession and provide care and treatment to *any* stray or abandoned animal until the animal was deemed to be in suitable condition to be returned to the

owner. If the owner could not be found after a due search, the animal control officer could have the animal euthanized or placed in a suitable home. Thus, the Commission agrees that Penal Code sections 597f and 597.1 apply to the animals specified in the test claim statute and that *some* holding period is implied in these sections.

However, there was *no prior state or federal law* mandating local agencies to hold these specified animals for *any* time period. Rather, the appropriate time period was left up to the discretion of the local agency. With the enactment of Food and Agriculture Code section 31753, the state is now requiring local agencies, for the first time, to hold these animals for four days. Therefore, the Commission finds that the four or six day holding period is new.

Accordingly, the Commission finds that Food and Agriculture Code sections 31753 imposes a new program or higher level of service by:

- Requiring local agencies to provide care and maintenance during the increased holding period for impounded rabbits, guinea pigs, hamsters, pot-bellied pigs, birds, lizards, snakes, turtles, or tortoises legally allowed as personal property. The increased holding period shall be measured by calculating the difference between three days from the day of capture, and six business days from the day after impoundment, or four business days from the day after impoundment requiring local agencies to either:
 - (1) Make the animal available for owner redemption on one weekday evening until at least 7:00 p.m., or one weekend day; or
 - (2) For those local agencies with fewer than three full-time employees or that are not open during all regular weekday business hours, establish a procedure to enable owners to reclaim their animals by appointment at a mutually agreeable time when the agency would otherwise be closed; and by
- Requiring the release of the animal to a nonprofit animal rescue or adoption organization upon request by the organization prior to euthanasia.

Feral Cats

The test claim legislation added section 31752.5 to the Food and Agriculture Code to address feral cats. Feral cats are defined as cats without owner identification whose usual and consistent temperament is extreme fear and resistance to contact with people. A feral cat is totally unsocialized to people.

Food and Agriculture Code section 31752.5, subdivision (c), states the following:

Notwithstanding Section 31752 (establishing the holding period for stray cats), if any apparently feral cat has not been reclaimed by its owner or caretaker within the first three days of the required holding period, shelter personnel qualified to verify the temperament of the animal *shall verify whether it is feral or tame by using a standardized protocol*. If the cat is determined to be docile or a frightened or difficult tame cat, the cat shall be held for the entire required holding period specified in Section 31752. If the cat is determined to be truly feral, the cat *may* be euthanized or relinquished to a nonprofit . . . animal adoption organization that agrees to the spaying or neutering of the cat

if it has not already been spayed or neutered. In addition to any required spay or neuter deposit, the pound or shelter, at its discretion, may assess a fee, not to exceed the standard adoption fee, for the animal released. (Emphasis added.)

The claimants contend that section 31752.5 constitutes a new program or higher level of service by establishing holding periods for feral cats and by requiring local agencies to verify whether a cat is feral or tame by using a "newly developed or obtained" standardized protocol. The claimants state the following:

The mandatory holding periods for feral cats are completely new. There is no prior law on the subject. The 'standard adoption fee[s]' for feral cats shall not be exceeded. In addition, local government must now 'verify whether it is feral or tame by using a standardized protocol' in order to determine the correct holding period. Therefore, the costs of obtaining or developing such a protocol as well [as] its administration would be reimbursable 'costs mandated by the state' as claimed herein.

Regarding holding periods for feral cats, the clock starts to run after (not including) '. . . the day of impoundment.' Under prior law, there were no holding periods for feral cats. Now holding periods are established, mandated, and defined in terms of a number of 'business days', considerably longer than the same number of calendar days. Therefore, Chapter 752/98 explicitly increases mandatory holding periods for feral cats and related costs upon local government.

The Commission disagrees with the claimants' statement that holding periods for feral cats are completely new and that there was no prior law on the subject. Before the enactment of the test claim legislation, Food and Agriculture Code section 31752 required a 72-hour holding period from the time of capture for *all* impounded stray cats, except cats that were severely injured, seriously ill, or newborn cats unable to feed themselves. That section stated the following:

No stray cat which has been impounded by a public pound, society for the prevention of cruelty to animals shelter, or humane shelter shall be killed before 72 hours have elapsed from the time of the capture of the stray cat.

This section shall not apply to cats which are severely injured or seriously ill, or to newborn cats unable to feed themselves. (Emphasis added.)

Thus, the 72-hour holding period established under prior law applied to both feral and tame cats.

The Commission finds that the only new requirement imposed by Food and Agriculture Code section 31752.5 is the requirement to verify within the first three days of the holding period whether the cat is feral or tame by using a standardized protocol. If the cat is determined to be tame, the same holding period established by Food and Agriculture Code section 31752, as amended by the test claim legislation and described in the section above, applies; i.e., four or six business days.

Accordingly, the Commission finds that Food and Agriculture Code section 31752.5 constitutes a new program or higher level of service by requiring local agencies to verify, within the first three days of the holding period, whether a cat is feral or tame by using a standardized protocol.

Owner Relinquished Animals

The test claim legislation added Food and Agriculture Code section 31754 to address animals relinquished by their owners. That section provides in relevant part the following:

[A]ny animal relinquished by the purported owner that is of a species impounded by pounds or shelters shall be held for two full business days, not including the day of impoundment. The animal shall be available for owner redemption for the first day, not including the day of impoundment, and shall be available for owner redemption and adoption for the second day. After the second required day, the animal may be held longer, killed, or relinquished to a nonprofit . . . animal adoption organization under the same conditions and circumstances provided for stray dogs and cats. . . .

Section 31754 became operative on July 1, 1999, and sunsets on July 1, 2001.

On July 1, 2001, Food and Agriculture Code section 31754 will provide, with the exception stated below, that any animal relinquished by the purported owner that is of a species impounded by pounds or shelters shall be held for the same holding periods, and with the same requirements of care, applicable to stray dogs and cats in sections 31108 and 31752 of the Food and Agriculture Code.²⁴ However, the period for owner redemption shall be one day, not including the day of impoundment, and the period for owner redemption or adoption shall be the remainder of the holding period.

The holding period described above does not apply to relinquished animals that are irremediably suffering from a serious illness or severe injury, or newborn animals that need maternal care and have been impounded without their mothers.

Ms. Bryant contends that neither prior law, nor Food and Agriculture Code section 31754, require local agencies to take in owner-relinquished animals. Thus, she argues that taking in such animals is within the discretion of the local agency and that the holding periods established by section 31754 only apply if the local agency chooses to accept owner-relinquished animals.

The claimants contend that section 31754 imposes mandatory duties on the local agency to accept owner-relinquished pets since, in reality, owners relinquish their animals on the streets

²⁴ The Commission notes that section 31754 requires the same holding periods for owner-relinquished animals as the holding period for stray dogs and cats. The statute correctly refers to section 31108 for the holding period for stray dogs. But, the statute references section 31755, which is not the statute relating to stray cats. The statute relating to stray cats is section 31752. Accordingly, the Commission finds that there is a typographical error in section 31754 and that the Legislature intended to refer to section 31752 instead of 31755.

if the agency will not accept the animal. At that point, the animal will be deemed a stray or an abandoned animal and, thus, require the agency to take possession of the animal.²⁵

The Commission agrees with Ms. Bryant. At the time the test claim legislation was enacted, local agencies were not required to accept owner-relinquished animals. They were simply required to take possession of stray or abandoned animals.²⁶

The test claim legislation did not change existing law. Rather, based on the plain language of the test claim legislation and existing law, taking possession of owner-relinquished animals, and caring and maintaining the owner-relinquished animal during the required holding period, is within the discretion of the local agency.

Accordingly, the Commission finds that Food and Agriculture Code section 31754 does not constitute a new program or higher level of service since there are no state mandated duties imposed on local agencies.

Posting Lost and Found Lists

Food and Agriculture Code section 32001 provides the following:

All public pounds, shelters operated by societies for the prevention of cruelty to animals, and humane shelters, that contract to perform public animal control services, shall provide the owners of lost animals and those who find lost animals with all of the following:

- (a) Ability to list the animals they have lost or found on 'Lost and Found' lists maintained by the pound or shelter.
- (b) Referrals to animals listed that may be the animals the owner or finders have lost or found.
- (c) The telephone numbers and addresses of other pounds and shelters in the same vicinity.
- (d) Advice as to means of publishing and disseminating information regarding lost animals.
- (e) The telephone numbers and addresses of volunteer groups that may be of assistance in locating lost animals.

The duties imposed by this section are mandatory duties for public entities for all purposes of the Government Code and for all private entities with which a public entity has contracted to perform those duties. (Emphasis added.)

Before the enactment of the test claim legislation, the duty imposed by section 32001 to post lost and found lists was *not* mandatory. The last two sentences of former section 32001 stated the following:

²⁵ Other commentators share the claimants' view (e.g., Virginia Handley, Jeffrey Zinder, and Richard Ward.)

²⁶ Food and Agriculture Code section 31105; Penal Code section 597.1.

Notwithstanding Section 9, a violation of this section is not a misdemeanor. Furthermore, the duty imposed by this section is *not a mandatory duty* for purposes of Division 3.6 (commencing with Section 810) of Title 1 of the Government Code [entitled "Claims and Actions Against Public Entities and Public Employees"], and *no cause of action for damages is created by this section against a public entity or employee or against any other person.* (Emphasis added.)

The above sentences were repealed with the enactment of the test claim legislation. Thus, the test claim legislation created a legal duty for local agencies to post the lost and found lists required by section 32001, and at the same time, established a cause of action for an agency's failure to comply.

Accordingly, the Commission finds that Food and Agriculture Code section 32001 imposes a new program or higher level of service by requiring local agencies to provide the owners of lost animals and those who find lost animals with all of the following:

- Ability to list the animals they have lost or found on "Lost and Found" lists maintained by the pound or shelter.
- Referrals to animals listed that may be the animals the owner or finders have lost or found.
- The telephone numbers and addresses of other pounds and shelters in the same vicinity.
- Advice as to means of publishing and disseminating information regarding lost animals.
- The telephone numbers and addresses of volunteer groups that may be of assistance in locating lost animals.

Records

The test claim legislation amended Penal Code section 597.1 and added section 32003 to the Food and Agriculture Code to address the maintenance of records.

Penal Code section 597.1, subdivision (d), provides that "[a]n animal control agency that takes possession of an animal pursuant to subdivision (c) [i.e., injured cats and dogs found without their owners and conveyed to a veterinarian to determine if the animal should be euthanized or treated] shall keep records of the whereabouts of the animal from the time of possession to the end of the animal's impoundment, and those records shall be available for inspection by the public upon request for three years after the date the animal's impoundment ended."

Food and Agriculture Code section 32003 requires the maintenance of records on each animal taken up, medically treated, or impounded. That section states the following:

All public pounds and private shelters shall keep accurate records on each animal taken up, medically treated, or impounded. The records shall include all of the following information and any other information required by the California Veterinary Medical Board:

- (a) The date the animal was taken up, medically treated, euthanized, or impounded.
- (b) The circumstances under which the animal is taken up, medically treated, euthanized, or impounded.
- (c) The names of the personnel who took up, medically treated, euthanized, or impounded the animal.
- (d) A description of any medical treatment provided to the animal and the name of the veterinarian of record.
- (e) The final disposition of the animal, including the name of the person who euthanized the animal or the name and address of the adopting party. These records shall be maintained for three years after the date the animal's impoundment ends.

The claimant contends that these sections impose new and increased duties. Ms. Bryant, on the other hand, contends that no new records are required. She states that the requirement to keep records was previously required by the Public Records Act and by other areas of California law. Thus, Ms. Bryant contends that Penal Code section 597.1, subdivision (d), and Food and Agriculture Code section 32003 do not impose a new program or higher level of service.

For the reasons described below, the Commission finds that Food and Agriculture Code section 32003 imposes a partial new program or higher level of service.

Before the enactment of the test claim legislation, Penal Code section 597.1, subdivision (d), and Penal Code section 597f, subdivision (c), required animal control agencies to keep records for public inspection indicating the whereabouts of an injured dog or cat conveyed to a veterinarian for a 72-hour period from the time of possession.

In addition, pursuant to the Business and Professions Code and regulations enacted by the California Veterinary Medical Board in 1979, existing law requires all veterinarians to keep a written record of all animals receiving veterinary services. The record shall contain the following information, if available: name, address and phone number of the owner; name and identity of the animal; age, sex and breed of the animal; dates of custody (with the veterinarian); short history of the animal's condition; diagnosis or condition at the beginning of custody; medication and treatment provided; progress and disposition of the case; and surgery log. Such records shall be maintained for a minimum of three years after the last visit.²⁷

The Commission agrees that the test claim legislation imposes some of the same record-keeping responsibilities as existing law. For example, the Commission agrees that the requirements imposed by Penal Code section 597.1, subdivision (d), to keep records for three years on the whereabouts of the animal are not new. That section applies to injured cats and dogs that are conveyed to a veterinarian to determine whether the animal should be euthanized

²⁷ Business and Professions Code section 4855; California Code of Regulations, title 16, division 20, article 4, section 2032.3.

or treated. Although the test claim legislation increased the retention of the records from 72 hours to three years, existing regulations issued by the Veterinary Medical Board already require the maintenance of records describing the dates of custody, progress and disposition of the case for three years. Thus, the Commission finds that Penal Code section 597.1, subdivision (d), does not constitute a new program or higher level of service.

Similarly, the requirement imposed by Food and Agriculture Code section 32003 to maintain records for three years on animals receiving medical treatment by veterinarians is not new since the same requirement was previously imposed by the regulations issued by the Veterinary Medical Board.

However, the requirement imposed by Food and Agriculture Code section 32003 on local agencies to maintain records describing the "taking up" or "impoundment" of an animal is broader than the record keeping requirements imposed on veterinarians in prior law. Moreover, the requirement for local agencies to keep records regarding the euthanasia of an animal was not a requirement imposed in prior law. In this respect, the Commission disagrees with the arguments raised by Ms. Bryant and other commentators that euthanasia is a veterinary procedure and, thus, information regarding the euthanasia of an animal was required to be kept in the veterinarian's records.²⁸ The Commission finds that euthanasia is not a veterinary procedure since employees of animal control shelters who are *not* veterinarians or registered veterinary technicians are legally allowed to perform the procedure after eight hours of training. The training covers the following topics: history and reasons for euthanasia; humane animal restraint techniques; sodium pentobarbital injection methods and procedures; verification of death; safety training and stress management for personnel; and record keeping and regulation compliance for sodium pentobarbital.²⁹

Accordingly, the Commission finds that Food and Agriculture Code section 32003 imposes new requirements on local agencies to maintain records for three years after the date the animal's impoundment ends on animals that are *not medically treated* by a veterinarian, but are either taken up, euthanized after the end of the holding period, or impounded. Such records shall include the following:

- The date the animal was taken up, euthanized, or impounded;
- The circumstances under which the animal is taken up, euthanized, or impounded;
- The names of the personnel who took up, euthanized, or impounded the animal; and
- The final disposition of the animal, including the name of the person who euthanized the animal or the name and address of the adopting party.

The Commission agrees that making these records available to the public complies with the Public Records Act, as argued by Ms. Bryant. "Public records" are defined as any writing containing information relating to the conduct of the public's business that is prepared, owned, used or retained by any state or local agency, regardless of the physical form or characteristic

²⁸ Comments filed by Ms. Bryant and comments filed by Lois Newman of The Cat and Dog Rescue Association.

²⁹ See section 2039 of the Veterinary Medical Board's regulations.

of the writing. Local agencies are required under the Public Records Act to keep public records open for inspection at all times during the office hours of the local agency.³⁰ However, local agencies would not be compelled to make information on animals that do not receive veterinary services available to the public if the state had not created the requirement to maintain such records.

Accordingly, the Commission finds that the requirement to maintain records for three years on animals that are not medically treated by a veterinarian, but are either taken up, euthanized after the end of the holding period, or impounded constitutes a new program or higher level of service.

Veterinary Care

The claimants contend that the test claim legislation imposes a new program or higher level of service by requiring local agencies to provide veterinary care, which was not required under prior law. The claimants cite Civil Code section 1834.4, Penal Code section 599d, and Food and Agriculture Code section 17005, which expresses the state's policy that no adoptable animal should be euthanized and no treatable animal should be euthanized. All of these sections state the following:

(a) It is the policy of the state that no adoptable animal should be euthanized if it can be adopted into a suitable home. Adoptable animals include only those animals eight weeks of age or older that, at or subsequent to the time the animal is impounded or otherwise taken into possession, have manifested no sign of a behavioral or temperamental defect that could pose a health or safety risk or otherwise make the animal unsuitable for placement as a pet, and have manifested no sign of disease, injury, or congenital or hereditary condition that adversely affect the animal's health in the future.

(b) It is the policy of the state that no treatable animal should be euthanized. *A treatable animal shall include any animal that is not adoptable but that could become adoptable with reasonable efforts.* This subdivision, by itself, shall not be the basis of liability for damages regarding euthanasia. (Emphasis added.)

The claimants contend that the italicized language quoted above "requires" local agencies to provide reasonable veterinary treatment services in order to make them adoptable.

The claimants also cite Civil Code section 1834, which was amended by the test claim legislation. That section provides that:

A depository of living animals *shall* provide the animals with *necessary and prompt veterinary care*, nutrition, and shelter, and treat them kindly. Any depository that fails to perform these duties may be liable for civil damages as provided by law. (Emphasis added.)

³⁰ Government Code section 6253.

Similarly, Civil Code section 1846 was amended by the test claim legislation to provide in part that “[a] gratuitous depository of a living animal *shall provide the animal with necessary and prompt veterinary care.*” (Emphasis added.)

Ms. Bryant contends that veterinary care does not constitute a new program or higher level of service. She states the following:

It is important to note that veterinary care is already mandated under Penal Code Sections 597f and 597.1, which require humane officers and animal control officers to ‘take possession of [a] stray or abandoned animal and . . . **provide care and treatment** for the animal until the animal is deemed to be in suitable condition to be returned to the owner.’ (Penal Code Sec. 597.1(a)) Subsection (b) permits injured or sick animals other than cats or dogs to be killed or impounded and treated. Cats and dogs must be seen by a veterinarian before a determination is made to kill.

Accordingly, the addition of the words ‘prompt and necessary veterinary care’ to Civil Code Section 1834 does not add to shelters’ veterinary care responsibilities because of the pre-existing care provisions of Penal Code Section 597f and 597.1. (Emphasis in original.)

First, the Commission finds that the policy statements found in Civil Code section 1834.4, Penal Code section 599d, and Food and Agriculture Code section 17005 do not impose any requirements on local agencies. They simply describe the state’s policy regarding euthanasia. The Commission acknowledges that the word “shall” is used in the sentence, which provides that “a treatable animal *shall* include any animal that is not adoptable but that could become adoptable with reasonable efforts.” However, that sentence is merely defining “treatable animals.” It is not imposing the requirement to provide veterinary care for animals.

The issue of whether the requirement imposed by Civil Code sections 1834 and 1846 to provide necessary and prompt veterinary care constitutes a new program or higher level of service is more complicated, however.

Before the enactment of the test claim legislation, Penal Code section 597.1 contained a provision requiring local agencies to provide “care and treatment” for the animal until the animal is in a suitable condition to be returned to the owner. The Commission agrees that care and treatment can include necessary veterinary treatment. But, the provisions of Penal Code section 597.1 became operative *only if* the governing body of the local agency determined that it would operate under section 597.1. Penal Code section 597.1 stated in relevant part the following:

(a)Any peace officer, humane society officer, or animal control officer shall take possession of the stray or abandoned animal and shall provide *care and treatment* for the animal until the animal is deemed to be in suitable condition to be returned to the owner. . . .

(1) This section *shall be operative* in a public agency or a humane society under the jurisdiction of the public agency, or both, *only if* the governing body of that public agency, by ordinance or resolution, determines that this section shall be

operative in the public agency or the humane society and that Section 597f shall not be operative. (Emphasis added.)³¹

Thus, the Commission finds that local agencies were not required to comply with the provisions of Penal Code section 597.1 before the enactment of the test claim legislation.

Before the test claim legislation was enacted, existing law, through Penal Code section 597f, also required local agencies to “care” for abandoned animals until the animal is redeemed by the owner. Penal Code section 597f further required local agencies to convey all injured dogs and cats to a veterinarian for treatment or euthanization. Local agencies had the option of providing “suitable care” for abandoned animals, other than cats and dogs, until the animal is deemed to be in a suitable condition to be delivered to the owner. Penal Code section 597f states in relevant part the following:

(a) . . . And it shall be the duty of any peace officer, officer of the humane society, or officer of a pound or animal regulation department of a public agency, to take possession of the animal so abandoned or neglected and *care* for the animal until it is redeemed by the owner or claimant, and the cost of caring for the animal shall be a lien on the animal until the charges are paid. Every sick, disabled, infirm, or crippled animal, except a dog or cat, which shall be abandoned in any city, city and county, or judicial district, may, if after due search no owner can be found therefore, be killed by the officer; and it shall be the duty of all peace officers, an officer of such society, or officer of a pound or animal regulation department of a public agency to cause the animal to be killed on information of such abandonment. The officer may likewise take charge of any animal, including a dog or cat, that by reason of lameness, sickness, feebleness, or neglect, is unfit for the labor it is performing, or that in any other manner is being cruelly treated; and if the animal is not then in the custody of its owner, the officer shall give notice thereof to the owner, if known, *and may provide suitable care for the animal until it is deemed to be in a suitable condition to be delivered to the owner*, and any necessary expenses which may be incurred for taking care of and keeping the animal shall be a lien thereon, to be paid before the animal can be lawfully recovered.

(b) *It shall* be the duty of all officers of pounds or humane societies, and animal regulation departments of public agencies to convey, and for police and sheriff departments, to cause to be *conveyed all injured cats and dogs found without their owners in a public place directly to a veterinarian* known by the officer or agency to be a veterinarian that ordinarily treats dogs and cats for a determination of whether the animal shall be immediately and humanely destroyed or shall be hospitalized under proper care and given emergency treatment. . . . (Emphasis added.)

³¹ The Commission notes that the test claim legislation deleted subdivision (l) from Penal Code section 597.1 to codify the court's decision in *Carrera v. Bertaini* (1976) 63 Cal.App.3d 721. There, the court held that making optional the provisions on post-seizure hearings in Penal Code section 597.1 was unconstitutional. Thus, with the deletion of subdivision (l), post-seizure hearings are now required.

Based on the language of section 597f, the Commission finds that local agencies had a pre-existing duty to obtain necessary veterinary care for injured cats and dogs. Thus, the Commission finds that providing "necessary and prompt veterinary care" for injured cats and dogs given emergency treatment, as required by Civil Code sections 1834 and 1846, does *not* constitute a new program or higher level of service.

However, the Commission finds that the requirement to provide "prompt and necessary veterinary care" for abandoned animals, other than injured cats and dogs given emergency treatment, is new. The Commission acknowledges that Penal Code section 597f requires local agencies to provide "care" to other animals. The word "care" is not defined by the Legislature. Nevertheless, for the reasons stated below, the Commission finds that the word "care" in section 597f does *not* include veterinary treatment.

The courts have determined that if a statute on a particular subject contains a particular word or provision, and another statute concerning the same or related subject omits that word or provision, then a different intention is indicated.³²

Penal Code section 597f requires local agencies to "care" for the animal until it is redeemed by the owner. That section was originally added by the Legislature in 1905, and was last amended in 1989. In 1991, the Legislature added Penal Code section 597.1. That section provides that local agencies shall provide "care *and treatment*" for the animal until it is redeemed by the owner. As indicated above, "care and treatment" can include veterinary care and treatment. However, since the Legislature did *not* use the word "treatment" in Penal Code section 597f like it did in Penal Code section 597.1, the Commission finds that the Legislature did not intend Penal Code section 597f to require local agencies to treat or provide "prompt and necessary veterinary care" to these other abandoned animals.

Accordingly, the Commission finds that providing prompt and necessary veterinary care for abandoned animals, other than injured cats and dogs given emergency treatment, as required by Civil Code sections 1834 and 1846, is new and, thus, imposes a new program or higher level of service.³³

³² Volume 58, Cal. Jur., sections 127 and 172; *Kaiser Steel Corp. v. County of Solano* (1979) 90 Cal.App.3d 662.

³³ Interested party, County of San Diego, contends that the test claim legislation constitutes a new program or higher level of service by "providing veterinary care for stray or abandoned animals found and delivered by any person (other than a peace officer, humane society officer, or animal control officer) to a public animal shelter, that are ultimately euthanized." The County of San Diego contends that Penal Code sections 597f and 597.1, when read in context, only apply when animals are seized by specified officers in the field and do not apply when other individuals find such animals.

The Commission disagrees with this interpretation. Penal Code section 597f, subdivision (a), states that "it shall be the duty of any peace officer, officer of the humane society, or officer of a pound or animal regulation department of a public agency, to take possession of the animal so abandoned or neglected and care for the animal until it is redeemed by the owner. . . ." While section 597f does apply to seized animals, it does not limit the requirement to care for the animal to only those animals that are seized by an officer. The duty to care for the animal is imposed on the "animal regulation department of a public agency" once the animal comes into their possession.

Construction of New Buildings

Finally, the claimants' are requesting reimbursement for the construction of cat housing, isolation/treatment facilities, and additional kennel buildings in order to comply with the test claim legislation. The Department of Finance and other commentators contend that this request is suspect.

The Commission notes that the test claim legislation does *not* expressly require or mandate local agencies to construct new buildings. However, the Commission's regulations allow reimbursement for the most reasonable methods of complying with the activities determined by the Commission to constitute reimbursable state mandated activities under article XIII B, section 6 of the California Constitution.³⁴ Therefore, in order for the claimants to be entitled to reimbursement for construction of new buildings, the claimants will have to show at the parameters and guidelines phase that construction of new buildings occurred as a direct result of the mandated activities and was the most reasonable method of complying with the mandated activities.

Issue 3: Does the test claim legislation impose "costs mandated by the state" within the meaning of Government Code sections 17514 and 17556?

As indicated above, the Commission finds that the test claim legislation constitutes a new program or higher level of service for the following activities:

- Providing care and maintenance for impounded dogs and cats for the increased holding period established by the test claim legislation (measured by calculating the difference between three days from the day of capture, and four business days from the day after impoundment, as specified in the third bullet below, or six business days from the day after impoundment);
- Providing care and maintenance for impounded rabbits, guinea pigs, hamsters, pot-bellied pigs, birds, lizards, snakes, turtles, or tortoises legally allowed as personal property during the increased holding period established by the test claim legislation (measured by calculating the difference between three days from the day of capture, and four business days from the day after impoundment, as specified in the third bullet below, or six business days from the day after impoundment);
- For impounded dogs, cats, and other specified animals that are held for four business days after the day of impoundment, either:
 - (a) Making the animal available for owner redemption on one weekday evening until at least 7:00 p.m., or one weekend day; or
 - (b) For those local agencies with fewer than three full-time employees or that are not open during all regular weekday business hours, establishing a procedure to enable owners to reclaim their animals by appointment at a mutually agreeable time when the agency would otherwise be closed;

³⁴ Title 2, California Code of Regulations, section 1183.1, subdivision (a)(4).

- Requiring the release of the impounded animal to a nonprofit animal rescue or adoption organization upon request prior to the euthanization of the animal;
- Verifying whether a cat is feral or tame by using a standardized protocol;
- Posting lost and found lists;
- Maintaining records on animals that are not medically treated by a veterinarian, but are either taken up, euthanized after the holding period, or impounded; and
- Providing prompt and necessary veterinary care for abandoned animals, other than injured cats and dogs that receive emergency treatment.

The Commission continues its inquiry to determine if these activities impose “costs mandated by the state.”

Increased Holding Periods/ Release to Nonprofit Rescue or Adoption Organization/ Veterinary Care for Animals Other Than Cats and Dogs

The claimants contend that the longer holding periods established by the test claim legislation for impounded and owner-relinquished animals, and the veterinary care result in increased costs mandated by the state. The claimant acknowledges that, in addition to a spay or neuter deposit, the test claim legislation authorizes the local agency to assess a fee, not to exceed the standard adoption fee, for animals released to an adoption organization. However, the claimants argue that the fee authority is not sufficient to cover the “substantial new costs.”

Both the Department of Finance and Ms. Bryant, citing Government Code section 17556, subdivisions (d) and (e), contend that the test claim legislation does not impose “costs mandated by the state” since the legislation authorizes local agencies to assess fees sufficient to pay for the mandated program and that the legislation has no net negative financial impact on local government. Ms. Bryant states the test claim legislation includes a number of cost saving measures such as (a) turning over shelter animals to qualified nonprofit animal rescue and adoption groups, which saves the costs of killing and carcass disposal and brings in adoption revenues paid by the nonprofit groups; (b) waiting before automatically killing owner-relinquished pets so that they can be reunited with their real owner or adopted by a new owner or nonprofit group - - thereby bringing in revenues and saving the expense of killing and disposing of the bodies; (c) providing for lost/found listings and other information to aid owners of lost pets, which obviates the need for many animals to enter the shelters at all; (d) enabling shelters to collect freely offered rewards for the return of lost pets; and (e) creating more legal avenues for dealing with anti-cruelty statute enforcement. The Department of Finance and Ms. Bryant further contend that the costs of impoundment must be passed on to the owners under the existing authority of Penal Code sections 597f and 597.1 and Government Code section 25802.

Government Code section 17514 defines “costs mandated by the state” as *any increased cost* a local agency is required to incur as a result of a statute that mandates a new program or higher level of service.

Government Code section 17556 lists seven exceptions to reimbursement, two of which are pertinent here. That section states that the Commission shall not find “costs mandated by the state” if the Commission finds that:

- The local agency has the authority to levy service charges, fees or assessments sufficient to pay for the mandated program or increased level of service (Gov. Code, § 17556, subd. (d)); or
- The statute provides for offsetting savings to local agencies which result in no net costs to the local agencies, or includes additional revenue that was specifically intended to fund the costs of the state mandate in an amount sufficient to fund the cost of the state mandate (Gov. Code, § 17556, subd. (e)).

Government Code section 17556, subdivisions (d) and (e), are analyzed below.

Fee Authority – Government Code Section 17556, Subdivision (d). Government Code section 17556, subdivision (d), provides that there shall be no costs mandated by the state if the local agency has the authority to levy service charges, fees, or assessments sufficient to pay for the mandated program.

In the present case, local agencies do have the authority, under certain circumstances, to assess fees upon the owner of an impounded animal for the care and maintenance of the animal. For example, pursuant to Civil Code section 2080, any public agency that takes possession of an animal has the authority to charge the owner, *if known*, a reasonable charge for saving and taking care of the animal.

Similarly, Penal Code sections 597f and 597.1 also allow local agencies to pass on the costs of caring for abandoned or seized animals to their owners by providing that “the cost of caring for the animal shall be a lien on the animal until the charges are paid.”

Moreover, Penal Code section 597f allows the cost of hospital and emergency veterinary services provided for impounded animals to be passed on to the owner, if known.³⁵

The fee authority granted under the foregoing authorities applies only if the owner is known. Thus, local agencies have the authority to assess a fee to care and provide treatment for animals relinquished by their owners pursuant to Food and Agriculture Code section 31754. Local agencies also have the authority to assess a fee for the care and treatment of impounded animals that are ultimately redeemed by their owners. Under such circumstances, the Commission finds that the fee authority is sufficient to cover the increased costs to care,

³⁵ Penal Code section 597f also allows the cost of such veterinary services to be *partially* paid pursuant to Food and Agriculture Code section 30652, which provides the following: “All fees for the issuance of dog license tags and all fines collected pursuant to this division shall be paid into the county, city, or city and county treasury, as the case may be, and shall be used: (a) First, to pay fees for the issuance of dog license tags; (b) Second, to pay fees, salaries, costs, expenses, or any or all of them for the enforcement of this division and all ordinances which are made pursuant to this division; (c) Third, to pay damages to owners of livestock which are killed by dogs; (d) Fourth, to pay costs of any *hospitalization or emergency care of animals pursuant to Section 597f of the Penal Code.* (Emphasis added.) The monies collected for licenses and fines can be identified as an offset in the Parameters and Guidelines.

maintain, and provide necessary veterinary treatment for the animal during the required holding period since the "cost of caring" for the animal can be passed on to the owner.

Accordingly, pursuant to Government Code section 17556, subdivision (d), the Commission finds that there are no costs mandated by the state for the care, maintenance and necessary veterinary treatment of animals relinquished by their owners or redeemed by their owners during the required holding period.

The Commission further finds that there are no costs mandated by the state under Government Code section 17556, subdivision (d), for the care, maintenance, and treatment of impounded animals that are ultimately adopted by a new owner; for the care, maintenance, and treatment of impounded animals that are requested by a nonprofit animal rescue or adoption organization; or for the administrative activities associated with releasing the animal to such organizations.

The test claim legislation gives local agencies the authority to assess a standard adoption fee, in addition to any spay or neuter deposit, upon nonprofit animal rescue or adoption organizations that request the impounded animal prior to the scheduled euthanization of the animal.³⁶

The claimant contends that the "standard adoption fee" is not sufficient to cover the costs for animals adopted or released to nonprofit animal rescue or adoption organizations. However, based on the evidence presented to date, the Commission finds that local agencies are not prohibited by statute from including in their "standard adoption fee" the costs associated with caring for and treating impounded animals that are ultimately adopted by a new owner or released to nonprofit animal rescue or adoption organizations, and the associated administrative costs. Rather, local agencies are only prohibited from charging nonprofit animal rescue or adoption organizations a higher fee than the amount charged to individuals seeking to adopt an animal.

However, the fees recovered by local agencies under the foregoing authorities do *not* reimburse local agencies for the care and maintenance of stray or abandoned animals, or the veterinary treatment of stray or abandoned animals (other than cats and dogs) during the holding period required by the test claim legislation when:

- The owner is unknown;
- The animal is not adopted or redeemed; or
- The animal is not released to a nonprofit animal rescue or adoption organization.

Thus, the fee authority is not sufficient to cover the increased costs for care, maintenance, and treatment during the required holding period for those animals that are ultimately euthanized. Under such circumstances, the Commission finds that that Government Code section 17556, subdivision (d), does not apply to deny this claim. Rather, local agencies may incur increased costs mandated by the state to care for these animals during the required holding period.

³⁶ See Food and Agriculture Code sections 31108 (dogs), 31752 (cats), 31752.5 (feral cats), 31753 (other animals), and 31754 (owner-relinquished animals).

Offsetting Savings or Additional Revenue – Government Code Section 17556,

Subdivision (e). Government Code section 17556, subdivision (e), states that the Commission shall not find costs mandated by the state if:

- The *test claim statute* provides for offsetting savings to local agencies which result in no net costs to the local agencies, or
- The *test claim statute* includes additional revenue that was specifically intended to fund the costs of the state mandate in an amount sufficient to fund the cost of the state mandate.

As indicated above, the Department of Finance and Ms. Bryant contend that Government Code section 17556, subdivision (e), applies to this claim since the legislation has no net negative financial impact on local government and includes a number of cost saving measures.

Additionally, the San Francisco SPCA contends that the test claim legislation is cost-effective and can be accomplished on a revenue-neutral or revenue-positive basis without expenditures for new facilities or increased space.

The Commission agrees that one of the purposes of the test claim legislation was to reduce the cost of euthanasia. The Legislature expressly declared in Section 1 of the test claim legislation that the “redemption of owned pets and adoption of lost or stray adoptable animals is preferable to incurring social and economic costs of euthanasia.” To reduce the rate of killing, the Legislature made it easier for owners to redeem their pets by establishing longer holding periods, mandatory record-keeping, and lost and found lists.

In this respect, both the Department of Finance and Ms. Bryant describe a hypothetical situation showing the projected cost savings to a local agency when complying with the test claim legislation. The Commission recognizes that if complying with the test claim legislation really does result in cost savings, then local agencies will not be filing claims for reimbursement with the State Controller’s Office. Government Code section 17514 only authorizes reimbursement by the state for the *increased* costs in complying with the mandate. The Commission notes that the claimants and several other commentators have filed declarations stating that local agencies have incurred increased costs as a result of the test claim legislation.

But, with regard to the legal issue of whether Government Code section 17556, subdivision (e), applies to this test claim, the only provision *in the test claim legislation* that provides for offsetting savings for the care and maintenance of the animal during the required holding period is the authorization to accept advertised rewards or rewards freely offered by the owner of the animal.³⁷ Rewards are not offered in every case, however. In addition, the rewards do not reimburse local agencies for the care and maintenance of a stray or abandoned animal when the owner cannot be found.

Thus, the Commission finds that there is no evidence that the test claim legislation provides for offsetting savings that result in *no* net costs to local agencies.

³⁷ Civil Code section 1845.

Moreover, the test claim legislation does not include additional revenue specifically intended to fund the costs of the mandate.

Accordingly, the Commission finds that Government Code section 17556, subdivision (e), does not apply to this claim.

Feral Cats, Lost and Found Lists, Maintaining Records

The Commission finds that none of the exceptions to reimbursement in Government Code section 17556 apply to deny this test claim with respect to the activities listed below. In this regard, the Commission finds that local agencies may incur increased costs mandated by the state pursuant to Government Code section 17514:

- For impounded dogs, cats, and other specified animals that are held for four business days after the day of impoundment, to either:
 - (1) Make the animal available for owner redemption on one weekday evening until at least 7:00 p.m., or one weekend day; or
 - (2) For those local agencies with fewer than three full-time employees or that are not open during all regular weekday business hours, establish a procedure to enable owners to reclaim their animals by appointment at a mutually agreeable time when the agency would otherwise be closed (Food & Agr., Code §§ 31108, 31752, and 31753);
- To verify whether a cat is feral or tame by using a standardized protocol (Food & Agr. Code, § 31752.5);
- To post lost and found lists (Food & Agr. Code, § 32001); and
- To maintain records on animals that are not medically treated by a veterinarian, but are either taken up, euthanized after the holding period, or impounded (Food & Agr. Code, § 32003).

Issue 4: Do the activities imposed by Penal Code section 597.1, relating to the seizure of animals, constitute a reimbursable state mandated program pursuant to article XIII B, section 6 of the California Constitution and Government Code section 17514?

At the hearing on October 26, 2000, interested party, the County of San Diego, testified that the activities required by Penal Code section 597.1, relating to the seizure of animals, constitutes a reimbursable state mandated program. The claimants did not request reimbursement for such activities.

However, on November 9, 2000, the claimants submitted a "Review of Transcript and Proposed Recommendation" requesting that the Commission's decision incorporate the County of San Diego request. Specifically, the claimants are requesting that the Commission find that the activities listed below constitute reimbursable state mandated activities, and that the Commission adopt the following language in the statement of decision:

For dogs, cats and other animals seized pursuant to Penal Code Section [PC] 597.1:

- A. Conducting pre-seizure hearings [PC 597.1(g)],
- B. Conducting post-seizure hearings [PC 597.1(f)], in those cases where it is determined the seizure was justified,
- C. Providing care, maintenance, and required veterinary treatment, except for emergency treatment of injured dogs and cats, during the new segment of the 14 day holding period, if not paid for by the animals' owner or on the owner's behalf [PC 597.1(h)], or, if required veterinary care is not provided by the owner and the animal is deemed to be abandoned [PC 597.1(i)].

For the reasons stated below, the Commission disagrees with the claimants and interested parties, and finds that the activities listed above do not constitute reimbursable state mandated activities pursuant to article XIII B, section 6 of the California Constitution and Government Code section 17514.

Pre-Seizure and Post-Seizure Hearings

Before the test claim legislation was enacted, Penal Code section 597.1 made it a misdemeanor to permit an animal to be in any building, street, or lot without proper care and attention. In cases where the local agency determined that prompt action was required to protect the health and safety of the animal or others, the local agency was authorized to immediately seize the animal. Under such circumstances, subdivision (f) required that the local agency provide the owner, if known, with the opportunity for a post-seizure hearing before the commencement of the criminal proceeding to determine the validity of the seizure.

In cases where the immediate seizure was not justified, the local agency was required by subdivision (g) to provide the owner, if known, with the opportunity of a pre-seizure hearing. In such cases, the owner was required to produce the animal at the time of the hearing, unless the owner made arrangements with the local agency to view the animal, or unless the owner could provide verification that the animal was euthanized. The purpose of the hearing was to determine if the animal should be seized for care and treatment.

Although, in prior law, subdivisions (f) and (g) contained language requiring agencies to conduct pre-seizure and post-seizure hearings, the provisions of Penal Code section 597.1, including subdivisions (f) and (g), became operative *only if* the governing body of the local agency determined that it would operate under section 597.1. Former Penal Code section 597.1, subdivision (l), stated the following:

- (l) This section shall be operative in a public agency or a humane society under the jurisdiction of the public agency, or both, only if the governing body of that public agency, by ordinance or resolution, determines that this section shall be operative in the public agency or the humane society and that Section 597f shall not be operative.

Thus, before the test claim legislation was enacted, adherence to Penal Code section 597.1 was optional.

The test claim legislation deleted subdivision (l). With the deletion of subdivision (l), pre-seizure and post-seizure hearings are now required.

Nevertheless, for the reasons provided below, the Commission finds the requirement to conduct either a pre-seizure or post-seizure hearing does *not* constitute a new program or higher level of service, and does not impose costs mandated by the state.

In 1976, the California Court of Appeal determined, in the case of *Carrera v. Bertaini*,³⁸ that pre-seizure and post-seizure hearings are constitutionally required pursuant to Fourteenth Amendment, Due Process Clause, of the United States Constitution. In *Carrera*, the petitioner's farm animals were seized and impounded for running at large and the owner was charged with cruelty and neglect. The seizure immediately resulted in petitioner incurring several hundred dollars in fees and costs that had to be paid before she could get possession of her animals. Petitioner was not given the opportunity under either a pre-seizure or post-seizure hearing to determine if the seizure was valid. Instead, by the time she was able to institute a lawsuit and obtain a court hearing, six weeks after the seizure, the fees increased to over \$2,500. The court found that the county's procedures violated the Due Process Clause and recognized that where the government takes a person's property, the Due Process Clause requires some form of notice and hearing. The court stated the following:

As a matter of basic fairness, to avoid the incurrence of unnecessary expenses appellant was entitled to a hearing *before* her animals were seized or, if the circumstances justified a seizure without notice and a hearing, she was entitled to a *prompt hearing after* the animals were seized. Manifestly, the hearing in the superior court six weeks after the seizure cannot be said to satisfy appellant's due process rights.³⁹
(Emphasis added.)

Since pre-seizure and post-seizure hearings were *previously required* by the United States Constitution, these same activities imposed by Penal Code section 597.1 do not constitute a new program or higher level of service.

Moreover, the requirement to conduct pre-seizure and post-seizure hearings does not impose costs mandated by the state. Government Code section 17556, subdivision (b), provides that the Commission shall not find costs mandated by the state when "the statute or executive order affirmed for the state that which had been declared existing law or regulation by action of the courts." The Commission finds that Government Code section 17556, subdivision (b), applies here since before the enactment of the test claim legislation, the court in *Carrera* declared that existing law, through the Due Process Clause of the United States Constitution, required local agencies to conduct pre-seizure and post-seizure hearings when animals are seized. Moreover, bill analyses of the test claim legislation reveal that the amendment to Penal Code section 597.1 was intended to codify the court's decision in *Carrera*.

³⁸ *Carrera v. Bertaini* (1976) 63 Cal.App.3d 721.

³⁹ *Id.* at 729.

Accordingly, the Commission finds that the requirement imposed by Penal Code section 597.1 to conduct pre-seizure and post-seizure hearings does not constitute a reimbursable state mandated activity pursuant to article XIII B, section 6 of the California Constitution and Government Code section 17514.

Holding Period for Seized Animals

The claimants and interested parties also request reimbursement for the following activities as a result of the 14-day holding period for seized animals:

Providing care, maintenance, and required veterinary treatment, except for emergency treatment of injured dogs and cats, during the new segment of the 14 day holding period, if not paid for by the animals' owner or on the owner's behalf [PC 597.1(h)], or, if required veterinary care is not provided by the owner and the animal is deemed to be abandoned [PC 597.1(i)].

The Commission disagrees with the claimants' request.

Penal Code section 597.1, subdivisions (h), provides that if an animal is properly seized, the owner shall be personally liable to the local agency for the cost of the seizure and care of the animal. The owner has 14 days after the animal was seized to pay the charges and redeem the animal. The charges constitute a lien on the animal. If the owner does not pay the charges permitted under section 597.1, then the animal shall be deemed an abandoned animal and may be disposed of by the local agency.

Penal Code section 597.1, subdivision (i), further provides that if the seized animal requires veterinary care and the local agency is not assured, within 14 days of the seizure of the animal, that the owner will provide the necessary care, the animal is deemed abandoned and may be disposed of by the local agency.

The 14-day holding period does *not* apply if it has been determined that the seized animal incurred severe injuries, is incurably crippled, or is afflicted with a serious contagious disease and the owner does not immediately authorize treatment of the animal at the expense of the owner. In such cases, the seized animal may be euthanized without regard to the holding period. (Pen. Code, § 597.1, subd. (i).)

Furthermore, the Commission finds that the 14-day holding period does *not* apply when the owner is truly unknown. Under such circumstances, the animal may be euthanized if sick or injured without regard to the 14-day holding period, or is deemed an abandoned or stray animal requiring the local agency to comply with the four or six day holding period established for dogs, cats, and other animals in Food and Agriculture Code sections 31108, 31752, and 31753. For example, Penal Code section 597.1, subdivision (b), provides that "every sick, disabled, infirm, or crippled animal, except a dog or cat, that is abandoned in any city, county, city and county, or judicial district may be killed by the officer if, after a reasonable search, no owner of the animal can be found." Subdivision (b) further provides that the local agency has the duty to cause the animal to be euthanized or rehabilitated and placed in a suitable home on information that the animal is stray or abandoned. Moreover, subdivision (c) requires that all injured dogs and cats be conveyed to a veterinarian. If the owner does not redeem the injured

dog or cat "within the locally prescribed waiting period," the veterinarian may euthanize the animal.

When the 14-day holding period does apply, the Commission agrees that it constitutes a new program or higher level of service. Before the enactment of the test claim legislation, Penal Code section 597f required local agencies to take possession of animals that were abandoned, neglected, unfit for labor, or cruelly treated, and care for the animal until it is redeemed by the owner.

The Commission finds that prior law established in Penal Code section 597f implies *some* holding period for seized animals to allow the owner to redeem the animal after payment of expenses. However, there was *no prior state or federal law* mandating local agencies to hold seized animals for any specified time period. With the enactment of the test claim legislation, which deleted subdivision (l) of section 597.1 making its provisions mandatory, the state is now requiring local agencies, for the first time, to hold seized animals for 14 days before the animal may be disposed of by the local agency.

Thus, the Commission finds that providing care and maintenance for seized animals during the 14-day holding period constitutes a new program or higher level of service.

The Commission also finds the providing treatment for seized animals during the 14-day holding period, constitutes a new program or higher level of service. Penal Code section 597.1, subdivision (a), states that "any peace officer, humane society officer, or animal control officer shall take possession of the stray or abandoned animal and shall provide care *and treatment* for the animal until it is deemed in suitable condition to be returned to the owner." Subdivisions (f) and (g) of section 597.1 also require that the due process notice given to owners of seized animals contain a statement that the owner is liable for the cost of caring for *and treating* the seized animal. Thus, necessary treatment is required during this time period.

But, the Commission finds that there are *no* costs mandated by the state associated with the 14-day holding period.

Government Code section 17556, subdivision (d), provides that the Commission shall not find costs mandated by the state when the local agency has the authority to levy service charges, fees or assessments sufficient to pay for the mandated program or increased level of service.

The Commission finds that Government Code section 17556, subdivision (d), applies here. Penal Code section 597.1 authorizes the local agency to pass on the costs of the seizure and care, including veterinary care, of the animal to the owner when the seizure is upheld at the due process hearing. The charges become a lien on the animal until paid. If the owner pays all costs associated with the seizure of the animal, then the owner can redeem the animal and the local agency's costs are fully recovered. (Pen. Code, § 597.1, subd. (a).) Under such circumstances, there are no costs mandated by the state.

Even in situations where the owner abandons the seized animal, and fails or refuses to pay the costs of the seizure and care during the 14-day holding period, the local agency still has the authority to recover their costs in full from the owner. Under such circumstances, the owner becomes personally liable for the charges. For example, subdivisions (f) and (g) of section 597.1 provide that the owner's failure to request or attend the due process hearing "shall result

in liability” for the cost of caring for and treating any animal properly seized. Moreover, once the owner is found guilty of a misdemeanor under section 597.1, the costs of caring for and treating the animal become restitution to be paid by the owner to the local agency. Thus, even if the owner abandons the animal, liability for the costs of care and treatment during the 14-day holding period follow the owner and are collectible by the local agency.

The Commission further finds that Government Code section 17556, subdivision (d), applies to deny reimbursement for the costs incurred as a result of the 14-day holding period when the local agency is not able to collect the full amount of the charges from the owner. In *Santa Margarita Water District v. Kathleen Connell, as State Controller*⁴⁰ the court rejected the interpretation that authority to levy fees sufficient to cover costs under Government Code section 17556, subdivision (d), turns on economic feasibility. Rather, the court held that the plain language of subdivision (d) precludes reimbursement where the local agency has the authority, the right or the power to levy fees sufficient to cover the costs of the state-mandated program. The court stated the following:

The Districts in effect ask us to construe ‘authority,’ as used in the statute, as a practical ability in light of surrounding economic circumstances. However, this construction cannot be reconciled with the plain language of the statute and would create a vague standard not capable of reasonable adjudication. Had the Legislature wanted to adopt the position advanced by the Districts, it would have used “reasonable ability” in the statute rather than “authority”.⁴¹

Accordingly, the Commission finds that the 14-day holding period established under Penal Code section 597.1 does not constitute a reimbursable state mandated program within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514.

CONCLUSION

The Commission concludes that the test claim legislation imposes a partial reimbursable state mandated program on local agencies pursuant to article XIII B, section 6 of the California Constitution and Government Code section 17514 for the *increased costs* in performing the following activities:

1. Providing care and maintenance during the increased holding period for impounded dogs and cats that are ultimately euthanized. The increased holding period shall be measured by calculating the difference between three days from the day of capture, and four business days from the day after impoundment, as specified below in 3(a) and 3(b), or six business days from the day after impoundment (Food & Agr. Code, §§ 31108, 31752);

⁴⁰ (1997) 59 Cal.App.4th 382.

⁴¹ *Id.* pg. 401

2. Providing care and maintenance for four business days from the day after impoundment, as specified below in 3(a) and 3(b), or six business days from the day after impoundment, for impounded rabbits, guinea pigs, hamsters, pot-bellied pigs, birds, lizards, snakes, turtles, or tortoises legally allowed as personal property that are ultimately euthanized (Food & Agr. Code, § 31753);
3. For impounded dogs, cats, and other specified animals that are held for four business days after the day of impoundment, either:
 - (a) Making the animal available for owner redemption on one weekday evening until at least 7:00 p.m., or one weekend day; or
 - (b) For those local agencies with fewer than three full-time employees or that are not open during all regular weekday business hours, establishing a procedure to enable owners to reclaim their animals by appointment at a mutually agreeable time when the agency would otherwise be closed (Food & Agr., Code §§ 31108, 31752, and 31753);
4. Verifying whether a cat is feral or tame by using a standardized protocol (Food & Agr. Code, § 31752.5);
5. Posting lost and found lists (Food & Agr. Code, § 32001);
6. Maintaining records on animals that are not medically treated by a veterinarian, but are either taken up, euthanized after the holding period, or impounded (Food & Agr. Code, § 32003); and
7. Providing "necessary and prompt veterinary care" for abandoned animals, other than injured cats and dogs given emergency treatment, that are ultimately euthanized (Civ. Code, §§ 1834 and 1846).

The Commission also concludes that all other statutes included in the test claim legislation that are not listed above do not impose a reimbursable state mandated program within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514.

The Commission further concludes that several statutes outside the test claim legislation that provide local agencies with revenues to offset the costs of the mandated program should be included in the Parameters and Guidelines as offsetting savings to the extent they are collected and received by the local agency. For example, local agencies have the authority to attribute part of the fees collected from owners for dog license tags and fines to pay salaries, costs, and expenses for the enforcement of animal control and emergency care of impounded animals. (Food & Agr. Code, § 30652; Pen. Code, § 597f.) Local agencies also have the authority to use a portion of the unclaimed spay and neuter deposits and fines collected for not complying with spay and neuter requirements to the administrative costs incurred by a local agency. (Food & Agr. Code, §§ 30520 et seq., and 31751 et seq.)⁴² Finally, local agencies have the

⁴² The Commission recognizes that as of January 1, 2000, dogs and cats are required to be spayed or neutered before they are adopted or released. (Food & Ag. Code, §§ 30503 and 31751.3.) Thus, local agencies stopped collecting spay/neuter deposits for cats and dogs as of January 1, 2000. (See comments from County of Fresno.) The reimbursement period for this test claim will begin January 1, 1999. Accordingly, the Commission concludes

authority to use the fines imposed and collected from owners of impounded animals to pay for the expenses of operation and maintenance of the public pound and for the compensation of the poundkeeper. (Gov. Code, § 25802.)

that the spay/neuter deposits collected by local agencies for cats and dogs from January 1, 1999 to January 1, 2000, be identified as an offset.

Tab 4

TIME-STUDY GUIDELINES

BACKGROUND

A reasonable reimbursement methodology, which meets certain conditions specified in Government Code section 17518.5, subdivision (a), can be used as a "formula for reimbursing local agency and school district costs mandated by the state."

Two methods are acceptable for documenting employee time charged to mandated cost programs: Actual Time Reporting and Time Study. These methods are described below. Application of time study results is restricted. As explained in the Time Study Results section below, the results may be projected forward a maximum of two years or applied retroactively to initial claims, current-year claims, and late-filed claims, provided certain criteria are met.

Actual Time Reporting

Each program's parameters and guidelines define reimbursable activities for the mandated cost program. (Some parameters and guidelines refer to reimbursable activities as *reimbursable components*.) When employees work on multiple activities and/or programs, a distribution of their salaries or wages must be supported by personnel activity reports or equivalent documentation that meets the following standards (which clarify documentation requirements discussed in the Reimbursable Activities section of recent parameters and guidelines):

- They must reflect an after-the-fact (contemporaneous) distribution of the actual activity of each employee;
- They must account for the total activity for which each employee is compensated;
- They must be prepared at least monthly and must coincide with one or more pay periods; and
- They must be signed by the employee.

Budget estimates or other distribution percentages determined before services are performed do not qualify as support for actual time reporting.

Time Study

In certain cases, a time study may be used as a substitute for continuous records of actual time spent on multiple activities and/or programs. A time study can be used for an activity when the task is repetitive in nature. Activities that require varying levels of effort are not appropriate for time studies.

TIME STUDY PLAN

Claimant must develop a time study plan before a time study is conducted. The claimant must retain the time study plan for audit purposes. The plan must identify the following:

- Time period(s) to be studied - the plan must show that all time periods selected are representative of the fiscal year and that the results can be reasonably projected to approximate actual costs.

- Activities and/or programs to be studied - for each mandated program included, the time study must separately identify each reimbursable activity defined in the mandated program's parameters and guidelines, which are derived from the program's statement of decision. If a reimbursable activity in the parameters and guidelines identifies separate and distinct sub-activities, these sub-activities also must be treated as individual activities.

For example, sub-activities (a), (b), and (c) under reimbursable activity (B)(1) of the local agency's Domestic Violence Treatment Services: Authorization and Case Management Program, relate to information to be discussed during victim notification by the probation department and therefore are not separate and distinct activities. It is not necessary to separately study these sub-activities.

- Process used to accomplish each reimbursable activity - use flowcharts or similar analytical tools and/or written desk procedures to describe the process followed to complete each activity.
- Employee universe - the employee universe used in the time study must include all positions whose salaries and wages are to be allocated by means of the time study.
- Employee sample selection methodology - the plan must show that employees selected are representative of the employee universe and that the results can be reasonably projected to approximate actual costs. In addition, the employee sample size should be proportional to the variation in time spent to perform a task. The sample size should be larger for tasks with significant time variations.
- Time increments to be recorded - the time increments used should be sufficient to recognize the number of different activities performed and the dynamics of these responsibilities. Very large increments (such as one hour or more) can be used for employees performing only a few functions that change very slowly over time. Small increments (a number of minutes) can be used for employees performing more short-term tasks.

Random-moment sampling is not an acceptable alternative to continuous time records for mandated cost claims. Random-moment sampling techniques are most applicable in situations where employees perform many different types of activities on a variety of programs with small time increments throughout the fiscal year.

TIME STUDY DOCUMENTATION

Time studies must:

- Be supported by time records that are completed contemporaneously;
- Report activity on a daily basis;
- Be sufficiently detailed to reflect all mandated activities and/or programs performed during a specific time period; and
- Coincide with one or more pay periods.

Time records must be signed by the employee and be supported by documentation that validates that the work was actually performed. As with actual time reporting, budget estimates or other distribution percentages determined before services are performed do not qualify as valid time studies.

TIME STUDY RESULTS

Claimants must summarize time study results to show how the time study supports the costs claimed for each activity. Any variations from the procedures identified in the original time study plan must be documented and explained. Current-year costs must be used to prepare a time study. Claimants may project time study results to no more than two subsequent fiscal years. A claimant also may apply time study results retroactively to initial claims, current-year claims, and late-filed claims.

When projecting time study results, the claimant must certify that no significant changes have occurred between years in either (1) the requirements of each mandated program activity; or (2) the processes and procedures used to accomplish the activity. For all years, the claimant must maintain documentation that shows that the mandated activity was actually performed. Time study results used to support claims are subject to the record-keeping requirements for those claims.

Tab 5

RE: Entrance Meeting Follow-up

Tuesday, July 14, 2015 8:11 AM

Subject	RE: Entrance Meeting Follow-up
From	Gina Schwin-Whiteside
To	Arghestani, Amy; Kofi Antobam
Cc	Adriana Atteberry
Sent	Monday, July 13, 2015 5:04 PM

Good Afternoon:

Thank you for the follow-up email. I will be working on this list, this week. Tomorrow, I will be out of the office in the morning but back later in the afternoon. I will keep you posted on our progress.

Regards,

Gina

*Gina Schwin-Whiteside
Town of Apple Valley
Animal Services Department Manager
760-240-7000 Ext. 7061
760-247-6487 (Fax)*

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From: AArghestani@sco.ca.gov [<mailto:AArghestani@sco.ca.gov>]
Sent: Monday, July 13, 2015 11:43 AM
To: Kofi Antobam
Cc: Gina Schwin-Whiteside
Subject: Entrance Meeting Follow-up

Good morning Kofi,

Thank you again for meeting with us Tuesday of last week. I feel we made good progress on getting things started.

We also worked with Gina Tuesday through Thursday last week and she was able to provide us with many of the items that we needed. I wanted to touch base with you and Gina today to summarize what information is still outstanding. Please keep in mind that as we analyze the information we collected from our visit, we may be contacting you for additional documentation.

To date, the following is needed:

Time Studies

- Time study plans compiled for the following components: lost-and-found lists, maintaining non-medical records, and necessary and prompt veterinary care (1 study for the initial physical exam,

and 1 study for the administration of the wellness vaccines)

- We left Gina with a copy of the SCO's time study guidelines, and Gina will forward the time study plans to us for review prior to initiating the studies.
- Time studies initiated and carried out

Animal Census Data

- Animal Census Data for each fiscal year under audit in Microsoft Excel or Access files sorted by either intake or outcome date (all years should be consistent). Note: before leaving Thursday afternoon, Gina had received the data in Microsoft Excel format from IT. She will either be emailing the data to us or copying it to a CD/memory stick and mailing to us.

Feral Cat Testing

- The shelter no longer tests for feral cats; therefore, a time study cannot be performed for this reimbursable activity. However, during our visit, we were able to interview Josh Hall, who performed many of the feral cat tests during the audit period. Josh was very knowledgeable of the town's feral cat protocol and provided us with a detailed description of the feral cat testing procedures that took place. Gina also provided us with a copy of the town's feral cat assessment form. In order to determine allowable costs for the audit period, we will need supporting documentation of the number of cats that were actually given a feral cat assessment for each fiscal year of the audit period. Gina is working on providing this information.

Necessary & Prompt Veterinary Care

- Please provide itemized invoices for veterinary care provided by various animal hospitals. Since reimbursement for these costs is limited to a certain population of animals and also for specific services, we will need itemized invoices to determine what is eligible for reimbursement.
- Materials and supplies costs for wellness vaccines. We already discussed this item with Gina during our visit.

Salaries and Benefits

- Actual salaries and benefits paid to employees who provided care and maintenance to impounded animals for the audit period. This is typically provided to us in the form of a pay pivot table.
- Worksheets that support the productive hourly rate, including support for the benefit rates, for all employee classifications within the animal shelter/animal control department for the audit period.

That's about it for now. We didn't talk much last week about coming back for additional fieldwork. Actually, we may not need to visit again once we have the information we have already requested, particularly the animal census data. While we still have some questionnaires to complete, the tour that we took of the animal shelter last week was very informative. Gina also really gave us a good overview of what happens and who does what at the shelter.

If you have any questions or comments about anything at all, please do not hesitate to contact me.

Thanks again,

Amy Arghestani

Auditor
State Controller's Office

Time Study Plans

Monday, October 19, 2015 2:52 PM

Subject	Time Study Plans
From	Arghestani, Amy
To	'Gina Schwin-Whiteside'
Cc	'Adriana Atteberry'; kantobam@applevalley.org
Sent	Wednesday, October 14, 2015 9:05 AM

Hi Gina,

I wanted to touch base with you regarding the Town's time study plans. For this mandated program, the following components typically require a time study, either because the costs were not originally claimed or because the time claimed were based on estimates:

- Feral Cat Testing
- Lost and Found Lists
- Maintaining Non-Medical Records
- Necessary and Prompt Veterinary Care

As discussed during our visit, because the shelter no longer tests for feral cats, a time study cannot be performed for this reimbursable activity. However, during fieldwork, we were able to interview Josh Hall, who performed many of the feral cat tests during the audit period. Josh was very knowledgeable of the town's feral cat protocol and provided us with a detailed description of the feral cat testing procedures that took place. We were also provided with a copy of the town's feral cat assessment form. In order to determine allowable costs for the audit period, we will need supporting documentation of the number of cats that were actually given a feral cat assessment for each fiscal year of the audit period.

For each of the three remaining components listed above, the town will need to draft a time study plan and then carry out the time studies. We can advise you on the time study plans. Please contact me to discuss when the town will begin working on the time studies.

Thank you.

Amy Arghestani

Auditor
State Controller's Office
Division of Audits / Mandated Cost Audits Bureau
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AArghestani@sco.ca.gov

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Animal Adoption Audit Status

Thursday, March 03, 2016 7:56 AM

Subject	Animal Adoption Audit Status
From	Arghestani, Amy
To	'Gina Schwin-Whiteside'; 'Adriana Atteberry'
Cc	kantobam@applevalley.org
Sent	Monday, February 29, 2016 2:23 PM

Hello ladies,

It has been a while since we have been in touch. Checking in to see if Gina is done with or nearly done with her involvement in the animal cruelty case. We will need to pick back up on this audit and hopefully start the time studies. Please contact me.

Thank you.


Amy Arghestani

Auditor
State Controller's Office
Division of Audits / Mandated Cost Audits Bureau
Office: (916) 327-0490 / Fax: (916) 324-7223
AArghestani@sco.ca.gov

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Animal Adoption Audit Status

Tuesday, March 22, 2016 10:13 AM

Subject	Animal Adoption Audit Status
From	Venneman, Jim
To	kantobam@applevalley.org
Cc	gwhiteside@applevalley.org; AAtteberry@applevalley.org; Arghestani, Amy; Spano, Jim
Sent	Tuesday, March 15, 2016 4:55 PM
Attachments	 Apple Valley Audit Status

Hi Kofi,

Our audit of the city's Animal Adoption mandated cost claims began about nine months ago. Things seemed to be moving along rather steadily until the first part of January. Since then, I've noticed that the exchange of information between the animal shelter and my auditor, Amy Arghestani, have basically stopped, although I also understand that the Shelter Manager has been occupied with a court case in your area and that our audit, rightfully so, is a lower priority for the moment. However, it was our understanding that the court case was going to wrap up towards the end of January.

So, I thought it appropriate to draft up a status writeup of where things stand currently with our audit. That writeup is attached to this message. Please keep in mind that this is just a status writeup based on where things stand at the moment. Do not construe this information as our final positions for the audit.

I realize that we have been asking the city to provide additional information that was not provided with its claims and that some of this information may no longer be available for the period being audited. Still – we are willing to work with you to resolve these issues as they arise. There was some interest expressed earlier about performing time studies for some or all of the cost components that were not claimed. If that is still an option, we would like to move forward and work with you on those. There is also some information that was previously requested that we have not yet received.

I am asking these questions since the audit will be approaching the one year mark in a few months. If you believe that the effort involved to perform time studies is too much of an imposition on city staff or that providing additional information is putting an undue burden on city staff, please let me know. We can finalize the audit based on what we have so far and issue our report.

That said – please let me know what the city wants to do going forward with the audit. If possible, please respond by Friday of this week so that we can plan our upcoming audit work with city staff accordingly.

Thanks for your assistance,

Jim Venneman, CPA
Audit Manager
State Controller's Office
Division of Audits - Mandated Cost Audits Bureau
916.322.9887-Office | 916.708.5825-Cell
916.324.7223-Fax
jvenneman@sco.ca.gov

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Audit Status – March 15, 2016

Acquisition of Additional Space and/or Construction of New Facilities – The city claimed \$1,978,499 during the audit period under the cost component of Acquiring New Space and Facilities. Based on the information provided to date, all costs are unallowable as claimed.

First, reimbursement for this cost component is limited to the proportionate share of actual costs required to plan, design, acquire, and/or build facilities in a given fiscal year based on the pro-rata representation of impounded stray or abandoned dogs, cats, and other animals that are held during the increased holding period and either die during the increased holding period or are euthanized after the increased holding period to the total population of animals housed in the facility during the entire holding period.

Second, costs are reimbursable only to the extent that an eligible claimant submits documentation reflecting:

- A determination by the governing board that constructing new facilities is necessary for the increased holding period requirements of Statutes of 1998, Chapter 752 because the existing facilities do not reasonably accommodate impounded dogs, cats, or other animals that are ultimately euthanized. The determination shall include all of the following findings:
 - The average daily census of impounded stray or abandoned dogs, cats, and other animals that were impounded in 1998.
 - The average daily census of impounded stray or abandoned dogs, cats, and other animals that were impounded in a given year.
 - Existing facilities are not appropriately configured and/or equipped to comply with the increased holding period required by Statutes of 1998, Chapter 752.
 - Remodeling existing facilities is not feasible or is more expensive than constructing new facilities to comply with the increased holding period required by Statutes of 1998, Chapter 752.
 - Contracting with existing private or public shelters in the area to house the increase of impounded dogs, cats, and other animals specified in Statutes of 1998, Chapter 752 is not feasible or is more expensive than constructing new facilities.
- Documentation requirements may be satisfied in whole or in part by staff agenda items, staff reports, minutes of governing board meetings, transcripts of governing board meetings, certification by the governing board describing the findings and determination, and/or a resolution adopted by the governing board.

Information provided by the city to date documents that the city's animal shelter was constructed in FY 2007-08 through FY 2008-09 because of population growth, the existing shelter had only been a temporary solution, and taking on the project during a "down economy" would be more cost effective. Nothing has been provided so far that complies with the documentation requirements contained in the parameters and guidelines, as shown above.

Care and Maintenance of animals –

The city used the actual cost method to claim costs for this cost component of the mandated program. Per the parameters and guidelines, the statistics used to claim costs for care and maintenance of animals includes the following items:

- Total annual cost of care and maintenance at the facility, which includes labor, materials, supplies, indirect costs, and contract services.
- The average daily census of all animals housed at the facility, which is the average number of animals housed on any given day during a 365 day year.
- The yearly census of animals, which is the average daily census multiplied by 365.
- The cost per animal per day, which is the total cost of care divided by the yearly census of animals.
- The number of impounded stray or abandoned animals that died during the increased holding period or are ultimately euthanized. [We have determined that the phrase “died during the holding period” means animals that died of natural causes during the holding period and the term “ultimately euthanized” means animals that were euthanized after the required holding period.]
- The number of reimbursable days. The parameters and guidelines define the number of reimbursable days as the difference between three days from the day of capture, and four or six business days from the day after impoundment. [Note – based on this language, we have determined that the number of reimbursable days is 3 for dogs and cats and 6 for “other” animals.]

The city claimed \$146,175 for the care and maintenance of dogs and cats and \$7,058 for the care and maintenance of “other” animals during the audit period. These costs were calculated by taking total expenditures incurred within Department 2130 (Animal Shelter), subtracting costs for the Spay/Neuter Program (account 8988), and then adding in a 40% overhead factor for the M.S. Director and dividing the overall total of this calculation by the annual census of animals to determine the cost per animal per day. The cost per animal per day was then multiplied by the number of dogs and cats and “other” animals euthanized during the year. The number of dogs and cats euthanized during the year was multiplied by a factor of two to correspond to the number of extra days in the holding period and the number of “other” animals had been multiplied by a factor of four.

We have concerns with this methodology. First – using the total of costs incurred within the animal shelter less costs for the spay and neuter program assumes that all of the remaining costs were 100% related to the care and maintenance of animals. We believe that this is an incorrect assumption, as certain non-reimbursable activities take place within the animal shelter, such as animal licensing and adoption, as well as activities that are not related to care and maintenance, such as employee education and training, meetings and conferences, and office related expenditures. In addition, costs for veterinary medical services are claimable under a different cost component (Prompt and Necessary Veterinary Care).

We noted that a significant portion (around 75%) of annual costs incurred by the animal shelter were for employee salaries and benefits. The city provided duty statements for the Animal Shelter Supervisor, Registered Veterinary Technician, Animal Control Technician, Animal Shelter Attendant, and Animal Shelter Assistant. Except for the Animal Shelter Assistant, these duty statements indicate that shelter staff perform certain activities that are outside of the scope of animal care and maintenance activities. Some

of these activities are either reimbursable under other cost components of the mandated program and some are not reimbursable at all.

During the audit, the city has provided a lot of documentation supporting various supplies and materials costs that were incurred in the animal shelter for care and maintenance, animal census data, and employee duty statements. Still needed are the following:

- The percentage involvement of the various employee classifications within the animal shelter in animal care and maintenance activities.
- Productive hourly rates for staff that worked in the animal shelter, where such rates are based on the employee's actual salary amount plus employee benefits and the number of productive hours. The city provided hourly rate information for shelter staff, but did not support whether the rates are based on raw salary data, includes employee benefits, or how many productive hours were used to calculate the rates.
- Information from the city's payroll reports supporting the actual salary and benefit amounts paid to a sample of shelter staff during the audit period.

Holding Period

The city claimed \$124,477 during the audit period under the cost component of Increased Holding Period. Under this cost component, claimants are reimbursed for making animals available for owner redemption on either one weekday evening or on one weekend day. The city made animals available for owner redemption during the audit period by staying open to the public for six hours on Saturdays.

The city claimed costs for this cost component by using total shelter costs incurred in Department 2130 (Animal Shelter) less costs reported in account 8988 (Spay/Neuter Program). These revised total shelter costs were then divided by 2,912, a number described as "total hours of facility operations" in the city's claim. The resulting amount is described as the "cost per hour" to operate the entire shelter which was then multiplied by the number of hours that the city's shelter was open during the year on Saturdays (312) to calculate claimed costs.

We have concerns with this methodology. Using total costs incurred by the animal shelter (less spay and neutering costs) to determine an hourly amount to operate the animal shelter assumes that ALL of these remaining costs incurred to operate the shelter on Saturdays are reimbursable. However, this is not consistent with the mandated program requirements. For example, costs incurred for non-reimbursable activities such as animal licensing, adoption, and euthanasia are not reimbursable at any time. In addition, costs incurred for animal care and maintenance have already been claimed under that cost component and have not been factored out in the city's calculations for this cost component. In other words, the costs incurred for care and maintenance on Saturdays are being claimed a second time.

We believe that this cost component reimburses claimants for the extra costs incurred to make animals available for owner redemption on Saturdays, which is consistent with the language in the parameters and guidelines. Therefore, whatever extra staff that are on duty on Saturdays to perform this activity are reimbursable. However, the city has not yet provided this information to us. The city did provide staffing schedules for both fiscal years of the audit period. However, the schedules only name employees by first name. We would need payroll or some other kind of reports to determine the last names and the classifications of the staff listed.

Feral Cats, Lost and Found Lists, Maintaining Non-Medical Records, and Necessary and Prompt Veterinary Care

The city did not claim any costs under these three cost components, although the activities were performed during the audit period.

Feral Cats – the mandated program reimburses claimants for the costs incurred to verify whether or not a cat is feral or tame using a standardized procedure. While the city no longer performs feral cat tests at this time, such tests were performed during the audit period. The employee that performed these tests still works at the shelter and provided information that we can use to determine the amount of time required to perform the reimbursable activity. The employee also provided a description of the feral cat testing procedure and a sample of the assessment form. Still unknown, however, is the approximate number of feral cat tests that were performed during the audit period. The shelter's animal data software did not track cats designated as feral, potentially feral, or those given a test. However, shelter management believed that they could retrieve supporting documentation (the completed feral cat assessment forms) from storage. However, during the month of January, we were informed that all of the records had been destroyed per the town's retention schedule. Therefore, allowable costs cannot be determined for this component at this time. Perhaps shelter employees from that time period still working at the shelter can provide additional information that can solve this dilemma.

Lost and Found Lists – the mandated program reimburses claimants for the costs incurred to provide certain information to owners of lost animals and those who find lost animals. The five specific reimbursable activities are outlined in the program's parameters and guidelines. The city has submitted documentation showing that they performed the reimbursable activities, including flyers describing what to do if a pet is found, flyers listing websites with lost and found pages, flyers listing nearby shelters and animal hospitals, etc. Since the activities are repetitive in nature, they are appropriate for a time study to determine the time required to perform them and which employee classifications were involved. City management previously indicated interest in performing such a time study.

Maintaining Non-Medical Records – the mandated program reimburses claimants for the costs incurred to maintain non-medical records on animals that are taken up, euthanized after the holding period, or impounded. Experience with other animal shelters in the State revealed that shelters create such records when animals arrive at the shelter (regardless of their condition) and update the records when animals leave the shelter. Since the activities are repetitive in nature, they are appropriate for a time study to determine the time required to perform them and which employee classifications were involved. City management previously indicated interest in performing such a time study.

Necessary and Prompt Veterinary Care – the mandated program reimburses claimants for the costs incurred to provide necessary and prompt veterinary care for stray and abandoned animals, other than injured dogs and cats given emergency treatment, that die during the holding period or are ultimately euthanized, during the holding period. In other words, only the costs incurred for such animals during the animal's holding period are reimbursable. The reimbursable activities include the following:

- An initial physical exam to determine an animal's baseline health status and classify them as adoptable, treatable, or non-rehabilitatable.

- A wellness vaccine administered to treatable or adoptable animals.
- Veterinary care to stabilize and/or relieve the suffering of a treatable animal.
- Veterinary care intended to remedy any applicable disease, injury, or congenital or hereditary condition...

This cost component includes various exclusions of reimbursement for certain populations of animals and certain veterinary procedures. Please refer to the parameters and guidelines for this information.

Based on audits that we have conducted statewide, all animal shelters perform the first activity in the bullet point list above for living animals entering the shelter and provide wellness vaccines for dogs and cats. These activities are repetitive in nature and are appropriate for a time study to determine the amount of time required to perform them and the employee classifications involved. The city has already provided sufficient animal data to determine the number of animals involved.

The second two activities in the list above are not activities that are repetitive in nature. Costs incurred will need to be supported by sufficient documentation, which also need to indicate that the procedures were performed during the animal's holding period.

General note on time studies

If the city wishes to perform time studies for any of the cost components listed above, please let us know. We ask that the city draft a time study plan before conducting their time studies and share this information with us. We will review the plan only to ensure that the city is time studying reimbursable activities and that the method chosen appears appropriate. Such individual time studies do not need to be performed over a long period of time. We have found that a two or three week period is typically sufficient to provide enough information to support an activity that is performed in the shelter on an ongoing basis.

Fw: Animal Adoption Audit Status

Tuesday, March 22, 2016 10:16 AM

Subject	Fw: Animal Adoption Audit Status
From	Venneman, Jim
To	Arghestani, Amy
Sent	Friday, March 18, 2016 10:04 PM

Amy,

FYI.....

Jim Venneman, CPA
Audit Manager
State Controller's Office
Division of Audits - Mandated Cost Audits Bureau
916.322.9887-Office | 916.708.5825-Cell
916.324.7223-Fax
jvenneman@sco.ca.gov

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From: Venneman, Jim
Sent: Friday, March 18, 2016 4:52 PM
To: Kofi Antobam
Subject: RE: Animal Adoption Audit Status

Hi Kofi,

Thanks for getting back to me this morning. No problem – let me know in another day or two what you decide.

Thanks and have a great weekend,

Jim Venneman, CPA
Audit Manager
State Controller's Office
Division of Audits - Mandated Cost Audits Bureau
916.322.9887-Office | 916.708.5825-Cell
916.324.7223-Fax
jvenneman@sco.ca.gov

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From: Kofi Antobam [mailto:KAntobam@applevalley.org]
Sent: Friday, March 18, 2016 10:35 AM
To: Venneman, Jim <jvenneman@sco.ca.gov>
Subject: RE: Animal Adoption Audit Status

Good morning Jim,

Sorry for delay in response. It has been a hectic week here preparing our 2016-17 budget and various meetings here and there. I have not had the opportunity to meet with Gina and other staff involved in the audit yet. Please allow me to get back to you by next week, if that is ok.

Thank you,

Kofi Antobam, CPA, CIA, CFE, CGAP
Assistant Director of Finance
Town of Apple Valley
14955 Dale Evans Pkwy
Apple Valley, CA 92307
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From: jvenneman@sco.ca.gov [mailto:jvenneman@sco.ca.gov]
Sent: Tuesday, March 15, 2016 5:00 PM
To: Kofi Antobam
Subject: RE: Animal Adoption Audit Status

Sorry – I made an error with your email address. Let's try this again.....

Jim Venneman, CPA
Audit Manager
State Controller's Office
Division of Audits - Mandated Cost Audits Bureau
916.322.9887-Office | 916.708.5825-Cell
916.324.7223-Fax
jvenneman@sco.ca.gov

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From: Venneman, Jim
Sent: Tuesday, March 15, 2016 4:55 PM
To: 'kantobam@applevalley.org' <kantobam@applevalley.org>
Cc: 'gwhiteside@applevalley.org' <gwhiteside@applevalley.org>; 'AAtteberry@applevalley.org' <AAtteberry@applevalley.org>; Arghestani, Amy <AArghestani@sco.ca.gov>; jspano@sco.ca.gov
Subject: Animal Adoption Audit Status

Hi Kofi,

Our audit of the city's Animal Adoption mandated cost claims began about nine months ago. Things seemed to be moving along rather steadily until the first part of January. Since then, I've noticed that the exchange of information between the animal shelter and my auditor, Amy Arghestani, have basically stopped, although I also understand that the Shelter Manager has been occupied with a court case in your area and that our audit, rightfully so, is a lower priority for the moment. However, it was our understanding that the court case was going to wrap up towards the end of January.

So, I thought it appropriate to draft up a status writeup of where things stand currently with our audit. That writeup is attached to this message. Please keep in mind that this is just a status writeup based on where things stand at the moment. Do not construe this information as our final positions for the audit.

I realize that we have been asking the city to provide additional information that was not provided with its claims and that some of this information may no longer be available for the period being audited. Still – we are willing to work with you to resolve these issues as they arise. There was some interest expressed earlier about performing time studies for some or all of the cost components that were not claimed. If that is still an option, we would like to move forward and work with you on those. There is also some information that was previously requested that we have not yet received.

I am asking these questions since the audit will be approaching the one year mark in a few months. If you believe that the effort involved to perform time studies is too much of an imposition on city staff or that providing additional information is putting an undue burden on city staff, please let me know. We can finalize the audit based on what we have so far and issue our report.

That said – please let me know what the city wants to do going forward with the audit. If possible, please respond by Friday of this week so that we can plan our upcoming audit work with city staff accordingly.

Thanks for your assistance,

Jim Venneman, CPA
Audit Manager
State Controller's Office
Division of Audits - Mandated Cost Audits Bureau
916.322.9887-Office | 916.708.5825-Cell
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Animal Adoption Audit

Wednesday, March 30, 2016 7:54 AM

Subject	Animal Adoption Audit
From	Venneman, Jim
To	Kofi Antobam
Cc	gwhiteside@applevalley.org; AAtteberry@applevalley.org; Arghestani, Amy; Spano, Jim
Sent	Monday, March 28, 2016 12:19 PM

Good afternoon Kofi,

I'm following up today on the email message that I sent to you on March 15. In that email, I noted that city representatives were no longer responsive to documentation and information requests from my auditor, Amy Arghestani. I also attached a status writeup of the various outstanding issues for the audit from our end and requested a response by March 18 concerning the availability of additional supporting documentation and whether the city had interest in performing time studies to support costs that were not originally included in the city's claim. You replied to my message on March 18 and asked for a few additional days to coordinate with animal shelter staff. However, we have not received a response and I now need to move this audit forward. Our protocol is to finalize an audit within one year after the date of initial contact and that date is rapidly approaching.

At this point, I'm going to conclude that the city is not interested in performing time studies for the audit. Amy first mentioned time studies during the audit entrance conference on July 7, 2015. We are now almost nine months into the audit and have received no communication from anyone expressing any interest in performing time studies.

I've instructed Amy to finalize fieldwork this week and begin preparing our audit report. So far, we have identified allowable costs incurred for materials and supplies related to the care and maintenance of animals totaling \$4,486, costs incurred for procuring equipment totaling \$13,365, and software licensing costs totaling \$2,995. While we have identified allowable hours related to care and maintenance activities, we cannot calculate any allowable salaries and benefits costs due to the lack of city payroll information.

Amy will be contacting you soon to schedule an exit conference. If we receive any of the supporting documentation that Amy previously requested, we may be able to revise the audit findings as applicable.

If you have any questions or comments, please let me know.



Jim Venneman, CPA

Audit Manager
State Controller's Office
Division of Audits - Mandated Cost Audits Bureau
916.322.9887-Office | 916.708.5825-Cell
916.324.7223-Fax
jvenneman@sco.ca.gov

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Payroll Reports for Animal Shelter Staff

Monday, April 04, 2016 9:02 AM

Subject	Payroll Reports for Animal Shelter Staff
From	Kofi Antobam
To	Arghestani, Amy; Venneman, Jim
Cc	Adriana Atteberry; Gina Schwin-Whiteside
Sent	Wednesday, March 30, 2016 2:59 PM
Attachments	 Payroll 2007-08  Payroll 2006-07

Good afternoon Amy and Jim,

Based on our discussion earlier today, attached are the payroll reports that we have available for the 2006-07 and 2007-08 fiscal years. The Earnings History report has been redacted to only reflect Animal Services employees at the time and the totals does not include any benefits other than the employer share of Medicare. The hourly rates for Animal Services employees are highlighted in red on the Cost Recovery Spreadsheet. Please review and let me know if this will work or if you have any question.

Thank you,

Kofi Antobam, CPA, CIA, CFE, CGAP
Assistant Director of Finance
Town of Apple Valley
14955 Dale Evans Pkwy
Apple Valley, CA 92307
Phone: 760-240-7000 ext. 7701
kantobam@applevalley.org



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RE: Conference Call

Wednesday, March 30, 2016 2:40 PM

Subject	RE: Conference Call
From	Venneman, Jim
To	Kofi Antobam
Cc	Arghestani, Amy
Sent	Wednesday, March 30, 2016 1:09 PM

Hi Kofi,

2:15 it is. See you then.

Thanks,

Jim Venneman, CPA
Audit Manager
State Controller's Office
Division of Audits - Mandated Cost Audits Bureau
916.322.9887-Office | 916.708.5825-Cell
916.324.7223-Fax
jvenneman@sco.ca.gov

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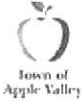
From: Kofi Antobam [<mailto:KAntobam@applevalley.org>]
Sent: Wednesday, March 30, 2016 12:54 PM
To: Venneman, Jim <jvenneman@sco.ca.gov>
Subject: RE: Conference Call

Hello Jim,

Can we talk at 2:15 instead since I will be wrapping up another meeting at 2?

Thanks,

Kofi Antobam, CPA, CIA, CFE, CGAP
Assistant Director of Finance
Town of Apple Valley
14955 Dale Evans Pkwy
Apple Valley, CA 92307
Phone: 760-240-7000 ext. 7701
kantobam@applevalley.org



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From: jvenneman@sco.ca.gov [mailto:jvenneman@sco.ca.gov]

Sent: Wednesday, March 30, 2016 12:34 PM

To: Kofi Antobam

Cc: AArghestani@sco.ca.gov

Subject: Conference Call

Hi Kofi,

I got your voice message. If you are available at 2:00 this afternoon, let's have a discussion over the phone about how best to proceed going forward. If that time is not convenient, please let me know another time that would work better for you.



Thanks,

Jim Venneman, CPA
Audit Manager
State Controller's Office
Division of Audits - Mandated Cost Audits Bureau
916.322.9887-Office | 916.708.5825-Cell
916.324.7223-Fax
jvenneman@sco.ca.gov

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Maintaining Non-Medical Records Time Study

Thursday, April 07, 2016 11:38 AM

Subject	Maintaining Non-Medical Records Time Study
From	Arghestani, Amy
To	'Adriana Atteberry'
Cc	'Gina Schwin-Whiteside'; kantobam@applevalley.org
Sent	Wednesday, April 06, 2016 4:04 PM
Attachments	 timestudyguidelines  Maintaining Non-M...

Hi Adriana,

Per our conversation, attached please find the State Controller's Office Time Study Guidelines document. Also attached is a sample time study plan for the Maintaining Non-Medical Records cost component. This is only a sample for you to use as a guide. Please type up your own time study plan and tailor it to suit your shelter. Please submit your plan to us by this Friday afternoon so that we can review it to make sure you are on the right track. If changes need to be made, we will need enough time to discuss that and then make the changes in time for you to begin the time study Tuesday morning. As discussed, the time study will need to be carried out over two consecutive weeks. So if the time study begins on Tuesday, April 12, it will need to be carried out through Monday, April 25. Once the time study is complete, we ask that you submit the time study logs and compile your results into an Excel spreadsheet.

Please let me know if you have any questions.

Amy Arghestani

Auditor
State Controller's Office
Division of Audits / Mandated Cost Audits Bureau
Office: (916) 327-0490 / Fax: (916) 324-7223
AArghestani@sco.ca.gov

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COUNTY OF [REDACTED]

ANIMAL ADOPTION (Maintaining Non-Medical Records)
TIME STUDY PLAN

This document contains [REDACTED] County's plan for conducting a time study of the maintaining non-medical records component of the Animal Adoption state mandated local program. This plan is organized in the following three sections:

Section 1 – Plan Overview

This section contains the general information that is applicable to the study of the Animal

Maintaining Non-Medical Records Time Study Plan

Tuesday, April 12, 2016 1:25 PM

Subject	Maintaining Non-Medical Records Time Study Plan
From	Arghestani, Amy
To	'Adriana Atteberry'; 'Gina Schwin-Whiteside'
Cc	kantobam@applevalley.org
Sent	Friday, April 08, 2016 2:17 PM

Hi Adriana,

Just checking in to see how the time study plan is going and see if you have any questions. I will be leaving the office at 3:30 today. Do you think you will have it ready for review before then? If not, Monday morning will be fine as well, but we will have to review it and then get back to you so that you have enough time to edit it if necessary. You will also have to allow enough time to brief your staff who will be participating in the time study before Tuesday morning.

Please advise. Thank you.

Amy Arghestani

Auditor
State Controller's Office
Division of Audits / Mandated Cost Audits Bureau
Office: (916) 327-0490 / Fax: (916) 324-7223
AArghestani@sco.ca.gov

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Indirect Costs

Tuesday, April 12, 2016 1:28 PM

Subject	Indirect Costs
From	Arghestani, Amy
To	kantobam@applevalley.org
Sent	Tuesday, April 12, 2016 8:59 AM

Good morning Kofi,

Do you have a moment today to discuss the Indirect Cost portion of this audit? My schedule is flexible.

Basically, the town did not claim indirect costs for the audit period, as salaries and benefits were not claimed. Rather, the town's mandated cost consultant group all claimed costs under "services and supplies". As a result of our audit, we have determined allowable salaries and benefits. Therefore, we will also have to determine allowable indirect costs. Per this program's parameters and guidelines, there are a couple of options available to determine allowable indirect costs.

Please let me know when you are available to speak. Thank you.

Amy Arghestani

Auditor
State Controller's Office
Division of Audits / Mandated Cost Audits Bureau
Office: (916) 327-0490 / Fax: (916) 324-7223
AArghestani@sco.ca.gov

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Exit Conference Date

Wednesday, April 13, 2016 1:13 PM

Subject	Exit Conference Date
From	Arghestani, Amy
To	kantobam@applevalley.org
Cc	Venneman, Jim
Sent	Wednesday, April 13, 2016 11:50 AM

Hello Kofi,

For the exit conference, Thursday, May 5th at 11:00 a.m. works for us. I will go ahead and mark that on our schedule. We will initiate the call- is your desk number the number we should call?

A few days prior to the exit conference, we will send a copy of the exit conference handout, which will detail the audit findings.

Please let me know if you have any questions. Thank you for your assistance.

Amy Arghestani

Auditor
State Controller's Office
Division of Audits / Mandated Cost Audits Bureau
Office: (916) 327-0490 / Fax: (916) 324-7223
AArghestani@sco.ca.gov

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Exit Conference Dates

Wednesday, April 13, 2016 1:12 PM

Subject	Exit Conference Dates
From	Arghestani, Amy
To	kantobam@applevalley.org
Sent	Wednesday, April 13, 2016 8:37 AM

Good morning Kofi,

I received your voicemail from late yesterday regarding exit conference dates. Though we originally had discussed the week of April 25th being better than the week of May 2nd for picking an exit conference date, it looks like the shelter staff will not be available that week. Therefore, you have proposed May 5th at 11:00 a.m. Let me run this date by Jim Venneman, the audit manager and I will get back to you.

Thank you.


Amy Arghestani

Auditor
State Controller's Office
Division of Audits / Mandated Cost Audits Bureau
Office: (916) 327-0490 / Fax: (916) 324-7223
AArghestani@sco.ca.gov

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Non-Medical Records Time Study - Preliminary Results

Monday, May 02, 2016 1:06 PM

Subject	Non-Medical Records Time Study - Preliminary Results
From	Arghestani, Amy
To	'Adriana Atteberry'
Cc	kantobam@applevalley.org; 'Gina Schwin-Whiteside'
Sent	Thursday, April 28, 2016 3:32 PM
Attachments	 Maintaining Non-Medi...

Good afternoon Adriana,

I wanted to thank you for your assistance in completing the time study and compiling the results. Attached is the preliminary analysis of the time study results. There are three tabs to the spreadsheet- the first is the original data that was submitted to us; the second tab is the analysis that we completed along with the questions and issues that you and I worked out; and the third tab contains the revised results, which show an average of 3.51 minutes for an Intake entry and 4.55 for an Outcome entry. The town did not originally claim any costs for this component at all. After the completion of the time study, we found that the town incurred a total of \$60,242 in allowable salary and benefit costs for the audit period. A final and more detailed finding narrative will be provided next week before the exit conference. I just wanted to share these results with you.

Thanks again.





Amy Arghestani

Auditor
State Controller's Office
Division of Audits / Mandated Cost Audits Bureau
Office: (916) 327-0490 / Fax: (916) 324-7223
AArghestani@sco.ca.gov

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Exit Conference Information

Wednesday, May 04, 2016 1:10 PM

Subject	Exit Conference Information
From	Arghestani, Amy
To	kantobam@applevalley.org; 'Gina Schwin-Whiteside'; 'Adriana Atteberry'
Cc	Venneman, Jim
Sent	Wednesday, May 04, 2016 9:40 AM
Attachments	 Exit Conferen...  Findings and Reco...  Schedule 1  Schedule 2  Exit Conferen...

Good morning,

In advance of our exit conference scheduled for tomorrow at 11:00 a.m., I am sending you an Exit Conference Information Sheet, a pre-exit status handout (titled Findings and Recommendations), along with a Schedule 1 and a Schedule 2. The Schedule 1 provides a year-by-year breakdown of claimed, allowable, and unallowable costs. The Schedule 2 provides a year-by-year summary of care and maintenance costs. These attached documents will present all of the various findings that we have identified during the audit. We wanted to give the town the opportunity to review the handout prior to tomorrow's meeting.

Also attached is an Exit Conference Sign-In Sheet. Please have the attendees at tomorrow's conference sign and date the sign-in sheet and then scan an email back to us. Please advise as to which phone number we should call tomorrow to initiate the exit conference.

Please contact me with any questions.










Thank you.

Amy Arghestani

Auditor

RE: Exit Conference To-Do Lists

Wednesday, May 11, 2016 8:10 AM

Subject	RE: Exit Conference To-Do Lists
From	Venneman, Jim
To	Gina Schwin-Whiteside
Cc	Arghestani, Amy
Sent	Friday, May 06, 2016 5:36 PM
Attachments	 A.7.1 Revised Care and ...  G.7.1 Apple Valley - H...  G.10.2 Apple Valley - N...  G.13.1 Analysis of Productiv...  G.15.3 Analysis of Animal St...  G.15.4 Analysis of Animal St...  Apple Valley - FY 2...  A.7.2 Apple Valley Re...  Apple Valley - FY 2...

Hi Gina,

As discussed yesterday, here are the documents that we agreed to provide:

- The analysis of care and maintenance costs – revised today to include utility costs for FY 2007-08. Allowable care and

25

maintenance costs increased by \$925.

- The analysis of Increased Holding Period costs
- The analysis of Non-Medical Records costs
- The analysis of productive hourly rates
- Animal database statistics and analysis for FY 2007-08 and FY 2008-09
- The invoice supporting FY 2008-09 costs for the stainless steel cages
- The revised Schedule 1 – after updating care and maintenance costs
- The Earnings By History GL Report for FY 2007-08 – provided by Kofi

As for some of the other items that we talked about, here is an update.

- We re-visited the percentages of staff involvement for care and maintenance and decided to stick with the percentages that we presented during yesterday's meeting.
- My apologies, as I misspoke yesterday about accepting a time study for Lost and Found Lists. After discussing this audit with upper management today, we would need to re-open fieldwork in order to adequately review any time study results.
- The same thing for an Indirect Cost Rate Proposal. The 10% option that we used to determine allowable indirect costs is an acceptable method allowable per the program's Parameters and Guidelines. In addition, we spoke to Kofi at some length about this and agreed together to use the 10% flat rate option.

We realize your positions on these three issues. You can include your objections and/or any additional information about these issues in your response to the draft report. The report may be issued in 3-4 weeks from today.

In the meantime, if you have any questions or comments about this, please let me or Amy know.

Thanks and have a good weekend,

Jim Venneman, CPA
Audit Manager
State Controller's Office
Division of Audits - Mandated Cost Audits Bureau
916.322.9887-Office | 916.708.5825-Cell
916.324.7223-Fax
jvenneman@sco.ca.gov

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From: Gina Schwin-Whiteside [<mailto:gwhiteside@applevalley.org>]
Sent: Thursday, May 05, 2016 5:55 PM
To: Venneman, Jim <jvenneman@sco.ca.gov>
Cc: Arghestani, Amy <AArghestani@sco.ca.gov>; Kofi Antobam <KAntobam@applevalley.org>; Adriana Atteberry <AAtteberry@applevalley.org>; 'ACHinnCRS@aol.com' <ACHinnCRS@aol.com>
Subject: RE: Exit Conference To-Do Lists

Jim,

Thank you for the follow-up e-mail . Thank you all for taking time out of your busy schedules so we can get these claims finalized.

Regards,

Gina Whiteside
Director of Animal Services

From: jvenneman@sco.ca.gov [<mailto:jvenneman@sco.ca.gov>]
Sent: Thursday, May 05, 2016 4:36 PM
To: Gina Schwin-Whiteside
Cc: AArghestani@sco.ca.gov; Kofi Antobam; Adriana Atteberry
Subject: Exit Conference To-Do Lists

26

Hi Gina,

Thanks for your assistance with today's exit conference. Based on our discussion today, here is the list that I put together of who is going to do what from this point until the final report is issued.....

We are going to provide:

- Details of our allowable cost calculations for Care & Maintenance, Increased Holding Period, and Maintaining Non-Medical Records.
- Details of our productive hourly rate calculations – including the town's Earnings History by GL Number Report that we used for the calculations.
- Our spreadsheets showing how the animal data was sorted and used
- A copy of the invoice from FY 2008-09 that was provided for the stainless steel cages
- We are going to revise the allowable costs to include an allocation of utility costs applicable to FY 2007 -08 using utility cost data for FY 2008-09 and then adjusted based on animal census data. We will send you the allowable amounts once we have completed the analysis in the next day or two.
- We will take a look at the original email that documents your original estimate of staff time spent on care and maintenance activities and then re-visit this issue with you.

You are going to provide:

- Saturday logs from the audit period showing time spent by Animal Control Officers in the shelter along with an explanation of what they were doing.
- An Indirect Cost Rate Proposal for FY 2007-08 and FY 2008-09, if the applicable expenditure information from those years can be found.
- A completed time study for Lost and Found Lists activities. {Note – time study results must be submitted to us prior to the issuance of our audit report. Any information submitted to us after that date supporting allowable costs will not be considered.}
- An invoice from FY 2007-08 supporting costs incurred for stainless steel cages, if it can be located.

That's it as far as my list is concerned. If I am missing something, please let me know. We should be able to provide most of the information from our list sometime tomorrow. In addition, if any other information is available that you believe supports allowable costs, please send it to us and we will take a look at it.

Thanks,

Jim Venneman, CPA
Audit Manager
State Controller's Office
Division of Audits - Mandated Cost Audits Bureau
916.322.9887-Office | 916.708.5825-Cell
916.324.7223-Fax
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Tab 6

Town of Apple Valley
 Legislatively Mandated Animal Adoption Program
 Phone Log
 Audit ID #: S15-MCC-0033

Date of Phone Conversation	Brief Description
----------------------------	-------------------

Initial Contact - Spoke with Christine Ridsell, Executive Secretary, regarding setting an entrance conference date for either June 30, 2015 or July 7, 2015. Christine took notes and will forward to Kofi Antobam, Asst. Director of Finance. She also gave me Mr. Antobam's email address.

06/08/15

Copies of claims - Mr. Antobam called asking if we could please forward copies of the claims filed for FY 2007-08 and FY 2008-09. There has been turnover at the town since they were first filed. Also, many versions were filed and he's confused as to which ones they have and do not have. AIC agreed to email the PDF files of both the original claims and the amended claims for both years. AIC also asked if the town was still contracting with the same mandated cost consultant; Mr. Antobam said yes. He indicated that the consultant has a conflict on her calendar and cannot attend the entrance conference in person, but may attend by phone. There will probably be a total of five people at the entrance conference.

06/25/15

Requested documents and audit status - Asst. Director of Finance, Kofi Antobam, contacts AIC. Kofi advised that he had just emailed the requested copies of the town's cash handling policy and employee procedures manual for the inquiries of fraud portion of this audit. Kofi also apologized for not responding sooner, as it has been hectic. He has had auditors on site, was dealing with year-end close-out, and his Accountant I was on medical leave, and the temporary replacement for that position resigned. AIC also advised Kofi that the town's mandated cost consultant, Annette Chinn, had left a voicemail wanting to know the status of the audit and also requested a copy of the FY 2007-08 claim. AIC asked how the town would like us to proceed with the consultant's requests. Kofi said the consultant should be contacting the town directly, and not the SCO, as the consultant is contracted with the town. He said he would advise the consultant of this. He also said if the town wants the consultant to communicate with us, he will advise us of that ahead of time.

09/10/15

Animal Data / Care & Maintenance / Time Studies - AIC calls and speaks with Adriana Atteberry regarding: 1). AIC's September 8, 2015 request for the town to clear up discrepancies in the animal data submitted so that we can proceed with filtering the data for the different components of this program. Adriana said she had finished clearing up the discrepancies for FY 2007-08, and had started working on FY 2008-09. She said it has taken so long because she has to go back into the old system to research. Adriana said she would have the corrected data to us by Thursday, October 1st. 2). AIC also asked for an update on the previously requested expenditure reports and invoices for the C&M component. Adriana said they were not able to retrieve invoices for FY 2007-08, as this is the year the town changed software and the record retention has passed. She has submitted a request for records for FY 2008-09. Since Fiscal Services has these records, she had to submit a request to Kofi Antobam. 3). AIC also told Adriana that we would need to speak with Gina Schwin-Whiteside (Animal Services Manager) in a few weeks to discuss a schedule for the town to conduct their time studies.

09/29/15

Care & Maintenance / Time Studies- AIC calls and leaves a voicemail message for Adriana Atteberry to follow up on two emails sent to the town on October 14th regarding documentation for the care and maintenance component and initiating time studies.

10/26/15

Care & Maintenance / Time Studies- AIC calls to follow up on the voicemail indicated above. AIC speaks with Adriana Atteberry, who says she will email the expenditure reports for the two fiscal years and also follow-up with the animal services manager to see if they were able to obtain the payroll reports yet. AIC also once again requests that the animal services manager call to discuss coming up with a schedule to conduct the time studies. Adriana says she will have the manager call.

10/29/30

Care & Maintenance, Payroll Reports, and Audit Status- AIC schedules a telephone conference with Adriana Atteberry, Administrative Secretary to Gina Whiteside, Animal Care Manager. AIC discusses with Adriana when Gina will return to full duty. Adriana explained that a lot of Gina's time has been taken up by a 15-count animal cruelty case, which is with the DA. Gina has been interviewing with the DA and helping to build the case, which goes to trial in January. Adriana expects that Gina's duties with the case will begin to wind down some time in January. Adriana has been filling in for Gina when possible. AIC also discussed the remaining items that are needed to wrap up the care and maintenance component (animal control expenses, utilities expenses, invoices for certain items, designation of % of C&M per classification, and payroll reports). AIC stressed the importance of receiving these items, as the audit has been open for six months. Adriana indicated she would submit the items (except for payroll reports) by the end of the week. AIC also sent a follow-up email to Kofi Antobam, the Asst. Director of Finance and main contact for the audit.

12/14/15

Audit Status: Kofi Antobam, Asst. Director of Finance, calls AIC. Mr. Antobam says he just left voicemail for audit manager in response to the latest email that manager sent on March 28 regarding audit status and concluding the audit. Mr. Antobam says he has not responded to manager's emails because he has been very busy with year-end reports and other items. He also says shelter staff has been busy with some sort of pet fair. He says he has been in contact with shelter staff and they were under the impression that the SCO would be providing staff with a form to complete for the time study plans and they have been waiting for us. AIC said no, we do not have such a thing and cannot write the plan for the town. We had indicated that we could provide guidance once their plan was written and let them know if they are on the right track or not. We also indicated we had been in contact with staff on numerous occasions requesting that the town begin their time study plans and initiate the time studies. Mr. Antobam wanted to know if they could start the time studies now. AIC said it was the audit manager's intention to move forward with closing the audit and he would have to speak with the manager. Mr. Antobam then asked didn't the shelter staff recently email the percent of care and maintenance per classification? AIC said yes, they had, but that was in response to an email we had originally sent back in November and have since tried to follow up with staff on numerous occasions. AIC said this is just one of the many pieces of information that we have requested over the last nine months. Mr. Antobam then indicated they have not sent payroll reports yet because they have been waiting on the payroll department. He said there are also record retention issues. He asked if what we are looking for are timesheets? AIC replied no, we have asked on numerous occasions for payroll reports, which include employee names, classifications, yearly salary, employer-paid benefits, and hours worked. He then indicated that they may be able to produce payroll reports for one of the audit years, but they cannot separate out shelter staff from the rest of the town's staff and would have to spend a lot of time redacting out information. AIC indicated we have made numerous requests for this information and the town has had plenty of time. AIC said if the town is concerned with sensitive information contained in the payroll reports, we have a secure SFTP site where the town can upload the reports and that we have expressed this in an email to the town. AIC said if the town does have one fiscal year of good payroll information, then we can work with that and come up with a methodology for determining allowable PHR's for the year that is missing (using the CPI). We concluded the call with Mr. Antobam requesting that the Audit Manager return his call.

03/29/16

Audit Status: Audit Manager and AIC call Kofi Antobam, Asst. Director of Finance, Re audit status. Mr. Antobam asks if there is still time to perform time studies. Audit Manager says that time is running short, as an exit conference has to be scheduled, a draft report issued, a response to the draft, and then a final report. However, in between this time, if the town chooses, the time study that would give the town the most mileage would be the Maintaining Non-Medical Records time study, as this activity takes place every day, all day. However, the town would have to come up with a time study plan and it is suggested that they have the AIC review the plan before performing the time study. Mr. Antobam indicated that he would talk with shelter staff to see if this is something they could get done. The shelter has an event this weekend, but either he or the shelter manager will get back to us on Monday. Mr. Antobam then indicated that he was able to find salary information for one of the audit years. The information was found in the desk of a former employee who processed payroll information. The documentation lists total salaries paid by employee; attached to it is an excel spreadsheet listing productive hourly rates. He is not sure if the salaries listed include benefits or not. Audit Manager suggested he email to us what he has so we can see if it is sufficient. Mr. Antobam said he would email the information to AIC right after the phone conference. Mr. Antobam also explained during the conversation that the town uses a different system than it had during the audit period. Also, their retention policy is only seven years. Audit Manager explained that their consultant should have advised them to keep all records in case of an audit.

03/30/16

Audit Status: AIC phones Asst. Director of Finance at 3:15 p.m. and leaves a voicemail message stating we need to follow up on conversations from 3/30/16 regarding the payroll information that the town sent and also to see if the shelter staff has decided to conduct the maintaining non-medical records time study.

04/04/16

Audit Status: AIC calls Asst. Dir. Of Finance to discuss audit. Mr. Antobam is going to follow up on the following Sal. & Ben. Items: 1). Does the FY 2007-08 Earnings History by GL report include employer paid portion of Medicare? 2). Is there also a similar report for FY 2008-09? 3). are the salaries showing paid from the 2120 (Animal Control) account or the 2130 (Animal Shelter) account? 4). the report does not provide the hours worked; for those employees who are not fulltime, we will need to know their FTEs. We also discussed the shelter conducting a time study for the maintaining non-medical records cost component. Mr. Antobam said they do want to perform the time study, but have questions on how to go about doing it. Based on this, they may or may not decide to go ahead and perform the time study. Mr. Antobam requested that AIC call the shelter and describe to them the process and involvement. Mr. Antobam also said he would resolve the salary and benefit questions this morning and get back to me ASAP.

04/06/16

Payroll/Salaries and Benefits: AIC has telephone conference with Asst. Director of Finance to clarify issues with actual salaries and benefits for C&M component, productive hourly rate calculations, and benefit rate calculations. Issues arose because the town could only provide payroll information for FY 2007-08. This information was in the form of an Earnings History by GL# report and was not comprehensive like a typical payroll report would be. Also, the town did not claim salaries and benefits in their cost claims. Mr. Antobam later called back with answers to the issues after speaking with payroll and researching personnel files.

04/07/16

Indirect Costs /Exit Conference Dates: AIC telephones Asst. Dir. Of Finance to discuss indirect cost options. AIC explains that the town did not claim salaries and benefits for the audit period and therefore did not claim indirect costs. However, as a result of our audit, we have identified allowable salaries and benefits; therefore we will have to determine allowable indirect costs. AIC explained that per this program's parameters and guidelines, there are two options. The town can provide its ICRP for the audit period and we can determine allowable indirect costs by applying the indirect cost rate identified in the plan to allowable salaries and benefits, or we can apply a flat 10% to allowable salaries. Kofi decided that due to the town's record retention issues and unavailability of supporting documentation, that using the flat 10% would be the best option. AIC also discussed possible exit conference dates: the week of April 25th or the week of May 2nd. Mr. Antobam said the week of April 25th would be better for him. He will contact the shelter staff to see what date works best for them and then get back to us.

04/12/16

Non-Medical Records Time Study: AIC speaks with Adriana Atteberry, Administrative Assistant, regarding the time study. AIC asks Adriana to compile the time study results onto an Excel spreadsheet, separated by Intake/Outcome, then separated by name and classification. AIC asks for the results through Sunday, April 24th. AIC says there appears to be enough results and the shelter can stop the time study after today (Monday). Adriana says she can have the results compiled by Tuesday afternoon (April 26).

04/25/16

Tab 7

Began talking about new animal shelter in early 2005

2. Public Facilities Priorities

Patty Saady, Deputy Town Manager, gave a power point presentation and stated that Apple Valley has experienced a population growth. Construction of Town Hall was completed in 2002. It was intended to house all existing staff and the police department, but is nearing capacity. Municipal Services has been relocated to the newly completed Police and Code Enforcement building. At the end of the calendar year, we anticipate that there will be no room for growth. The Town owns 2.2 acres at the southwest corner of Civic Center Park, stated Ms. Saady. The existing animal shelter was always a temporary solution. On Tuesday, the Council approved purchase of 7 acres of industrial property on Navajo Road that staff is considering for a new public works facility, and then we can use the existing public works for an animal shelter. Both the existing public works and animal shelter are located in RDA 2. The new land (public works facility) is in close proximity to RDA 2. Both facilities could be designed and constructed using RDA funds. It is critical to begin the Town Hall expansion process now and include funding in the 2007/08 budget cycle, or we will have to rent space. Financially, it makes sense to begin the process. Mayor Pro-Tem Jasper asked, and Ms. Saady replied, that we like to build facilities with a 20 year life that will provide for expansion. Staff would like to bring plans forward to the Council, prior to July 1, for adoption. Councilman Sagona asked, and Ms. Saady replied, that expansion of the existing Town Hall is not efficient. The building was not constructed with the idea of building up. Once we have hired an architect and are in the planning stage, Mayor Pro-Tem Jasper suggested setting up a Council ad hoc committee to provide guidance.

There is no funding currently available for a new Community Center, but there are plans on the shelf for a combined Community Center and Aquatics Center. Staff recommends combining into one multi-use building for savings in both construction and operation.

CONSENSUS: Council directed staff to proceed with an RFP for architectural design of Town Hall expansion, Public Works, Animal Shelter, Community/Aquatics Multi-Use Center and discuss formation of an ad hoc Council committee.

3. General Plan Overview

Lori Lamson, Assistant Director of Community Development stated that the General Plan is a legal requirement and an expression of what the community wants. It's also a guide to decision making and creates the future of the community. Council direction is needed on whether or not to annex or pre-zone sphere areas and proceed with a Habitat Conservation Plan. The first task is coming up with a preferred land plan. One way to alleviate problems with the County is to pre-zone land in our sphere of influence area, stated Ms. Lamson. Development is piece-meal in the sphere and staff feels this is an appropriate way to address issues county residents have. In response to Councilman Nassif's question, Ms. Lamson replied that if the County keeps to their policy it will honor pre-zoning. Mayor Roelle suggested a complete annexation of the Town's Sphere of Influence. Ms. Lamson replied that pre-zoning would protect densities and land use, as would annexing and providing services to that area. Mayor Pro-Tem Jasper questioned why we are not pre-zoning the entire sphere of influence. There is not that much development east of Milpass, stated Ms. Lamson and there is a lot of BLM property in the sphere area that will be protected one way or another. Mayor Pro-Tem Jasper still felt that everything but BLM property

Tab 8

**TOWN OF
APPLE VALLEY, CALIFORNIA**

AGENDA MATTER

Subject Item:

AWARD OF PROFESSIONAL SERVICES AGREEMENTS FOR DESIGN SERVICES TO DOUGHERTY & DOUGHERTY ARCHITECTS, LLP, FOR DESIGN OF THE TOWN HALL EXPANSION; ADRIAN GAUS ARCHITECTS, INC., (FOR AC-6 ARCHITECT COLLABORATIVE) FOR DESIGN OF THE PUBLIC WORKS FACILITY; AND, WALD, RUHNKE & DOST ARCHITECTS LLP FOR DESIGN OF THE ANIMAL SHELTER FACILITY

SUMMARY STATEMENT

At the 2007 edition of the Council/Staff strategic planning and goal-setting workshop, Council received a presentation from staff regarding the Town's future space needs. After extensive discussion, the Town Council took several related actions, including the following:

—Authorized staff to proceed with the development and issuance of a Request For Proposals/Request For Qualifications (RFP/RFQ) for the purpose of retaining architectural firms for the design of a Town Hall Expansion Facility, Public Works/Corporate Yard and new Animal Shelter Facility; and,

—Authorized staff to commence the process of issuing redevelopment tax allocation bonds for the Publics Works and Animal Shelter facilities and Certificates of Participation for the Town Hall expansion facility

As a result of the above actions and direction by Council, staff developed and issued on April 2, 2007 an RFP/RFQ document for all three facilities for the purpose of recruiting and recommending for selection architectural and engineering firms for all three facilities.

Recommended Action:

1. That the Town Council award the attached Professional Services Agreement for design services related to the Town Hall Expansion Facility to Dougherty & Dougherty Architects LLP in the amount of \$810,560 and authorize its execution; and,
2. That the Town Council award the attached Professional Services Agreement for design services related the Public Works Facility to Adrian Gaus Architects, Inc., (for AC-6 Architect Collaborative) in the amount of \$579,700 and authorize its execution; and
- 3. That the Town Council award the attached Professional Services Agreement for design services related to the Animal Shelter Facility to Wald, Ruhnke & Dost Architects LLP in the amount of \$670,000 and authorize its execution.
4. That the Town Council authorize and direct staff to develop and issue a Request For Proposals/Request For Qualifications (RFP/RFQ) for construction management services for the Town Hall Expansion, Public Works/Corporate Yard Facility and Animal Shelter Facility as described herein.

Proposed by: Director of Economic & Community Development Item Number _____

T. M. Approval: _____ Budgeted Item Yes No N/A

Council Meeting Date: 07/10/07

15-1

Patty Hevle, Deputy Town Clerk, read the title to Ordinance No. 353:

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF APPLE VALLEY, CALIFORNIA, AMENDING TITLE 9 "DEVELOPMENT CODE" OF THE TOWN OF APPLE VALLEY MUNICIPAL CODE, BY AMENDING CHAPTER 9.77 AS IT RELATES TO MODIFYING THE REQUIREMENTS FOR WIRELESS TELECOMMUNICATION TOWERS AND ANTENNAS, SPECIFICALLY COLLOCATION FACILITIES, SO THAT IT IS CONSISTENT WITH STATE LAW.

MOTION:

Motion by Councilman Allan, seconded by Mayor Pro Tem Jasper to

5. **Introduce** Ordinance No. 353, amending Chapter 9.77 as it relates to modifying the requirements for wireless telecommunication towers and antennas, specifically collocation facilities, so that it is consistent with State law.
6. **Direct** staff to file a Notice of Exemption.
7. **Initiate** a Development Code Amendment -- General Plan Amendment to clarify the intent of the General Commercial (C-G) land use designation by modifying the description.

Vote: Motion carried 5-0-0.

Yes: Councilman Allan; Councilman Nassif; Councilman Sagona; Mayor Pro Tem Jasper; Mayor Roelle.

LEGISLATIVE MATTERS

14. Vacancy on the Planning Commission due to an Unscheduled Vacancy

Mayor Pro Tem Jasper made a motion, seconded by Councilman Sagona, to nominate Richard Allen to the Planning Commission.

Roll Call Vote: Motion carried 5-0-0.

Ayes: Councilman Allan; Councilman Nassif; Councilman Sagona; Mayor Pro Tem Jasper; Mayor Roelle.

REPORTS, REQUESTS AND COMMUNICATIONS

BUSINESS OF THE COUNCIL

15. **Award of Professional Services Agreements for Design Services to Dougherty & Dougherty Architects, LLP, for Design of the Town Hall Expansion; Adrian Gaus Architects, Inc., (For AC-6 Architect Collaborative) for Design of the Public Works Facility; and, Wald, Ruhnke & Dost Architects LLP for Design of the Animal Shelter Facility**

Ken Henderson, Director of Economic and Community Development, presented the staff report as filed with the Town Clerk. He spoke about the history and the process to bring this item forward to the Council.

Councilman Sagona recommended a continuance of this item until after the meeting of the Park and Recreation Ad Hoc Committee at which time they would prioritize funding.

Councilman Nassif responded that he was a member of that committee and the prioritization of funding pertains to the park department and not this item.

Councilman Allan disagreed, stating in his opinion the expansion of Town Hall did relate to the Park and Recreation Bond issue, since some of the money would be coming out of the general fund. He stated he was in favor of the new Animal Control and Public Works facilities.

Mayor Pro Tem Jasper expressed concerns about penalties being incurred if the bond funds were not spent in a timely manner. He felt that with the growing community, a Town Hall expansion was necessary.

Mr. Henderson explained the complicated process of the tax allocation bonds, stating they have been issued, marketed and sold as well as the certificates of appreciation. He stated there is a three year time frame for use of the bond proceeds.

Discussion ensued regarding continuing the item concerning the Town Hall expansion until the next regular Council meeting. Councilman Allan felt that a one month continuance would not make a difference in the spending of the bond proceeds and suggested three separate motions on each item.

Councilman Sagona commented that it was not his intention to prevent any of the projects, he just wanted to continue this item until after the meeting of the Park and Recreation Ad Hoc Committee.

MOTION

Councilman Sagona made a motion to continue this item until the second Council meeting in August.

Discussion on Motion

Mayor Roelle commented that he was not in favor of continuing Items 2 and 3, since there is an immediate need for these two facilities.

Councilman Nassif stated that council had set policy and these bonds have been sold and accumulated and cannot be used for Park and Recreation. He commented that the Park and Recreation Ad Hoc Committee meeting will be to discuss the different levels of subsidy for park and recreation.

Councilman Allan disagreed, stating he was concerned about the use of general funds after the expansion of Town Hall when an assessment is being considered to fund Park and Recreation.

Mr. Henderson explained the impacts of not meeting construction time frames and the financial impact it could have on the Town.

Bill Pattison, Finance Director, spoke about the negative impact to the Town's Bond rating if any of the projects were delayed and the bond proceeds were not spent in a timely manner. He explained that future funding for the new facilities would come from the General Fund and that Park and Recreation is typically self-sufficient and not sustained by the General Fund.

Mayor Pro Tem Jasper expressed concerns about the Town's bond rating declining if the project was delayed.

AMENDED MOTION

Councilman Sagona withdrew his original motion and made a motion, seconded by Councilman Allan, to continue Item #1, the awarding of the Professional Services Agreement for design services related to the Town Hall Expansion Facility to the August 14, 2007 Town Council meeting.

Roll Call Vote: Motion carried 4-1-0.

Ayes: Councilman Allan; Councilman Nassif; Councilman Sagona; Mayor Roelle.

Noes: Mayor Pro Tem Jasper

MOTION:

Motion by Councilman Allan, seconded by Councilman Nassif

2. That the Town Council award the attached Professional Services Agreement for design services related the Public Works Facility to Adrian Gaus Architects, Inc., (for AC-6 Architect Collaborative) in the amount of \$548,800 and authorize its execution; and
3. That the Town Council award the attached Professional Services Agreement for design services related to the Animal Shelter Facility to Wald, Ruhnke & Dost Architects LLP in the amount of \$670,000 and authorize its execution.
4. That the Town Council authorize and direct staff to develop and issue a Request for Proposals/Request for Qualifications (RFP/RFQ) for construction management services for the Town Hall Expansion, Public Works/Corporate Yard Facility and Animal Shelter Facility as described herein.

Roll Call Vote: Motion carried 5-0-0.

Ayes: Councilman Allan; Councilman Nassif; Councilman Sagona; Mayor Pro Tem Jasper; Mayor Roelle.

Since the results of the votes concerning Item No. 9 are completed, Council returned to this item at 8:26 p.m.

Councilman Nassif left the dais at 8:26 p.m., due to his business in the area.

9. Apple Valley "Village" Property and Business Improvement District (PBID) – Town Ballot and Assessment, Public Hearing on Formation, and Resolution to Establish the District

After receiving the report of the results of the ballot count and analysis from Emily Wong, Mayor Roelle read the results of the votes as follows: 53% in favor and 46.9% opposed.

MOTION:

Motion by Mayor Pro Tem Jasper, seconded by Councilman Sagona to

Adopt Resolution No. 2007-38, establishing the Apple Valley Village PBID.

Roll Call Vote: Motion carried 4-0-1.

Ayes: Councilman Allan; Councilman Sagona; Mayor Pro Tem Jasper; Mayor Roelle. Absent: Councilman Nassif

RECESS

Mayor Roelle called for a recess at 8:27 p.m.

RECONVENED

Mayor Roelle reconvened the meeting at 8:37 p.m.

MOTION:

Motion by Councilman Nassif, seconded by Mayor Pro Tem Jasper to reconsider the vote to continue the Town Hall Extension (Item #1) under Item No. 15 on the agenda.

Roll Call Vote: Motion carried 3-2-0.

Ayes: Councilman Nassif; Mayor Pro Tem Jasper; Mayor Roelle. Noes: Councilman Allan, Councilman Sagona

15. **(Item #1) Award of Professional Services Agreements for Design Services to Dougherty & Dougherty Architects, LLP, for Design of the Town Hall Expansion; Adrian Gaus Architects, Inc., (For AC-6 Architect Collaborative) for Design of the Public Works Facility; and, Wald, Ruhnke & Dost Architects LLP for Design of the Animal Shelter Facility**

Councilman Nassif commented that after speaking further with Finance Director Bill Pattison, he was concerned about the Town's bond rating should the Town Expansion project be continued.

Mr. Pattison explained that the Town may not be able to market bonds for at least five years should the item fail to pass on August 14th because it could seriously impact the Town's bond rating. He further stated that the debt to pay for the expansion is already built into the budget and the development impact fees could be used to help pay for the facility.

Councilman Sagona stated he only wanted to continue the item until after the Park and Recreation Ad Hoc Committee meeting and it was not his intention to oppose the Town Hall Expansion project.

MOTION

Motion by Councilman Nassif, seconded by Mayor Pro Tem Jasper

1. That the Town Council award the attached Professional Services Agreement for design services related to the Town Hall Expansion Facility to Dougherty & Dougherty Architects LLP in the amount of \$810,560 and authorize its execution.

Roll Call Vote: Motion carried 3-1-1.

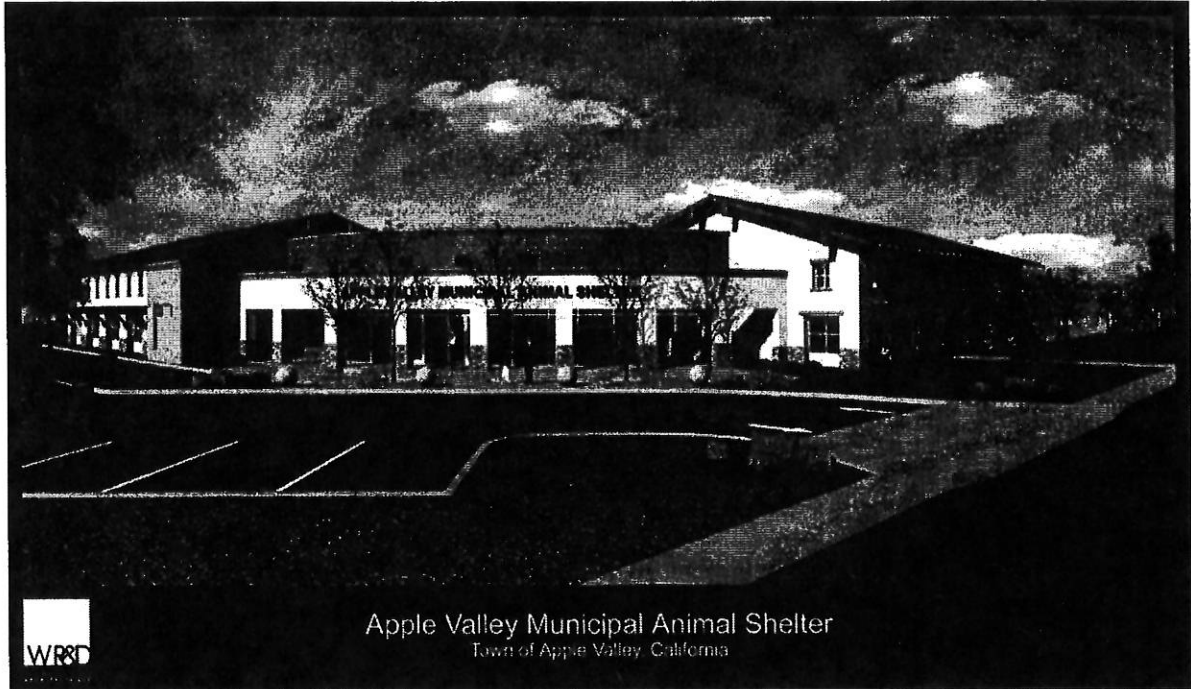
Ayes: Councilman Nassif; Mayor Pro Tem Jasper; Mayor Roelle.

Noes: Councilman Allan.

Abstain: Councilman Sagona

Tab 9

The Apple Valley Municipal Animal Shelter
Ground Breaking Fact Sheet
February 25, 2009



- Reception area for animal intake
- Adoption rooms and "Get acquainted" areas
- 18 cat cages
- 2 cat community rooms
- Cat and dog nurseries
- Quarantine facilities
- Isolation facilities
- Examination rooms
- Education room
- Holding and adoption area for exotic pets
- 78 dog kennels
- Indoor and outdoor play areas and dog runs
- Puppy ward (Puppies up for adoption)
- Aviary display
- Reptile area
- 4 livestock corrals
- Ventilation system to filter airborne diseases
- Work space for Animal Control Officers and Shelter Staff
- Space for a future veterinary office and surgery suite
- Expected completion: Winter 2010
- 36,000 Square Feet
- 4 ½ Acres

Animal Services



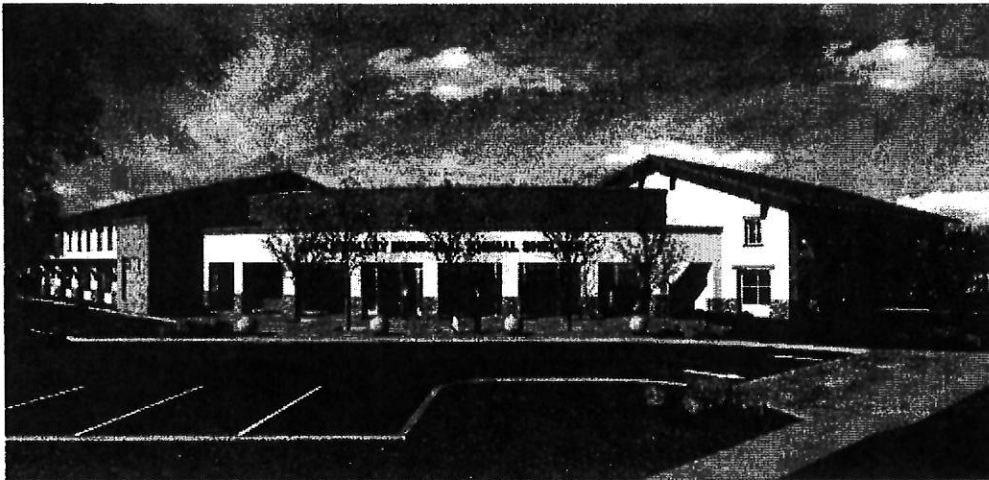
\$8 million in project funding comes from bonds issued by the town against increased tax revenues from redevelopment areas.

The Apple Valley Community Resource Foundation is accepting donations from those who wish to support the project.

Animal Shelter - as of 7/28/11

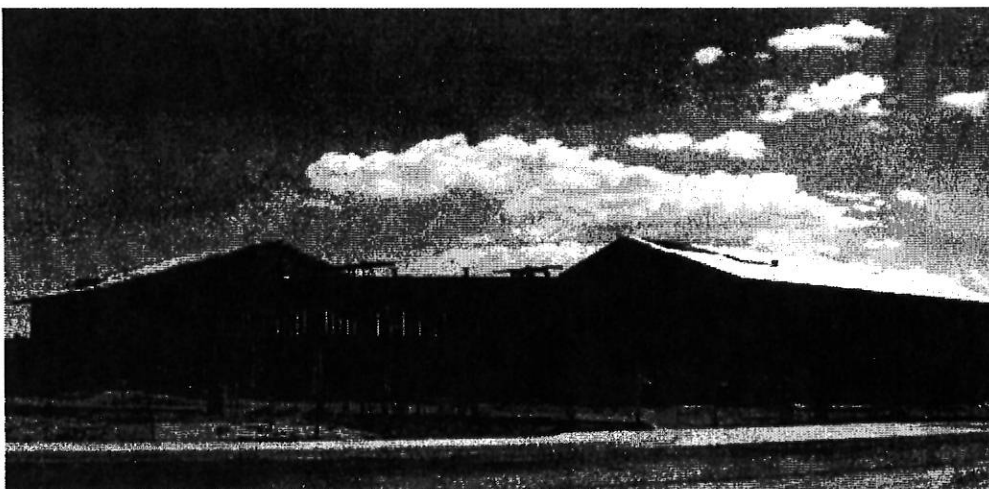
22131 Powhatan R

Apple Valley Municipal Animal Shelter



Animal Shelter Fact Sheet

The animal shelter site is on the southeast corner of Powhattan and Quinnault. The 36,000 square-foot facility will house state-of-the-art features providing better care of our animals, and foster an environment to promote education and adoption. Completion is expected by April of 2010.



The new Animal Shelter is well under way!
September 2009

Public Facilities

Apple Valley's sound budget and conservative financial management have positioned us for growth, even in the current economy. Infrastructure planning is a top priority at a time when we can get the most for our money. With the current state of the economy, dollars spent in construction go much farther than they did a few years ago.

In 2009 we broke ground on both a Town Hall Annex and a new Animal Shelter. Funding comes from a combination of redevelopment agency funds and certificates of participation earmarked specifically for these projects, and both projects came in significantly below estimates.

Using a multiple prime bidding process, rather than going out for one bid for a general contractor, individual trades had an expanded opportunity to get in on these jobs, and a number of high desert businesses were successful. Between salaries, construction costs and other "trickle down" factors, the economic impact of these two projects combined are injecting nearly \$42 million into the local economy.

Learn more here:

- Town Hall Annex
- Animal Shelter

Tab 10



May 2007
FLSA: NON-EXEMPT

ANIMAL SHELTER ATTENDANT

DEFINITION

Under general supervision, provides a wide variety of animal shelter support duties involved in the care of impounded animal, cleaning and maintaining animal care facilities, and operating light vehicles; performs related work as required.

SUPERVISION RECEIVED AND EXERCISED

Receives general supervision from the Animal Shelter Supervisor. No supervision of staff is exercised.

CLASS CHARACTERISTICS

This is the entry-level class in the Animal Control Division and performs a range of routine and complex animal services duties, including impounding animals, providing customer service to patrons, keeping shelter and kennel areas clean, and assisting with euthanasia decisions. As knowledge and experience are gained, the work becomes broader in scope; assignments are more varied, and are performed under more general supervision. This class is distinguished from the Animal Shelter Supervisor in that the latter has full supervisory responsibilities for the animal shelter function, including training, scheduling, performance evaluations, and discipline.

EXAMPLES OF ESSENTIAL JOB FUNCTIONS (Illustrative Only)

Management reserves the right to add, modify, change or rescind the work assignments of different positions and to make reasonable accommodations so that qualified employees can perform the essential functions of the job.

- Maintains animal shelter facilities, including cleaning and disinfecting kennels, equipment, and checking fire extinguishers and smoke detectors; cleans facility yard; cleans office areas and restrooms; contacts vendors for maintenance repair estimates.
- Provides care to impounded animals by providing food, water, and comfort; observes animal behavior and health; isolates sick, quarantined, or injured animals; notifies supervisor or other staff members if an animal needs immediate veterinary care.
- Reviews adoption applications to ensure the appropriate placement of animals; counsels citizens regarding animal behavior and temperament; obtains final approval from Animal Shelter Supervisor or Registered Veterinary Technician.
- Assists in screening calls and visitors; responds to complaints and requests for information; assists in interpreting and applying regulations, policies, procedures, systems, rules, and precedents in response to inquiries and complaints from public.
- Takes photographs of animals, posts them on the animal shelter website, and enters information into the appropriate database for adoption purposes.

- Maintains shelter and office supplies, including inventory, order, and pick-up; operates forklift to store supplies.
- Assists Registered Veterinary Technician and other staff with medical exams, drug administration, euthanasia, and microchip implants.
- Provides appropriate housing placement of animals brought into the shelter; updates and modifies impound records; enters information into database; prints applicable forms and obtains appropriate signatures; issues kennel cards.
- Oversees volunteers and work release workers.
- Assists in evacuation of animals during local emergencies or disasters.
- Performs other duties as assigned.

QUALIFICATIONS

Knowledge of:

- Methods and techniques of handling, collection, impoundment, and registration of a variety of wild and domestic animals in various conditions.
- Identification of various breeds of dogs, cats, and other domestic and wild animals.
- Principles of animal behavior and humane care.
- Applicable codes, regulations, policies, and technical processes and procedures related to the department to which assigned.
- Safe work methods and safety practices pertaining to the work, including the handling of hazardous chemicals.
- Safe driving rules and practices.
- The operation and maintenance of a variety of, vehicles.
- Modern office practices, methods and computer equipment.
- Computer applications related to the work.
- English usage, grammar, spelling, vocabulary, and punctuation.
- Techniques for dealing with and solving the problems presented by a variety of individuals from various socio-economic, cultural and ethnic backgrounds, in person and over the telephone.
- Techniques for providing a high level of customer service to public and Town staff, in person and over the telephone.

Ability to:

- Handle animals in a humane and compassionate manner.
- Learn, interpret, and apply administrative and departmental policies and procedures.
- Respond to phone calls, walk-up traffic, and other requests for information.
- Conduct safety inspections and establish safe procedures.
- Estimate needed materials and labor and secure sufficient quantities.
- Organize, maintain, and update office database and records systems.
- Enter and retrieve data from a computer with sufficient speed and accuracy.
- Operate modern office equipment, including computer equipment and software programs.
- Use English effectively to communicate in person, over the telephone, and in writing.
- Use tact, initiative, prudence, and independent judgment within general policy and legal guidelines in politically sensitive situations.
- Establish and maintain effective working relationships with those contacted in the course of work.

Education and Experience:

Any combination of training and experience that would provide the required knowledge, skills and abilities is qualifying. A typical way to obtain the required qualifications would be:

Equivalent to the completion of the twelfth (12th) grade and six (6) months of experience in caring for animals in a veterinary hospital setting.

License:

- Valid California class C driver's license with satisfactory driving record and automobile insurance.
- Must obtain initial or renewal of euthanasia certification within first twelve (12) months of employment.

PHYSICAL DEMANDS

Must possess mobility to work in a standard office setting and use standard office equipment, including a computer; to operate a motor vehicle; and to walk on uneven terrain; strength, stamina, and mobility to perform medium physical work; vision to read printed materials and a computer screen; and hearing and speech to communicate in person and over the telephone. This is primarily a field classification with frequent standing in work areas and walking between work areas required. Wrist flexion and lateral rotation are necessary in combination with grasping to handle a snare and leash. Finger dexterity is needed to access, enter and retrieve data using a computer keyboard, typewriter keyboard or calculator and to operate standard office equipment. Positions in this classification occasionally bend, stoop, kneel, reach, push and pull drawers open and closed to retrieve and file information and evaluate and/or restrain animals. Employees must possess the ability to lift, carry, push, and pull materials and objects necessary to perform job functions.

ENVIRONMENTAL ELEMENTS

Employees primarily work outside with exposure to loud noise levels and may be exposed to inclement weather conditions, animal hair, dust, and potentially hazardous physical substances. May involve exposure to wild, dangerous, and/or diseased animals, and animals known to cause allergies. Employees may interact with upset staff and/or public and private representatives in interpreting and enforcing departmental policies and procedures.

Tab 11



May 2007
FLSA: NON-EXEMPT

ANIMAL SHELTER SUPERVISOR

DEFINITION

Under general direction, plans, schedules, organizes, supervises, reviews, and evaluates the activities of the Town's Animal Shelter; recommends and implements specific departmental operational programs; provides complex administrative support to the Director of Municipal Services; and performs related work as required.

SUPERVISION RECEIVED AND EXERCISED

Receives general direction from the Director of Municipal Services. Exercises direct and general supervision over animal shelter and other assigned personnel.

CLASS CHARACTERISTICS

This is the full supervisory-level class in the animal shelter class series that is responsible for overseeing animal shelter activities, including paraprofessional veterinary medical care and treatment of animals. While the incumbents may respond to calls for service or become involved with animal care activities, the primary responsibilities are supervisory and administrative, including the coordination of activities with those of other Town departments. This class is distinguished from the Director of Municipal Services in that the latter has overall responsibility for all animal control, animal shelter, waste management, transit, volunteer, code enforcement, and grant administration programs and for developing, implementing and interpreting public policy.

EXAMPLES OF ESSENTIAL JOB FUNCTIONS (Illustrative Only)

Management reserves the right to add, modify, change or rescind the work assignments of different positions and to make reasonable accommodations so that qualified employees can perform the essential functions of the job.

- Assists in management, development, and implementation of goals, objectives, policies, and priorities for the Department; recommends within departmental policy, appropriate service and staffing levels.
- Plans, manages, and oversees the daily functions, operations, and activities of the Animal Shelter.
- Recommends and standardizes procedures and methods to improve the efficiency and effectiveness of animal shelter services and programs; continuously monitors and evaluates the efficiency and effectiveness of service delivery methods and procedures; assesses and monitors workload, administrative and support systems, and internal reporting relationships.
- Assists in coordinating the work plan for the assigned staff; meets with staff to identify and resolve problems; ensures coverage of staff for all shifts and assignments; assigns work activities, projects, and programs; monitors work flow; reviews and evaluates service delivery, methods, and procedures; makes recommendations for improvement and ensures maximum effective service provision.

- Trains, motivates, and evaluates assigned personnel; provides or coordinates staff training; works with employees to correct deficiencies; assists in selection of new personnel.
- Creates statistical reports, prepares and analyzes information in order to assess shelter operations.
- Provides paraprofessional veterinary medical care and treatment of animals, including triage, collecting specimens, evaluating health of animals, performing fecal, skin scraping and ear swab analysis, testing for animal diseases and prescribing appropriate treatment.
- Administers medications, first aid, and vaccinations on animals.
- Documents, logs, and enters into database physical findings, laboratory test results, medications, vaccinations, and other treatments.
- Provides care to impounded animals by providing food, water, and comfort; observes animal behavior and health; assesses and determines disposition of impounded animals.
- Monitors euthanasia process, including appropriate application of humane restraint, accuracy of record keeping, appropriate administration of drugs, adherence to safety protocols, and compliance with established Federal, State, and local regulations.
- Monitors use and maintenance of controlled substance inventory and usage logs as required by Federal, State, and local regulations.
- Conducts facility inspections to identify health or injury risks to employees and creates action plans to address findings.
- Supervises volunteers and work release workers.
- Answers questions regarding the medical treatment of animals, regulations, adoption and licensing, and department policies and procedures.
- Documents facility inspections and corrective action taken in Injury/Illness Prevention binder.
- Maintains liaison and fosters positive relationships with breed placement or rescue groups to maximize shelter adoption efforts and minimize euthanasia of animals.
- Meets with vendors to acquire estimates and schedule repair or replacement of facilities and equipment.
- Coordinates and conducts community tours of animal shelter facilities.
- Advises Animal Control Supervisor of animal abuse or neglect and provides supporting documentation, such as photographs, examination notes, or diagnostic results.
- Performs other duties as assigned.

QUALIFICATIONS

Knowledge of:

- Principles and practices of employee supervision, including work planning, assignment, review and evaluation and the training of staff in work procedures.
- Applicable Federal, State, and local laws, codes, court decisions, and regulations, including administrative and departmental policies concerning the operation of a municipal animal shelter.
- Organization and management practices as applied to the analysis and evaluation of programs, policies, and operational needs of the assigned department.
- Methods and techniques of handling, collection, impoundment, treatment and registration of a variety of wild and domestic animals in various conditions.
- Identification of various breeds of dogs, cats, and other domestic and wild animals.
- Principles of animal behavior and care.
- Applicable codes, regulations, policies, and technical processes and procedures related to the department to which assigned.
- Modern office administrative and secretarial practices and procedures, including the use of standard office equipment.
- Business letter writing and the standard format for reports and correspondence.
- Principles and practices of data collection and report preparation.

- Business arithmetic and basic statistical techniques.
- Principles of record keeping and cash handling.
- Modern office practices, methods, and computer equipment.
- Computer applications related to the work.
- English usage, grammar, spelling, vocabulary, and punctuation.
- Techniques for dealing with and solving the problems presented by a variety of individuals from various socio-economic, cultural and ethnic backgrounds, in person and over the telephone.
- Techniques for providing a high level of customer service to public and Town staff, in person and over the telephone.

Ability to:

- Recommend and implement goals, objectives, and practices for providing effective and efficient services.
- Plan, organize, schedule, assign, review and evaluate the work of staff.
- Train staff in work procedures.
- Evaluate and recommend improvements in operations, procedures, policies, or methods.
- Make sound, independent decisions in day-to-day activities and in emergency situations.
- Prepare clear and concise reports, correspondence, policies, procedures and other written materials.
- Analyze, interpret, summarize, and present administrative and technical information and data in an effective manner.
- Interpret, explain, and ensure compliance with Town policies and procedures, complex laws, codes, regulations and ordinances.
- Effectively represent the department and the Town in meetings with governmental agencies, community groups and various businesses, professional, and regulatory organizations and in meetings with individuals.
- Identify and be responsive to community issues, concerns, and needs.
- Establish and maintain a variety of filing, record-keeping, and tracking systems.
- Recognize normal and abnormal animal behavior.
- Handle animals in a humane and compassionate manner.
- Provide appropriate medical evaluation, analysis, and treatment of animals.
- Learn, interpret, and apply administrative and departmental policies and procedures.
- Compose correspondence and reports from brief instructions.
- Make accurate arithmetic, financial and statistical computations.
- Organize own work, coordinate projects, set priorities, meet critical time deadlines, and follow-up on assignments with a minimum of direction.
- Operate modern office equipment including computer equipment and software programs.
- Use English effectively to communicate in person, over the telephone and in writing.
- Use tact, initiative, prudence and independent judgment within general policy and legal guidelines in politically sensitive situations.
- Establish and maintain effective working relationships with those contacted in the course of work.

Education and Experience:

Any combination of training and experience that would provide the required knowledge, skills and abilities is qualifying. A typical way to obtain the required qualifications would be:

Equivalent to the completion of the twelfth (12th) grade and five (5) years of experience in caring for animals in a veterinary hospital setting, including two (2) years of supervisory experience.

License:

- Valid California class C driver's license with satisfactory driving record and automobile insurance.
- Registered as a Registered Veterinary Technician (RVT) by the State of California Veterinary Medical Board.
- Must maintain a current Controlled Substance Registration Certificate from the Drug Enforcement Administration.

PHYSICAL DEMANDS

Must possess mobility to work in a standard office setting and use standard office equipment, including a computer; to operate a motor vehicle; and to walk on uneven terrain; vision to read printed materials and a computer screen; and hearing and speech to communicate in person, before groups and over the telephone. This is primarily an office classification with frequent standing in work areas and walking between work areas may be required. Wrist flexion and lateral rotation are necessary in combination with grasping to handle a snare and leash. Finger dexterity is needed to access, enter and retrieve data using a computer keyboard, typewriter keyboard, or calculator and to operate standard office equipment. Positions in this classification occasionally bend, stoop, kneel, reach, push and pull drawers open and closed to retrieve and file information and evaluate and/or restrain animals. Employees must possess the ability to lift, carry, push, and pull materials and objects necessary to perform job functions.

ENVIRONMENTAL ELEMENTS

Employees primarily work in an office environment with moderate noise levels and controlled temperature conditions. Employees occasionally work outside with exposure to loud noise levels and may be exposed to inclement weather conditions, animal hair, dust, and potentially hazardous physical substances. May involve exposure to wild, dangerous, and/or diseased animals, and animals known to cause allergies. Employees may interact with upset staff and/or public and private representatives in interpreting and enforcing departmental policies and procedures.

Tab 12

Town of Apple Valley, California
Notes to Financial Statements
Year Ended June 30, 2008

IV) DETAILED NOTES ON ALL FUNDS - Continued

E) Long-Term Debt - Continued

2) Tax Allocation Bonds - Continued

The purpose of the bonds is to finance certain redevelopment projects benefiting the portion of the Victor Valley Economic Development Authority (VVEDA) Project Area within the jurisdiction of the Town of Apple Valley. The bonds are special obligations of the Agency and are payable exclusively from Pledged Tax Revenues. The bonds are not a debt of the Town of Apple Valley, the VVEDA or its members, State of California, or any of its political subdivisions, other than the Agency, and neither the Town of Apple Valley, the VVEDA or its members, the State of California nor any of its political subdivisions, other than the Agency, is liable therefore. In no event shall the bonds be payable out of any funds or properties other than those of the Agency. At June 30, 2008, the amount in the Bond Reserve Fund was sufficient to cover the minimum bond reserve requirement. Annual debt service requirements to maturity are as follows:

<u>Year Ended June 30.</u>	<u>Principal</u>	<u>Interest</u>
2009	\$ 135,000	\$ 407,383
2010	140,000	401,982
2011	145,000	393,382
2012	160,000	390,582
2013	160,000	384,183
2014-2018	915,000	1,813,805
2019-2023	1,140,000	1,597,175
2024-2028	1,435,000	1,305,538
2029-2033	1,790,000	932,662
2034-2037	<u>2,820,000</u>	<u>390,213</u>
	<u>\$ 8,840,000</u>	<u>\$ 8,016,905</u>

2007 Tax Allocation Bonds Project Area 2

In July of 2007, the Redevelopment Agency of the Town of Apple Valley issued \$37,230,000 in Tax Allocation Bonds. Interest on the bonds ranges from 4.00% to 5.75% and is payable semi-annually on June 1 and December 1 of each year. Principal is payable on July 1 to maturity in 2037. Proceeds from the Bonds will be used to finance certain redevelopment activities benefiting the Apple Valley Redevelopment Project Area 2.

Town of Apple Valley, California
Notes to Financial Statements
Year Ended June 30, 2008

IV) DETAILED NOTES ON ALL FUNDS - Continued

E) Long-Term Debt - Continued

2) Tax Allocation Bonds - Continued

The debt service maturity schedule for the 2007 Tax Allocation Bonds is as follows:

Fiscal Year Ending June 30.	Principal	Interest	Total
2009	\$ 615,000	\$ 1,769,000	\$ 2,384,000
2010	640,000	1,744,400	2,384,400
2011	665,000	1,718,800	2,383,800
2012	695,000	1,690,700	2,385,700
2013	720,000	1,662,900	2,382,900
2014	750,000	1,632,300	2,382,300
2015	790,000	1,589,175	2,379,175
2016	840,000	1,543,750	2,383,750
2017	880,000	1,505,950	2,385,950
2018	920,000	1,466,350	2,386,350
2019	960,000	1,424,950	2,384,950
2020	1,005,000	1,381,750	2,386,750
2021	1,050,000	1,331,500	2,381,500
2022	1,105,000	1,279,000	2,384,000
2023	1,155,000	1,223,750	2,378,750
2024	1,220,000	1,166,000	2,386,000
2025	1,275,000	1,105,000	2,380,000
2026	1,340,000	1,041,250	2,381,250
2027	1,405,000	979,610	2,384,610
2028	1,470,000	914,980	2,384,980
2029	1,540,000	844,420	2,384,420
2030	1,615,000	770,500	2,385,500
2031	1,695,000	689,750	2,384,750
2032	1,780,000	605,000	2,385,000
2033	1,870,000	516,000	2,386,000
2034	1,960,000	422,500	2,382,500
2035	2,060,000	324,500	2,384,500
2036	2,160,000	221,500	2,381,500
2037	2,270,000	113,500	2,383,500
Total	\$ 36,450,000	\$ 32,678,785	\$ 69,128,785

3) 2007 Lease Revenue Bonds

In July of 2007 the Town of Apple Valley Public Financing Authority issued \$11,365,000 of 2007 Series A Lease Revenue Bonds. Interest on the Bonds will range from 3.625% to 4.500% and is payable semi-annually on March 1 and September 1 each year. Principal is payable September 1 of each year until maturity in 2028. Proceeds from the bonds will be used to finance certain capital projects of the Town of Apple Valley including the construction of an annex to the Town Hall.

DECLARATION OF SERVICE BY EMAIL

I, the undersigned, declare as follows:

I am a resident of the County of Sacramento and I am over the age of 18 years, and not a party to the within action. My place of employment is 980 Ninth Street, Suite 300, Sacramento, California 95814.

On October 19, 2017, I served the:

- **Controller's Comments on the IRC**

Animal Adoption, 17-9811-I-04

Civil Code Sections 1834 and 1846; Food and Agriculture Code sections 31108, 31752, 31752.5, 31753, 32001, and 32003;

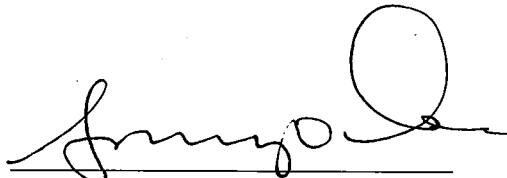
Statutes 1998, Chapter 752 and Statutes 2004, Chapter 313

Fiscal Years: 2007-2008 and 2008-2009

Town of Apple Valley, Claimant

By making it available on the Commission's website and providing notice of how to locate it to the email addresses provided on the attached mailing list.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on October 19, 2017 at Sacramento, California.



Lorenzo Duran
Commission on State Mandates
980 Ninth Street, Suite 300
Sacramento, CA 95814
(916) 323-3562

COMMISSION ON STATE MANDATES

Mailing List

Last Updated: 9/21/17

Claim Number: 17-9811-I-04

Matter: Animal Adoption

Claimant: Town of Apple Valley

TO ALL PARTIES, INTERESTED PARTIES, AND INTERESTED PERSONS:

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, § 1181.3.)

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