



July 12, 2022

Ms. Annette Chinn
Cost Recovery Systems, Inc.
705-2 East Bidwell Street, #294
Folsom, CA 95630

Ms. Natalie Sidarous
State Controller's Office
Local Government Programs and
Services Division
3301 C Street, Suite 740
Sacramento, CA 95816

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

Re: Draft Proposed Decision, Schedule for Comments, and Notice of Hearing
Municipal Stormwater and Urban Runoff Discharges, 20-0304-I-12
Los Angeles Regional Quality Control Board Order No. 01-182,
Permit CAS004001, Part 4F5c3
Fiscal Years: 2002-2003, 2003-2004, 2004-2005, 2005-2006, 2006-2007, 2007-2008,
2008-2009, 2009-2010, 2010-2011, 2011-2012
City of Hawaiian Gardens, Claimant

Dear Ms. Chinn and Ms. Sidarous:

The Draft Proposed Decision for the above-captioned matter is enclosed for your review and comment.

Written Comments

Written comments may be filed on the Draft Proposed Decision not later than **5:00 p.m. on August 2, 2022**. Please note that all representations of fact submitted to the Commission must be signed under penalty of perjury by persons who are authorized and competent to do so and must be based upon the declarant's personal knowledge, information, or belief. (Cal. Code Regs., tit. 2, § 1187.5.) Hearsay evidence may be used for the purpose of supplementing or explaining other evidence but shall not be sufficient in itself to support a finding unless it would be admissible over an objection in civil actions. (Cal. Code Regs., tit. 2, § 1187.5.) The Commission's ultimate findings of fact must be supported by substantial evidence in the record.¹

The Commission's regulations require that written materials filed with the Commission be electronically filed (e-filed) in an unlocked legible and searchable PDF file, using the Commission's Dropbox. (Cal. Code Regs., tit. 2, 1181.3(c)(1).) Refer to <https://www.csm.ca.gov/dropbox.php> on the Commission's website for electronic filing instructions. If e-filing would cause the filer undue hardship or significant prejudice, filing may occur by first class mail, overnight delivery or personal service only upon approval of a written request to the executive director. (Cal. Code Regs., tit. 2, 1181.3(c)(2).)

¹ Government Code section 17559(b), which provides that a claimant or the state may commence a proceeding in accordance with the provisions of section 1094.5 of the Code of Civil Procedure to set aside a decision of the Commission on the ground that the Commission's decision is not supported by substantial evidence in the record.

Ms. Chinn and Ms. Sidarous

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If you would like to request an extension of time to file comments, please refer to section 1187.9(a) of the Commission's regulations.

Hearing

This matter is set for hearing on **Friday, September 23, 2022**, at 10:00 a.m. via Zoom. The Proposed Decision will be issued on or about September 9, 2022.

Please notify Commission staff not later than the Wednesday prior to the hearing that you or a witness you are bringing plan to testify and please specify the names and email addresses of the people who will be speaking for inclusion on the witness list and so that detailed instructions regarding how to participate as a witness in this meeting on Zoom can be provided to them. When calling or emailing, please identify the item you want to testify on and the entity you represent. The Commission Chairperson reserves the right to impose time limits on presentations as may be necessary to complete the agenda.

If you would like to request postponement of the hearing, please refer to section 1187.9(b) of the Commission's regulations.

Sincerely,

A handwritten signature in cursive script, appearing to read "Heather Halsey".

Heather Halsey
Executive Director

ITEM ____
INCORRECT REDUCTION CLAIM
DRAFT PROPOSED DECISION

Los Angeles Regional Water Quality Control Board Order No. 01-182

Permit CAS004001

Part 4F5c3

Municipal Stormwater and Urban Runoff Discharges

Fiscal Years 2002-2003 through 2011-2012

20-0304-I-12

City of Hawaiian Gardens, Claimant

EXECUTIVE SUMMARY

Overview

This Incorrect Reduction Claim (IRC) involves reductions by the State Controller’s Office (Controller) to reimbursement claims filed by the City of Hawaiian Gardens (claimant) for the *Municipal Stormwater and Urban Runoff Discharges* program for fiscal years 2002-2003 through 2011-2012 (audit period).

The claimant sought reimbursement for the mandated activities of installing and maintaining trash receptacles at transit stops within the claimant’s jurisdiction.¹ The Controller’s Final Audit Report found that of the \$169,503 in total costs claimed, \$84,754 was reimbursable and \$84,749 was not reimbursable.²

The Controller reduced the claims based on the finding that the claimant did not provide contemporaneous source documentation to support its claim under the reasonable reimbursement methodology for the twice per week trash collections performed during the audit period. Specifically, the Controller reduced the number of collections claimed from twice weekly (104 annual collections) to once weekly (52 annual collections) based on the Controller’s observation of “ongoing maintenance of the transit-stop trash receptacles located throughout the city.”³ Staff finds that the Controller’s reduction, based on a requirement of contemporaneous source documents is incorrect as a matter of law. However, due to a lack of evidence in the record, staff recommends that the Commission remand the reimbursement claims back to the State Controller to further review and verify the costs claimed under the reasonable reimbursement methodology

¹ Exhibit A, IRC, filed February 18, 2021, page 3.

² Exhibit A, IRC, filed February 18, 2021, pages 292, 294, 300 (Final Audit Report).

³ Exhibit A, IRC, filed February 18, 2021, pages 300-301 (Final Audit Report).

based on the number of weekly trash collections during the audit period and reinstate those costs that are deemed eligible for reimbursement in accordance with this decision.

Procedural History

The claimant's reimbursement claims for fiscal years 2002-2003 through 2010-2011 are dated September 28, 2011.⁴ The claimant's reimbursement claim for fiscal year 2011-2012 is dated January 17, 2013.⁵

On June 27, 2018, the Controller issued the Draft Audit Report.⁶ On July 9, 2018, the claimant filed comments on the Draft Audit Report.⁷ On August 9, 2018, the Controller issued the Final Audit Report.⁸ The claimant filed the IRC on February 18, 2021.⁹ The Controller did not file comments on the IRC. Commission staff issued the Draft Proposed Decision on July 12, 2022.¹⁰

Commission Responsibilities

Government Code section 17561(d) authorizes the Controller to audit the claims filed by local agencies and school districts and to reduce any claim for reimbursement of state-mandated costs if the Controller determines that the claim is excessive or unreasonable.

Government Code section 17551(d) requires the Commission to hear and decide a claim that the Controller has incorrectly reduced payments to the local agency or school district. If the Commission determines that a reimbursement claim has been incorrectly reduced, section 1185.9 of the Commission's regulations requires the Commission to send the decision to the Controller and request that the costs in the claim be reinstated.

The Commission must review questions of law, including interpretation of parameters and guidelines, de novo, without consideration of legal conclusions made by the Controller in the context of an audit. The Commission is vested with exclusive authority to adjudicate disputes over the existence of state-mandated programs within the meaning of article XIII B, section 6 of the California Constitution.¹¹ The Commission must also interpret the Government Code and

⁴ Exhibit A, IRC, filed February 18, 2021, pages 308 (2002-2003 claim), 310 (2003-2004 claim), 312 (2004-2005 claim), 314 (2005-2006 claim), 316 (2006-2007 claim), 318 (2007-2008 claim), 320 (2008-2009 claim), 322 (2009-2010 claim), and 324 (2010-2011 claim). A cover sheet entitled "Reimbursement Claims Receipt," that lists the claims for fiscal years 2002-2003 through 2010-2011, is dated September 28, 2011 (Exhibit A, IRC, filed February 18, 2021, page 307).

⁵ Exhibit A, IRC, filed February 18, 2021, page 326 (2011-2012 reimbursement claim).

⁶ Exhibit A, IRC, filed February 18, 2021, page 296 (Final Audit Report).

⁷ Exhibit A, IRC, filed February 18, 2021, page 296, 303 (Final Audit Report).

⁸ Exhibit A, IRC, filed February 18, 2021, page 292 (Final Audit Report).

⁹ Exhibit A, IRC, filed February 18, 2021, page 1.

¹⁰ Exhibit B, Draft Proposed Decision, issued July 12, 2022, page 1.

¹¹ *Kinlaw v. State of California* (1991) 54 Cal.3d 326, 331-334; Government Code sections 17551, 17552.

implementing regulations in accordance with the broader constitutional and statutory scheme. In making its decisions, the Commission must strictly construe article XIII B, section 6 and not apply it as an “equitable remedy to cure the perceived unfairness resulting from political decisions on funding priorities.”¹²

With regard to the Controller’s audit decisions, the Commission must determine whether they were arbitrary, capricious, or entirely lacking in evidentiary support. This standard is similar to the standard used by the courts when reviewing an alleged abuse of discretion of a state agency.¹³

The Commission must also review the Controller’s audit in light of the fact that the initial burden of providing evidence for a claim of reimbursement lies with the claimant.¹⁴ In addition, sections 1185.1(f)(3) and 1185.2(d) and (e) of the Commission’s regulations require that any assertions of fact by the parties to an IRC be supported by documentary evidence. The Commission’s ultimate findings of fact must be supported by substantial evidence in the record.¹⁵

Claims

The following chart provides a brief summary of the claims and issues raised and staff’s recommendation.

Issue	Description	Staff Recommendation
Did the claimant timely file the IRC?	At the time the Final Audit Report was issued, section 1185.1(c) of the Commission’s regulations required IRCs to be filed no later than three years after the date the claimant first receives a final state audit report, letter, or other written	<i>Timely filed</i> – The Controller’s Final Audit Report of August 9, 2018 complies with Government Code section 17558.5(c). ¹⁶ The IRC was filed on February 18, 2021, ¹⁷ less than three years from the date of the Controller’s Final

¹² *County of Sonoma v. Commission on State Mandates* (2000), 84 Cal.App.4th 1264, 1281, citing *City of San Jose v. State of California* (1996) 45 Cal.App.4th 1802, 1817.

¹³ *Johnston v. Sonoma County Agricultural Preservation and Open Space District* (2002) 100 Cal.App.4th 973, 983-984; *American Bd. of Cosmetic Surgery, Inc. v. Medical Bd. of California* (2008) 162 Cal.App.4th 534, 547.

¹⁴ *Gilbert v. City of Sunnyvale* (2005) 130 Cal.App.4th 1264, 1274-1275.

¹⁵ Government Code section 17559(b), which provides that a claimant or the state may commence a proceeding in accordance with the provisions of section 1094.5 of the Code of Civil Procedure to set aside a decision of the Commission on the ground that the Commission’s decision is not supported by substantial evidence in the record.

¹⁶ Exhibit A, IRC, filed February 18, 2021, page 292 (Final Audit Report).

¹⁷ Exhibit A, IRC, filed February 18, 2021, page 1.

Issue	Description	Staff Recommendation
	notice of adjustment to a reimbursement claim, which complies with the notice requirements of Government Code section 17558.5(c).	Audit Report and is therefore timely.
Is the Controller’s reduction, based on its determination that the claimant failed to provide contemporaneous source documentation to support its claim under the reasonable reimbursement methodology for the number of trash collections performed during the audit period, correct as a matter of law?	Two collections per trash receptacle per week were claimed, totaling 104 annual collections, for the audit period. The Controller found that one collection per trash receptacle per week, totaling 52 annual collections, was allowable. ¹⁸ The Controller concluded that the claimant did not provide sufficient source documentation to support twice-weekly trash collections because the provided documentation “was not contemporaneous and was not created during the audit period.” ¹⁹	<i>Incorrect as a matter of law</i> – The Controller’s reduction based on the contemporaneous source document rule is incorrect as a matter of law. The Parameters and Guidelines do not require the claimant to provide contemporaneous source documentation to support a claim for ongoing maintenance activities, including trash collection, under the reasonable reimbursement methodology (RRM). Rather, “[t]he RRM is in lieu of filing detailed documentation of actual costs.” ²⁰ Thus, section VII.B, which pertains to costs claimed using a RRM, simply requires that “Local agencies must retain documentation which supports the reimbursement of the maintenance costs identified in Section IV.B of these parameters and guidelines during the period subject to audit, including documentation showing the number of trash receptacles

¹⁸ Exhibit A, IRC, filed February 18, 2021, page 300-301 (Final Audit Report).

¹⁹ Exhibit A, IRC, filed February 18, 2021, page 301 (Final Audit Report).

²⁰ Exhibit A, IRC, filed February 18, 2021, page 279 (Parameters and Guidelines).

Issue	Description	Staff Recommendation
		<p>in the jurisdiction and the number of trash collections or pickups.”²¹</p> <p>Even if the Parameters and Guidelines could be interpreted to require contemporaneous source documentation to support the ongoing trash collection activities, applying this requirement to the claiming period before the Parameters and Guidelines were adopted would violate due process.²²</p> <p>Because the Controller did not apply the correct standard in determining whether the documentation provided was sufficient to show twice-weekly trash collection, and the claimant provided additional documentation with the IRC that may not have been reviewed by the Controller, staff recommends that this matter be remanded back to the State Controller’s Office to further review and verify the costs claimed under the RRM based on the number of weekly trash collections during the audit period and reinstate those costs that are deemed eligible</p>

²¹ Exhibit A, IRC, filed February 18, 2021, page 280 (Parameters and Guidelines).

²² *Clovis Unified School Dist. v. Chiang* (2010) 188 Cal.App.4th 794, 802-813; *City of Modesto v. National Med, Inc.* (2005) 128 Cal.App.4th 518, 527; *In re Cindy B.* (1987) 192 Cal.App.3d 771, 783-784; *Department of Health Services v. Fontes* (1985) 169 Cal.App.3d 301, 304-305; *Tapia v. Superior Court* (1991) 53 Cal.3d 282; 287-292; *Murphy v. City of Alameda* (1993) 11 Cal.App.4th 906, 911-912.

Issue	Description	Staff Recommendation
		for reimbursement in accordance with this Decision.

Staff Analysis

A. The Claimant Timely Filed the IRC.

At the time the Final Audit Report was issued, section 1185.1(c) of the Commission’s regulations required an incorrect reduction claim to be filed with the Commission no later than three years after the date the claimant first receives from the Controller a final state audit report, letter, or other written notice of adjustment to a reimbursement claim, which complies with Government Code section 17558.5(c).

Here, the Controller issued its Final Audit Report, which complies with the notice requirements of section 17558.5(c), on August 9, 2018.²³ The claimant filed the IRC on February 18, 2021, within three years of the date of the Final Audit Report.²⁴ Staff finds that the IRC was timely filed.

B. The Controller’s Reduction, Based on its Finding That the Claimant Failed to Provide Contemporaneous Source Documentation to Support the Number of Trash Collections Performed During the Audit Period Is Incorrect as a Matter of Law.

The Controller determined that the claimant provided insufficient documentation in support of its claim under the RRM of twice weekly trash collections (104 annual collections) for the duration of the audit period because “the documentation provided was not contemporaneous and was not created during the audit period.”²⁵ Instead, the Controller allowed once weekly collections (52 annual collections) because the Controller “during audit fieldwork, . . . physically observed the ongoing maintenance of the transit-stop trash receptacles located throughout the city.”²⁶

Staff finds that the Controller’s reduction of claimed costs on the basis of the contemporaneous source document rule is incorrect as a matter of law. The Parameters and Guidelines for the *Municipal Stormwater and Urban Runoff Discharges* program do not require the claimant to provide contemporaneous source documentation to support a claim for ongoing maintenance activities, including trash collection, under the RRM. Rather, “[t]he RRM is in lieu of filing detailed documentation of actual costs.”²⁷ Thus, section VII.B, which pertains to costs claimed using a reasonable reimbursement methodology, simply requires that “Local agencies must retain documentation which supports the reimbursement of the maintenance costs identified in Section IV.B of these parameters and guidelines during the period subject to audit, including

²³ Exhibit A, IRC, filed February 18, 2021, page 292 (Final Audit Report).

²⁴ Exhibit A, IRC, filed February 18, 2021, page 1.

²⁵ Exhibit A, IRC, filed February 18, 2021, page 301 (Final Audit Report).

²⁶ Exhibit A, IRC, filed February 18, 2021, page 301 (Final Audit Report).

²⁷ Exhibit A, IRC, filed February 18, 2021, page 279 (Parameters and Guidelines).

documentation showing the number of trash receptacles in the jurisdiction and the number of trash collections or pickups.”²⁸

Even if the Parameters and Guidelines could be interpreted to require contemporaneous source documentation to support the ongoing trash collection activities, applying this requirement to the claiming period before the Parameters and Guidelines were adopted would violate due process.²⁹ The claimant was not on notice of a contemporaneous source documentation requirement when the costs were incurred in fiscal years 2002-2003 through 2010-2011 because the Parameters and Guidelines were not adopted until March 2011.³⁰

C. Because the Controller Did Not Apply the Correct Standard in Determining Whether the Documentation Provided Was Sufficient to Show Twice-Weekly Trash Collection, and the Claimant Provided Additional Documentation That May Not Have Been Reviewed by the Controller, Staff Recommends That the Commission Remand This Matter to the Controller for Further Review.

Because the Controller did not apply the correct standard in determining whether the documentation provided was sufficient to show twice-weekly trash collection, and the claimant provided additional documentation that may not have been reviewed by the Controller, staff recommends that this matter be remanded to the Controller for further review. Included with the IRC is a Time Log that lists the number of trash pickups (two per week) per fiscal year from 2002-2003 to 2010-2011, which is signed by Joe Vasquez, Public Works Superintendent, and states that “I hereby certify under the penalty of perjury the [sic] laws of the State of California that the foregoing is true and correct based upon my personal knowledge.” The log is dated September 27, 2011.³¹ However, there is no evidence in the record showing that Mr. Vasquez was employed by the claimant as a public works superintendent during the audit period, so it is unclear what his “personal knowledge” is based on. The mandate began July 1, 2002, more than nine years before the Time Log was signed by Mr. Vasquez in September 2011.

The other two documents included with the IRC are a letter from the claimant’s Finance Director indicating that 24 receptacles were cleaned twice a week in fiscal year 2011-2012, and a reimbursement claims receipt that lists the amounts claimed during the audit period.³²

The Final Audit Report does not indicate that the documents in the IRC were received or considered by the auditors. Staff therefore recommends that the Commission remand the reimbursement claims back to the Controller to further review and verify the costs claimed under

²⁸ Exhibit A, IRC, filed February 18, 2021, page 280 (Parameters and Guidelines).

²⁹ *Clovis Unified School Dist. v. Chiang* (2010) 188 Cal.App.4th 794, 802-813; *City of Modesto v. National Med, Inc.* (2005) 128 Cal.App.4th 518, 527; *In re Cindy B.* (1987) 192 Cal.App.3d 771, 783-784; *Department of Health Services v. Fontes* (1985) 169 Cal.App.3d 301, 304-305; *Tapia v. Superior Court* (1991) 53 Cal.3d 282; 287-292; *Murphy v. City of Alameda* (1993) 11 Cal.App.4th 906, 911-912.

³⁰ Exhibit A, IRC, filed February 18, 2021, page 274 (Parameters and Guidelines).

³¹ Exhibit A, IRC, filed February 18, 2021, page 29 (Time Log).

³² Exhibit A, IRC, filed February 18, 2021, pages 31 and 307 (Nov. 8, 2012 Letter from Claimant to Cost Recovery Systems, Claims Receipt).

the RRM based on the number of weekly trash collections performed during the audit period and reinstate those costs that are deemed eligible for reimbursement in accordance with this Decision.

Conclusion

Based on the forgoing analysis, staff finds that the IRC was timely filed and that the Controller's reduction based on its finding that that the claimant failed to provide contemporaneous source documentation to support twice weekly trash collection during the audit period is incorrect as a matter of law.

Staff Recommendation

Staff recommends that the Commission adopt the Proposed Decision to remand the reimbursement claims back to the Controller to further review and reinstate the costs that are deemed eligible for reimbursement in accordance with the Commission's Decision on this Incorrect Reduction Claim.

Staff further recommends that the Commission authorize staff to make any technical, non-substantive changes to the Proposed Decision following the hearing.

BEFORE THE
 COMMISSION ON STATE MANDATES
 STATE OF CALIFORNIA

<p>IN RE INCORRECT REDUCTION CLAIM</p> <p>Los Angeles Regional Water Quality Control Board Order No. 01-182, Permit CAS004001, Part 4F5c3</p> <p>Fiscal Years 2002-2003 through 2011-2012</p> <p>Filed on February 18, 2021</p> <p>City of Hawaiian Gardens, Claimant</p>	<p>Case No.: 20-0304-I-12</p> <p><i>Municipal Stormwater and Urban Runoff Discharges</i></p> <p>DECISION PURSUANT TO GOVERNMENT CODE SECTION 17500 ET SEQ.; CALIFORNIA CODE OF REGULATIONS, TITLE 2, DIVISION 2, CHAPTER 2.5, ARTICLE 7.</p> <p><i>(September 23, 2022)</i></p>
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DECISION

The Commission on State Mandates (Commission) heard and decided this Incorrect Reduction Claim (IRC) during a regularly scheduled hearing on September 23, 2022. [Witness list will be included in the adopted Decision.]

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 sections 17500 et seq., and related case law.

The Commission [adopted/modified] the Proposed Decision to [approve/partially approve/deny] the IRC by a vote of [vote will be included in the adopted Decision], as follows:

Member	Vote
Lee Adams, County Supervisor	
Jeannie Lee, Representative of the Director of the Office of Planning and Research	
Gayle Miller, Representative of the Director of the Department of Finance, Chairperson	
Sarah Olsen, Public Member	
Renee Nash, School Board Member	
Shawn Silva, Representative of the State Controller	
Spencer Walker, Representative of the State Treasurer, Vice Chairperson	

Summary of the Findings

This IRC challenges reductions by the State Controller's Office (Controller) to reimbursement claims filed by the City of Hawaiian Gardens (claimant) for fiscal years 2002-2003 through 2011-2012 (audit period) under the *Municipal Stormwater and Urban Runoff Discharges* program. At issue is the Controller's reduction based on its finding that the claimant did not provide contemporaneous source documentation to support its claim under the reasonable reimbursement methodology for the number of weekly trash collections performed during the audit period. The Controller reduced the number of collections claimed from twice weekly (104 annual collections) to once weekly (52 annual collections).

The Commission finds that this IRC was timely filed.

The Commission further finds that the Controller's reduction of costs claimed for twice weekly trash collection, based on the claimant's failure to provide contemporaneous source documents, is incorrect as a matter of law. The Parameters and Guidelines for the *Municipal Stormwater and Urban Runoff Discharges* program do not require the claimant to provide contemporaneous source documentation to support a claim for ongoing maintenance activities, including trash collection, under the reasonable reimbursement methodology (RRM). Rather, "[t]he RRM is in lieu of filing detailed documentation of actual costs."³³ Thus, section VII.B, which pertains to costs claimed using a reasonable reimbursement methodology, simply requires that "Local agencies must retain documentation which supports the reimbursement of the maintenance costs identified in Section IV.B of these parameters and guidelines during the period subject to audit, including documentation showing the number of trash receptacles in the jurisdiction and the number of trash collections or pickups."³⁴

Even if the Parameters and Guidelines could be interpreted to require contemporaneous source documentation to support the ongoing trash collection activities, applying this requirement to the claiming period before the Parameters and Guidelines were adopted (fiscal years 2002-2003 through 2010-2011) would violate due process and be incorrect as a matter of law.³⁵ The claimant was not on notice of a contemporaneous source document requirement when the costs were incurred in fiscal years 2002-2003 through 2010-2011 because the Parameters and Guidelines were not adopted until March 2011.³⁶

Because the Controller did not apply the correct standard in determining whether the documentation provided was sufficient to show twice-weekly trash collection, and the claimant provided additional documentation that may not have been reviewed by the Controller, this matter is remanded to the Controller for further review. Included with the IRC is a Time Log

³³ Exhibit A, IRC, filed February 18, 2021, page 279 (Parameters and Guidelines).

³⁴ Exhibit A, IRC, filed February 18, 2021, page 280 (Parameters and Guidelines).

³⁵ *Clovis Unified School Dist. v. Chiang* (2010) 188 Cal.App.4th 794, 802-813; *City of Modesto v. National Med, Inc.* (2005) 128 Cal.App.4th 518, 527; *In re Cindy B.* (1987) 192 Cal.App.3d 771, 783-784; *Department of Health Services v. Fontes* (1985) 169 Cal.App.3d 301, 304-305; *Tapia v. Superior Court* (1991) 53 Cal.3d 282, 287-292; *Murphy v. City of Alameda* (1993) 11 Cal.App.4th 906, 911-912.

³⁶ Exhibit A, IRC, filed February 18, 2021, page 274 (Parameters and Guidelines).

that lists the number of trash pickups (two per week) per fiscal year from 2002-2003 to 2010-2011, which is signed by Joe Vasquez, Public Works Superintendent, and states that “I hereby certify under the penalty of perjury the [sic] laws of the State of California that the foregoing is true and correct based upon my personal knowledge.” The log is dated September 27, 2011.³⁷ However, there is no evidence in the record showing that Mr. Vasquez was employed by the claimant as a public works superintendent during the audit period, so it is unclear what his “personal knowledge” is based on. The mandate began July 1, 2002, up to nine years before the Time Log was signed by Mr. Vasquez in September 2011.

The other two documents included with the IRC are a letter from the claimant’s Finance Director indicating that 24 receptacles were cleaned twice per week in fiscal year 2011-2012, and a reimbursement claims receipt that lists the amounts claimed during the audit period.³⁸

The Final Audit Report does not indicate that the documents in the IRC were received or considered by the auditors. Accordingly, the Commission remands the reimbursement claims back to the State Controller’s Office to further review and verify the costs claimed under the RRM based on the number of weekly trash collections during the audit period and reinstate those costs that are deemed eligible for reimbursement in accordance with this decision.

COMMISSION FINDINGS

I. Chronology

- 09/28/2011 The claimant dated its reimbursement claims for fiscal years 2002-2003 through 2010-2011 with this date.³⁹
- 01/17/2013 The claimant dated its reimbursement claim for fiscal year 2011-2012 with this date.⁴⁰
- 06/27/2018 The Controller issued the Draft Audit Report.⁴¹
- 07/09/2018 The claimant filed comments on the Draft Audit Report.⁴²
- 08/09/2018 The Controller issued the Final Audit Report.⁴³

³⁷ Exhibit A, IRC, filed February 18, 2021, page 29 (Time Log).

³⁸ Exhibit A, IRC, filed February 18, 2021, pages 31 and 307 (Nov. 8, 2012 Letter from Claimant to Cost Recovery Systems, Claims Receipt).

³⁹ Exhibit A, IRC, filed February 18, 2021, pages 308 (2002-2003 claim), 310 (2003-2004 claim), 312 (2004-2005 claim), 314 (2005-2006 claim), 316 (2006-2007 claim), 318 (2007-2008 claim), 320 (2008-2009 claim), 322 (2009-2010 claim), and 324 (2010-2011 claim). A cover sheet entitled “Reimbursement Claims Receipt,” that lists the claims for fiscal years 2002-2003 through 2010-2011, is dated September 28, 2011 (Exhibit A, IRC, filed February 18, 2021, page 307).

⁴⁰ Exhibit A, IRC, filed February 18, 2021, page 326 (2011-2012 reimbursement claim).

⁴¹ Exhibit A, IRC, filed February 18, 2021, page 296 (Final Audit Report).

⁴² Exhibit A, IRC, filed February 18, 2021, page 296, 303 (Final Audit Report).

⁴³ Exhibit A, IRC, filed February 18, 2021, page 292 (Final Audit Report).

02/18/2021 The claimant filed the IRC.⁴⁴

07/12/2022 Commission staff issued the Draft Proposed Decision.⁴⁵

II. Background

This IRC challenges the Controller's reductions of costs claimed for fiscal years 2002-2003 through 2011-2012 under the *Municipal Stormwater and Urban Runoff Discharges* program to install and maintain trash receptacles at public transit stops.⁴⁶

A. The Municipal Stormwater and Urban Runoff Discharges Program

The *Municipal Stormwater and Urban Runoff Discharges* program arose from a Consolidated Test Claim filed by the County of Los Angeles and several cities within the County alleging various activities related to, amongst other things, installation and maintenance of trash receptacles at transit stops to reduce stormwater pollution in compliance with a permit issued by the Los Angeles Regional Water Quality Control Board, a state agency.⁴⁷ The purpose of the permit was to protect the beneficial uses of receiving waters in Los Angeles County by reducing the discharge of pollutants into storm water to the maximum extent practicable.⁴⁸

On July 31, 2009, the Commission adopted the Test Claim Decision,⁴⁹ finding that the following activities in part 4F5c3 of the permit imposed a reimbursable state mandate on those local agencies subject to the permit that are not subject to a trash total maximum daily load:

Place trash receptacles at all transit stops within its jurisdiction that have shelters no later than August 1, 2002, and at all transit stops within its jurisdiction no later than February 3, 2003. All trash receptacles shall be maintained as necessary.⁵⁰

The Commission adopted the Parameters and Guidelines for this program on March 24, 2011.⁵¹ Section IV.A, identifies the following one-time reimbursable activities:

⁴⁴ Exhibit A, IRC, filed February 18, 2021, page 1.

⁴⁵ Exhibit B, Draft Proposed Decision, issued July 12, 2022.

⁴⁶ Exhibit A, IRC, filed February 18, 2021, pages 1, 292, 294, 300 (Final Audit Report).

⁴⁷ Exhibit X, Final Staff Analysis Proposed Parameters and Guidelines and Statement of Decision, *Municipal Storm Water and Urban Runoff Discharges*, 03-TC-04, 03-TC-20, 03-TC-21, adopted March 24, 2011, page 3.

⁴⁸ Exhibit X, Final Staff Analysis Proposed Parameters and Guidelines and Statement of Decision, *Municipal Storm Water and Urban Runoff Discharges*, 03-TC-04, 03-TC-20, 03-TC-21, adopted March 24, 2011, page 11.

⁴⁹ Exhibit X, Final Staff Analysis Proposed Parameters and Guidelines and Statement of Decision, *Municipal Storm Water and Urban Runoff Discharges*, 03-TC-04, 03-TC-20, 03-TC-21, adopted March 24, 2011, page 3.

⁵⁰ Exhibit X, Final Staff Analysis Proposed Parameters and Guidelines and Statement of Decision, *Municipal Storm Water and Urban Runoff Discharges*, 03-TC-04, 03-TC-20, 03-TC-21, adopted March 24, 2011, page 3.

⁵¹ Exhibit A, IRC, filed February 18, 2021, page 274 (Parameters and Guidelines).

- A. Install Trash Receptacles (one-time per transit stop, reimbursed using actual costs):
1. Identify locations of all transit stops within the jurisdiction required to have a trash receptacle pursuant to the Permit.
 2. Select receptacle and pad type, evaluate proper placement of receptacles and prepare specifications and drawings.
 3. Prepare contracts, conduct specification review process, advertise bids, and review and award bids.
 4. Purchase or construct receptacles and pads and install receptacles and pads.
 5. Move (including replacement if required) receptacles and pads to reflect changes in transit stops, including costs of removal and restoration of property at former receptacle location and installation at new location.⁵²

Section IV.B. lists the following ongoing activities as reimbursable:

- B. Maintain Trash Receptacles and Pads (on-going, reimbursed using the reasonable reimbursement methodology):
1. Collect and dispose of trash at a disposal/recycling facility. *This activity is limited to no more than three times per week.*
 2. Inspect receptacles and pads for wear, cleaning, emptying, and other maintenance needs.
 3. Maintain receptacles and pads. This activity includes painting, cleaning, and repairing receptacles; and replacing liners. The cost of paint, cleaning supplies and liners is reimbursable. Graffiti removal is not reimbursable.
 4. Replace individual damaged or missing receptacles and pads. The costs to purchase and install replacement receptacles and pads and dispose of or recycle replaced receptacles and pads are reimbursable.⁵³

Under section IV, only “actual costs” are reimbursed for one-time activities (A.1.-A.5.), whereas ongoing activities (B.1.-B.5.) are reimbursed under the “reasonable reimbursement methodology.”⁵⁴

“Actual costs” are defined as “those costs actually incurred to implement the mandated activities” and which “must be traceable and supported by source documents that show the validity of such costs, when they were incurred, and their relationship to the reimbursable

⁵² Exhibit A, IRC, filed February 18, 2021, page 277 (Parameters and Guidelines).

⁵³ Exhibit A, IRC, filed February 18, 2021, page 277 (Parameters and Guidelines). Emphasis in original.

⁵⁴ Exhibit A, IRC, filed February 18, 2021, page 276 (Parameters and Guidelines).

activities.”⁵⁵ Under section IV., “contemporaneous source documents” are required to support actual costs: “document[s] created at or near the same time the actual costs were incurred for the event or activity in question” and “may include, but are not limited to, employee time records or time logs, sign-in sheets, invoices, and receipts.”⁵⁶ Section IV. further provides as follows regarding corroborating evidence:

Evidence corroborating the source documents may include, but is not limited to, timesheets, worksheets, cost allocation reports (system generated), purchase orders, contracts, agendas, calendars, and declarations. Declarations must include a certification or declaration stating, "I certify (or declare) under penalty of perjury under the laws of the State of California that the foregoing is true and correct," and must further comply with the requirements of Code of Civil Procedure section 2015.5. Evidence corroborating the source documents may include data relevant to the reimbursable activities otherwise reported in compliance with local, state, and federal government requirements. However, corroborating documents cannot be substituted for source documents.⁵⁷

Under section VII.A, a reimbursement claim for actual costs requires the claimant to retain “[a]ll documents used to support the reimbursable activities, as described in Section IV.”⁵⁸

Section VI. describes the RRM for the ongoing costs, including the costs to collect trash “no more than three times per week”:

The Commission is adopting a reasonable reimbursement methodology to reimburse eligible local agencies for all direct and indirect costs for the on-going activities identified in section IV.B of these parameters and guidelines to maintain trash receptacles. (Gov. Code, §§ 17557, subd. (b) & 17518.) The RRM is in lieu of filing detailed documentation of actual costs. Under the RRM, the unit cost of \$6.74, during the period of July 1, 2002 to June 30, 2009, for each trash collection or “pickup” is multiplied by the annual number of trash collections (number of receptacles times pickup events for each receptacle), subject to the limitation of no more than three pickups per week. Beginning in fiscal year 2009-2010, the RRM shall be adjusted annually by the implicit price deflator as forecast by the Department of Finance.⁵⁹

Section VII.B, which pertains to ongoing costs claimed using an RRM, requires as follows:

Local agencies must retain documentation which supports the reimbursement of the maintenance costs identified in Section IV.B of these parameters and guidelines during the period subject to audit, including documentation showing

⁵⁵ Exhibit A, IRC, filed February 18, 2021, page 276 (Parameters and Guidelines).

⁵⁶ Exhibit A, IRC, filed February 18, 2021, page 276 (Parameters and Guidelines).

⁵⁷ Exhibit A, IRC, filed February 18, 2021, page 276 (Parameters and Guidelines).

⁵⁸ Exhibit A, IRC, filed February 18, 2021, page 280 (Parameters and Guidelines).

⁵⁹ Exhibit A, IRC, filed February 18, 2021, pages 279-280 (Parameters and Guidelines).

the number of trash receptacles in the jurisdiction and the number of trash collections or pickups.⁶⁰

B. The Controller’s Audit and Summary of the Issues

In its sole audit finding, the Controller found that of the \$169,503 in total costs claimed, \$84,754 was reimbursable and \$84,749 was not reimbursable because the claimant did not provide contemporaneous source documentation to support its claim under the reasonable reimbursement methodology for the twice per week trash collections performed during the audit period.⁶¹ As stated in the audit report: “The city claimed two transit-stop trash collections per week, totaling 104 annual collections. We found that one transit-stop trash collection per week, totaling 52 annual collections, is allowable.”⁶²

The claimant provided the Controller with the following documentation to support its claimed trash collection costs:

- A bus stop list (date generated unknown) indicating that the transit-stop trash receptacles were maintained twice a week by city employees.
- A letter addressed to its consultant, dated December 17, 2014, stating that the transit-stop trash receptacles are maintained twice a week.⁶³

The Controller found that the documentation provided did not meet the criteria outlined in the Parameters and Guidelines. According to the Final Audit Report:

We requested that the city provide us with source documents maintained during the audit period, such as policy and procedural manuals regarding transit-stop trash collection activities, duty statements of the employees performing weekly trash collections activities, and/or trash collection route maps. The city stated that it does not keep these types of records. As the documentation provided was not contemporaneous and was not created during the audit period, we found that the city did not provide sufficient source documentation to support two weekly trash collection activities, totaling 104 annual collections.⁶⁴

To support its position regarding the contemporaneous source document requirement, the Controller cited to the following portions of the Parameters and Guidelines:

Section VII. (Records Retention) of the parameters and guidelines states, in part:

Local agencies must retain documentation which supports the reimbursement of the maintenance costs identified in Section IV.B. of these parameters and guidelines during the period subject to audit, including documentation showing the number of trash

⁶⁰ Exhibit A, IRC, filed February 18, 2021, page 280 (Parameters and Guidelines).

⁶¹ Exhibit A, IRC, filed February 18, 2021, pages 292, 294, 300 (Final Audit Report).

⁶² Exhibit A, IRC, filed February 18, 2021, page 300 (Final Audit Report).

⁶³ Exhibit A, IRC, filed February 18, 2021, page 300 (Final Audit Report).

⁶⁴ Exhibit A, IRC, filed February 18, 2021, pages 300-301 (Final Audit Report).

receptacles in the jurisdiction and the number of trash collections or pickups.⁶⁵

The Controller said it “physically observed the ongoing maintenance of the transit-stop trash receptacles located throughout the city. Absent source documentation to support two weekly collections,” the Controller “determined that one weekly collection, totaling 52 annual collections, is allowable.”⁶⁶

III. Positions of the Parties

A. City of Hawaiian Gardens

The claimant maintains that the documentation provided to the auditors was contemporaneous and in compliance with the Claiming Instructions, which it argues require only two pieces of information: the number of eligible receptacles serviced and the maintenance frequency (trash pickups) at these receptacles.⁶⁷ According to the IRC:

The City was first made aware of this claiming opportunity on May 31, 2011 when the Claiming Instructions were released. To prepare claims for State Reimbursement, then Public Works Superintendent, Joe Vasquez, completed the attached Time Log form in September, 2011 attesting and certifying under the penalty of perjury that eligible transit stops were maintained on a twice weekly schedule during FY 2002-03 through FY 2010-11; a time period during which Mr. Vasquez was employed and would have had first-hand knowledge of as the direct supervisor of this program (See Exhibit C).

The document was “contemporaneous” because in September 2011 the mandate was still active and the eligible activities were being actively performed. In addition, this would have been the earliest any document could have been generated to support mandated costs as it was prepared almost immediately after claiming instructions were released.

On November 8, 2012 the City’s Finance Director sent Cost Recovery Systems the attached letter (See Exhibit D) for purposes of submitting the FY 11-12 reimbursement claims. This also was a contemporaneous record of activities being actively performed by the city having been generated “at or near the time” that the activities were begin [sic] performed. . . .

[¶] . . . [¶]

The city disputes the SCO’s [Controller’s] positions that 1) “... the documentation provided was not contemporaneous and was not created during the audit period, 2) the documentation the city provided was not adequate to prove maintenance frequency, and 3) that requesting these very specific and non-

⁶⁵ Exhibit A, IRC, filed February 18, 2021, page 301 (Final Audit Report).

⁶⁶ Exhibit A, IRC, filed February 18, 2021, page 301 (Final Audit Report).

⁶⁷ Exhibit A, IRC, filed February 18, 2021, page 4.

standard forms of documentation after the fact and without proper notice would be unfair, arbitrary, and capricious and would violate “Due Process”.⁶⁸

The claimant points out that the Parameters and Guidelines and Claiming Instructions were released on May 2011, and authorized two claiming methods, one for one-time costs and one for on-going maintenance costs. Ongoing activities are reimbursed under a Reasonable Reimbursement Methodology, which the Parameters and Guidelines say is “in lieu of filing detailed documentation of actual costs.” The claimant argues that the claiming instructions contain “no requirement to or mention of “policy and procedure manuals regarding trash activities, duty statements of the employees performing weekly trash collection activities, and/or trash collection route maps.”⁶⁹

The claimant also argues that “the form signed by Public Works Supervisor Vasquez only 4 months after the release of the claiming instructions and the letter from the finance director the following year to support FY 2011-12 costs were actual, contemporaneous forms of documentation.”⁷⁰ According to the claimant:

The mandate was still active at the time the 2011 log and the 2012 letter were prepared and the staff that provided the information would have had first-hand knowledge of the activities. The State Controller could not say that the 2011 and 2012 documents provided by the city were not “created at or near the same time actual costs were incurred” as claims for FY 2010-11 and FY 2011-12 would have been actual and contemporaneous.⁷¹

The claimant “believes that documentation provided satisfied the requirements of the Claiming Instructions, Parameters and Guidelines, and the Federal GAO Audit Guidelines.”⁷² The claimant also argues that the types of records and documentation requested by the Controller to support maintenance frequency are not the types of records commonly maintained by local agencies.⁷³

The claimant further contends that the Controller’s request for new material violates due process, which requires that claimants have reasonable notice of any law that affects their substantive rights and liabilities. The claimant cites *Clovis Unified School Dist. v. Chiang* regarding the court’s refusal to apply the contemporaneous source document rule because it was an underground regulation as applied to the time before the rule was incorporated into the parameters and guidelines.⁷⁴

⁶⁸ Exhibit A, IRC, filed February 18, 2021, pages 3-4.

⁶⁹ Exhibit A, IRC, filed February 18, 2021, pages 4-5.

⁷⁰ Exhibit A, IRC, filed February 18, 2021, pages 5-6.

⁷¹ Exhibit A, IRC, filed February 18, 2021, page 6.

⁷² Exhibit A, IRC, filed February 18, 2021, page 7.

⁷³ Exhibit A, IRC, filed February 18, 2021, page 7.

⁷⁴ Exhibit A, IRC, filed February 18, 2021, page 8. *Clovis Unified School Dist. v. Chiang* (2010) 188 Cal.App.4th 794.

Finally, the claimant notes that the claiming instructions specify that the frequency of trash pickups is limited to no more than three times per week, so the claimant's twice weekly pickups are "well within 'reasonable' standards established under the instructions and supported by actual records and documentation."⁷⁵

B. State Controller's Office

The Controller has not filed comments on the IRC.

IV. Discussion

Government Code section 17561(d) authorizes the Controller to audit the claims filed by local agencies and school districts and to reduce any claim for reimbursement of state-mandated costs if the Controller determines that the claim is excessive or unreasonable.

Government Code section 17551(d) requires the Commission to hear and decide a claim that the Controller has incorrectly reduced payments to the local agency or school district. If the Commission determines that a reimbursement claim has been incorrectly reduced, section 1185.9 of the Commission's regulations requires the Commission to send the decision to the Controller and request that the costs in the claim be reinstated.

The Commission must review questions of law, including interpretation of the parameters and guidelines, de novo, without consideration of legal conclusions made by the Controller in the context of an audit. The Commission is vested with exclusive authority to adjudicate disputes over the existence of state-mandated programs within the meaning of article XIII B, section 6 of the California Constitution.⁷⁶ The Commission must also interpret the Government Code and implementing regulations in accordance with the broader constitutional and statutory scheme. In making its decisions, the Commission must strictly construe article XIII B, section 6 and not apply it as an "equitable remedy to cure the perceived unfairness resulting from political decisions on funding priorities."⁷⁷

With regard to the Controller's audit decisions, the Commission must determine whether they were arbitrary, capricious, or entirely lacking in evidentiary support. This standard is similar to the standard used by the courts when reviewing an alleged abuse of discretion of a state agency.⁷⁸ Under this standard, the courts have found that:

When reviewing the exercise of discretion, "[t]he scope of review is limited, out of deference to the agency's authority and presumed expertise: 'The court may not reweigh the evidence or substitute its judgement for that of the agency. [Citation.]'" ... "In general ... the inquiry is limited to whether the decision was

⁷⁵ Exhibit A, IRC, filed February 18, 2021, page 9.

⁷⁶ *Kinlaw v. State of California* (1991) 54 Cal.3d 326, 331-334; Government Code sections 17551, 17552.

⁷⁷ *County of Sonoma v. Commission on State Mandates* (2000) 84 Cal.App.4th 1264, 1281, citing *City of San Jose v. State of California* (1996) 45 Cal.App.4th 1802, 1817.

⁷⁸ *Johnson v. Sonoma County Agricultural Preservation and Open Space Dist.* (2002) 100 Cal.App.4th 973, 983-984. See also *American Bd. of Cosmetic Surgery, Inc. v. Medical Bd. of California* (2008) 162 Cal.App.4th 534, 547.

arbitrary, capricious, or entirely lacking in evidentiary support....” [Citations.]
When making that inquiry, the “ “court must ensure that an agency has
adequately considered all relevant factors, and has demonstrated a rational
connection between those factors, the choice made, and the purposes of the
enabling statute.” [Citation.]’ ”⁷⁹

The Commission must review the Controller’s audit in light of the fact that the initial burden of providing evidence for a claim of reimbursement lies with the claimant.⁸⁰ In addition, sections 1185.1(f)(3) and 1185.2(d) and (e) of the Commission’s regulations require that any assertions of fact by the parties to an IRC must be supported by documentary evidence. The Commission’s ultimate findings of fact must be supported by substantial evidence in the record.⁸¹

A. The Claimant Timely Filed the IRC.

Section 1185.1(c) of the Commission’s regulations requires an incorrect reduction claim to be filed with the Commission no later than three years after the date the claimant first receives from the Controller a final state audit report, letter, or other written notice of adjustment to a reimbursement claim, which complies with Government Code section 17558.5(c).⁸² Under Government Code section 17558.5(c), the Controller must notify the claimant in writing within 30 days after issuance of a remittance advice of any adjustment to a claim for reimbursement that results from an audit or review.⁸³ The notice must specify which claim components were adjusted and in what amount, as well as interest charges on claims adjusted, and the reason for the adjustment.⁸⁴

Here, the Controller issued its Final Audit Report on August 9, 2018.⁸⁵ The Final Audit Report specifies the claim components and amounts adjusted, as well as the reasons for the adjustments.⁸⁶ Thus, the Final Audit Report complies with the notice requirements of section 17558.5(c). The claimant filed the IRC on February 18, 2021, within three years of the date of the Final Audit Report.⁸⁷ Therefore, the Commission finds that the IRC was timely filed.

⁷⁹ *American Bd. of Cosmetic Surgery, Inc. v. Medical Bd. of California* (2008) 162 Cal.App.4th 534, 547-548.

⁸⁰ *Gilbert v. City of Sunnyvale* (2005) 130 Cal.App.4th 1264, 1274-1275.

⁸¹ Government Code section 17559(b), which provides that a claimant or the state may commence a proceeding in accordance with the provisions of Code of Civil Procedure section 1094.5 to set aside a decision of the Commission on the ground that the Commission’s decision is not supported by substantial evidence in the record.

⁸² California Code of Regulations, title 2, section 1185.1.

⁸³ Government Code section 17558.5(c).

⁸⁴ Government Code section 17558.5(c).

⁸⁵ Exhibit A, IRC, filed February 18, 2021, page 292 (Final Audit Report).

⁸⁶ Exhibit A, IRC, filed February 18, 2021, pages 292-301 (Final Audit Report).

⁸⁷ Exhibit A, IRC, filed February 18, 2021, page 1.

B. The Controller’s Reduction of Costs Claimed, Based on its Finding That the Claimant Failed to Provide Contemporaneous Source Documentation to Support the Number of Trash Collections Performed During the Audit Period Is Incorrect as a Matter of Law.

At issue is the Controller’s reduction of costs claimed, based on its finding that the claimant overstated the annual number of trash collections performed during the audit period. “The city claimed two transit-stop trash collections per week, totaling 104 annual collections. We found that one transit-stop trash collection per week, totaling 52 annual collections, is allowable.”⁸⁸

In finding that the claimant provided insufficient documentation in support of its claim of twice weekly trash collection for the duration of the audit period, the Controller explained that the claimant failed to provide contemporaneous source documentation.

We requested that the city provide us with source documents maintained during the audit period, such as policy and procedural manuals regarding transit-stop trash collection activities, duty statements of the employees performing weekly trash collections activities, and/or trash collection route maps. The city stated that it does not keep these types of records.

As the documentation provided was not contemporaneous and was not created during the audit period, we found that the city did not provide sufficient source documentation to support two weekly trash collection activities, totaling 104 annual collections.⁸⁹

The Controller allowed once weekly collections (52 annual collections) because the Controller “physically observed the ongoing maintenance of the transit-stop trash receptacles located throughout the city” during audit fieldwork.⁹⁰

The claimant challenges the Controller’s request for highly specific and detailed contemporaneous source documentation as beyond the scope of the Parameters and Guidelines and asserts that the documentation provided was sufficient.⁹¹

1. The Parameters and Guidelines do not require the claimant to provide contemporaneous source documentation to support a claim based on the reasonable reimbursement methodology for ongoing maintenance activities, including trash collection.

The Controller asserts in the Final Audit Report that the documentation provided by the claimant to support twice weekly trash collection activities was insufficient because it did not include “source documents maintained during the audit period” and “was not contemporaneous and was not created during the audit period.”⁹² The Parameters and Guidelines impose no such

⁸⁸ Exhibit A, IRC, filed February 18, 2021, page 300 (Final Audit Report).

⁸⁹ Exhibit A, IRC, filed February 18, 2021, pages 300-301 (Final Audit Report).

⁹⁰ Exhibit A, IRC, filed February 18, 2021, page 301 (Final Audit Report).

⁹¹ Exhibit A, IRC, filed February 18, 2021, pages 4-8.

⁹² Exhibit A, IRC, filed February 18, 2021, pages 300-301 (Final Audit Report).

requirement. The contemporaneous source document requirement is not applicable to the ongoing costs reimbursed under the RRM.

The Parameters and Guidelines for the *Municipal Stormwater and Urban Runoff Discharges* program allow for two categories of reimbursable activities.⁹³ In Section IV.A., installation activities are categorized as “one-time” activities and are reimbursed using the actual cost method.⁹⁴ In Section IV.B. are maintenance activities that are categorized as “ongoing” activities, and are reimbursed using an RRM.⁹⁵ Section IV. states:

To be eligible for mandated cost reimbursement for any fiscal year, only actual costs may be claimed for the one-time activities in section IV. A below. The ongoing activities in section IV.B below are reimbursed under a reasonable reimbursement methodology.⁹⁶

Section IV.B lists trash collection as an ongoing maintenance activity and states that the activity “is limited to no more than three times per week.”⁹⁷

Section VI., which addresses claim preparation for the reimbursable ongoing activities identified in section IV.B, reiterates the limited and exclusive use of an RRM for ongoing activities “in lieu of filing detailed documentation of actual costs.”⁹⁸

The Commission is adopting a reasonable reimbursement methodology to reimburse eligible local agencies for all direct and indirect costs for the on-going activities identified in section IV.B of these parameters and guidelines to maintain trash receptacles. (Gov. Code, §§ 17557, subd. (b) & 17518.) *The RRM is in lieu of filing detailed documentation of actual costs.*⁹⁹

The records retention requirements set forth in section VII. of the Parameters and Guidelines separately address which records must be retained for a claim for actual costs, versus using the RRM.¹⁰⁰ Section VII.B, which pertains solely to the ongoing costs using the RRM, states that local agencies are required to retain “documentation which supports the reimbursement of maintenance costs” including documentation showing the number of trash collections:

Local agencies must retain documentation which supports the reimbursement of the maintenance costs identified in Section IV.B of these parameters and guidelines during the period subject to audit, including documentation showing

⁹³ Exhibit A, IRC, filed February 18, 2021, page 276 (Parameters and Guidelines).

⁹⁴ Exhibit A, IRC, filed February 18, 2021, page 276 (Parameters and Guidelines).

⁹⁵ Exhibit A, IRC, filed February 18, 2021, page 276 (Parameters and Guidelines).

⁹⁶ Exhibit A, IRC, filed February 18, 2021, page 276 (Parameters and Guidelines).

⁹⁷ Exhibit A, IRC, filed February 18, 2021, page 277 (Parameters and Guidelines).

⁹⁸ Exhibit A, IRC, filed February 18, 2021, page 280 (Parameters and Guidelines).

⁹⁹ Exhibit A, IRC, filed February 18, 2021, pages 279-280 (Parameters and Guidelines). Emphasis added.

¹⁰⁰ Exhibit A, IRC, filed February 18, 2021, page 280 (Parameters and Guidelines).

the number of trash receptacles in the jurisdiction and the number of trash collections or pickups.¹⁰¹

Section VII.B. does not require that the documentation supporting the number of trash collections under the RRM be contemporaneous. Nor does section VII.B. refer back to the contemporaneous source document requirement in section IV of the Parameters and Guidelines for “actual costs” claimed. The Parameters and Guidelines instead state that reimbursement for trash collection using the “RRM is in lieu of filing detailed documentation of actual costs.”¹⁰² This language is consistent with Government Code sections 17518.5 and 17557(f), which provide that a reasonable reimbursement methodology “shall be based on general allocation formulas, uniform cost allowances, and other approximations of local costs mandated by the state, rather than detailed documentation of actual local costs,” and that the reimbursement methodology balances “accuracy with simplicity.”

In contrast, section VII. A, which describes the record retention requirements for the reimbursement of one-time activities using the actual cost method, expressly refers to the documentation requirements in section IV. of the Parameters and Guidelines, which in turn requires that the supporting documentation be contemporaneous. Section VII.A. states in relevant part: “All documents used to support the reimbursable activities, as described in Section IV., must be retained during the period subject to audit.”¹⁰³

And section IV. summarizes the contemporaneous source documents required for “actual costs;” namely, documents created at or near the same time the actual costs were incurred, as follows:

Actual costs are those costs actually incurred to implement the mandated activities. Actual costs must be traceable and supported by source documents that show the validity of such costs, when they were incurred, and their relationship to the reimbursable activities. A source document is a document created at or near the same time the actual costs were incurred for the event or activity in question. Source documents may include, but are not limited to, employee time records or time logs, sign-in sheets, invoices, and receipts.

Evidence corroborating the source documents may include, but is not limited to, timesheets, worksheets, cost allocation reports (system generated), purchase orders, contracts, agendas, calendars, and declarations. Declarations must include a certification or declaration stating, "I certify (or declare) under penalty of perjury under the laws of the State of California that the foregoing is true and correct," and must further comply with the requirements of Code of Civil Procedure section 2015.5. Evidence corroborating the source documents may include data relevant to the reimbursable activities otherwise reported in compliance with local, state, and federal government requirements. However, corroborating documents cannot be substituted for source documents.¹⁰⁴

¹⁰¹ Exhibit A, IRC, filed February 18, 2021, page 280 (Parameters and Guidelines).

¹⁰² Exhibit A, IRC, filed February 18, 2021, page 280 (Parameters and Guidelines).

¹⁰³ Exhibit A, IRC, filed February 18, 2021, page 280 (Parameters and Guidelines).

¹⁰⁴ Exhibit A, IRC, filed February 18, 2021, page 276 (Parameters and Guidelines).

Therefore, based on the plain language of the Parameters and Guidelines, the contemporaneous source document requirement applicable to claims using the actual cost method does not apply to ongoing costs claimed under the RRM.

This conclusion is further supported by the analysis adopted by the Commission on the Parameters and Guidelines on March 24, 2011, for the *Municipal Stormwater and Urban Runoff Discharges* program.¹⁰⁵ As part of the parameters and guidelines drafting process, the claimants initially requested an RRM for the ongoing trash receptacle maintenance activities listed in section IV.B of the Parameters and Guidelines.¹⁰⁶ The Controller opposed the RRM and instead sought “actual costs incurred, supported by documentation of the costs.”¹⁰⁷

Finance and the State Controller’s Office oppose the adoption of an RRM and, instead, request that the parameters and guidelines require eligible claimants to claim actual costs incurred, supported by documentation of the costs.¹⁰⁸

In discussing how to calculate trash collection frequency under the Parameters and Guidelines, the analysis adopted by the Commission states:

Claimants did not propose how frequently the trash receptacles would be emptied. Survey data submitted with the revised parameters and guidelines indicates that frequency of collection varies from weekly for some local agencies (e.g., Bellflower, Covina, Signal Hill), to 2.57 times per week for Carson. (The pickup frequency data is unclear for Los Angeles County, as the survey appears to state 156 pickups per year, or three times per week, but an August 2010 declaration from William Yan states that pickup frequency is 48-52 times per year). Trash will accumulate at different rates at different transit stops. However, based on the survey data and accompanying declaration, staff finds that the most reasonable method of complying with the mandate is to reimburse collection frequency no more than three times per week.”¹⁰⁹

¹⁰⁵ Exhibit X, Final Staff Analysis Proposed Parameters and Guidelines and Statement of Decision, *Municipal Storm Water and Urban Runoff Discharges*, 03-TC-04, 03-TC-20, 03-TC-21, adopted March 24, 2011, page 2.

¹⁰⁶ Exhibit X, Final Staff Analysis Proposed Parameters and Guidelines and Statement of Decision, *Municipal Storm Water and Urban Runoff Discharges*, 03-TC-04, 03-TC-20, 03-TC-21, adopted March 24, 2011, page 40.

¹⁰⁷ Exhibit X, Final Staff Analysis Proposed Parameters and Guidelines and Statement of Decision, *Municipal Storm Water and Urban Runoff Discharges*, 03-TC-04, 03-TC-20, 03-TC-21, adopted March 24, 2011, page 21.

¹⁰⁸ Exhibit X, Final Staff Analysis Proposed Parameters and Guidelines and Statement of Decision, *Municipal Storm Water and Urban Runoff Discharges*, 03-TC-04, 03-TC-20, 03-TC-21, adopted March 24, 2011, page 21, 40-42.

¹⁰⁹ Exhibit X, Final Staff Analysis Proposed Parameters and Guidelines and Statement of Decision, *Municipal Storm Water and Urban Runoff Discharges*, 03-TC-04, 03-TC-20, 03-TC-21, adopted March 24, 2011, page 37.

In comments on the Draft Staff Analysis, the claimants proposed adding language to section IV.B that would allow reimbursement for repetitive trash collection activities under either the actual cost method or the RRM.

In its February 25, 2011 comments on the draft staff analysis, city claimants propose adding the following: “Claimants may elect to use either actual costs, including costs based on time studies (as set forth below) or RRM [reasonable reimbursement methodology] rates for repetitive trash collection tasks.” Claimants further include the option to use time studies for repetitive tasks.¹¹⁰

In rejecting the language proposed by the claimants, the Commission determined that allowing the claimants to choose how to claim costs would frustrate the purpose of using an RRM, which is to balance “accuracy with simplicity.”¹¹¹

The RRM is intended to balance “accuracy with simplicity.” (Gov. Code, § 17557, subd. (f).) Allowing claimants to elect to claim costs by using either an RRM, a time study, or actual costs does not conform to this standard. Instead, it would allow claimants to maximize their reimbursement depending on whether or not their costs are higher than the RRM. This is not the purpose of an RRM. For this reason, staff finds that the language allowing claimants to claim costs by electing either the RRM, time studies, or actual costs should not be included under section IV.B.”¹¹²

The Commission instead added the following record retention language “for any audits conducted by the State Controller’s Office of the costs claimed using the RRM” to section VII.B of the Parameters and Guidelines.

Pursuant to Government Code section 17558.5, subdivision (a), a reimbursement claim for actual costs filed by a school district pursuant to this chapter is subject to the initiation of an audit by the Controller no later than three years after the date that the actual reimbursement claim is filed or last amended, whichever is later. However, if no funds are appropriated or no payment is made to a claimant for the program for the fiscal year for which the claim is filed, the time for the Controller to initiate an audit shall commence to run from the date of initial payment of the claim. In any case, an audit shall be completed not later than two years after the date that the audit is commenced. Pursuant to Government Code section 17561,

¹¹⁰ Exhibit X, Final Staff Analysis Proposed Parameters and Guidelines and Statement of Decision, *Municipal Storm Water and Urban Runoff Discharges*, 03-TC-04, 03-TC-20, 03-TC-21, adopted March 24, 2011, page 38.

¹¹¹ Exhibit X, Final Staff Analysis Proposed Parameters and Guidelines and Statement of Decision, *Municipal Storm Water and Urban Runoff Discharges*, 03-TC-04, 03-TC-20, 03-TC-21, adopted March 24, 2011, page 38.

¹¹² Exhibit X, Final Staff Analysis Proposed Parameters and Guidelines and Statement of Decision, *Municipal Storm Water and Urban Runoff Discharges*, 03-TC-04, 03-TC-20, 03-TC-21, adopted March 24, 2011, pages 38-39.

subdivision (d)(2), the Controller has the authority to audit the application of a reasonable reimbursement methodology.

*Local agencies must retain documentation which supports the reimbursement of the maintenance costs identified in Section IV.B of these parameters and guidelines during the period subject to audit, including documentation showing the number of trash receptacles in the jurisdiction and the number of trash collections or pickups. If an audit has been initiated by the Controller during the period subject to audit, the record retention period is extended until the ultimate resolution of any audit findings.*¹¹³

There is no discussion in the Draft Staff Analysis for the Parameters and Guidelines, the comments filed by the parties thereon, or the Final Staff Analysis adopted by the Commission regarding any objection to or request to change the record retention requirements for costs claimed using the RRM, as stated in section VII.B of the Parameters and Guidelines.

Accordingly, the Commission finds that the Parameters and Guidelines do not require the claimant to provide contemporaneous source documentation to support a claim based on the RRM for ongoing maintenance activities, including trash collection. Therefore, the Controller's reduction of costs claimed, based on its finding that the claimant failed to provide contemporaneous source documentation to support the number of trash collections performed during the audit period is incorrect as a matter of law.

2. Assuming the Parameters and Guidelines could be interpreted to require contemporaneous source documentation to support the ongoing trash collection activities, applying that requirement to the claiming period before the Parameters and Guidelines were adopted (fiscal years 2002-2003 through 2010-2011) would violate due process and be incorrect as a matter of law.

The claimant argues that requiring it to maintain the “specific and non-standard types of documentation” requested by the Controller as part of the audit, when such documentation is included in neither the Parameters and Guidelines adopted in March 2011 nor the revised Claiming Instructions issued in July 2015, violates due process.¹¹⁴ The claimant asserts that any provision in the Parameters and Guidelines that affects the claimant's substantive rights or liabilities and changes the legal consequences of past events is unlawfully retroactive and therefore in violation of the claimant's due process rights.¹¹⁵

Parameters and guidelines are regulatory in nature and are interpreted the same as regulations and statutes.¹¹⁶ As such, they cannot be applied retroactively where due process considerations

¹¹³ Exhibit X, Final Staff Analysis Proposed Parameters and Guidelines and Statement of Decision, *Municipal Storm Water and Urban Runoff Discharges*, 03-TC-04, 03-TC-20, 03-TC-21, adopted March 24, 2011, page 43. Emphasis added.

¹¹⁴ Exhibit A, IRC, filed February 18, 2021, page 8.

¹¹⁵ Exhibit A, IRC, filed February 18, 2021, page 8 (citing *Department of Health Services v. Fontes* (1985) 169 Cal.App.3d 301, 304-305; *Tapia v. Superior Court* (1991) 53 Cal.3d 282; 287-292; *Murphy v. City of Alameda* (1993) 11 Cal.App.4th 906, 911-912).

¹¹⁶ *Clovis Unified School Dist. v. Chiang* (2010) 188 Cal.App.4th 794, 799.

prevent it.¹¹⁷ Due process requires reasonable notice of any substantive change affecting the substantive rights and liabilities of the parties.¹¹⁸ A change is substantive if it imposes new, additional, or different liabilities on past conduct.¹¹⁹ “The retroactive application of a statute is one that affects rights, obligations or conditions that existed before the time of the statute's enactment, giving them an effect different from that which they had under the previously existing law.”¹²⁰ Therefore, if a provision in the parameters and guidelines affects the substantive rights or liabilities of the parties such that it changes the legal effects of past events, it may be considered unlawfully retroactive under principles of due process.¹²¹

In *Clovis Unified School Dist. v. Chiang*, the Controller used the contemporaneous source document rule (CSDR) to reduce reimbursement claims for state-mandated school district programs.¹²² The Controller had revised its claiming instructions to include the CSDR, whereas the operative parameters and guidelines did not include such a requirement.¹²³ The CSDR read as follows:

To be eligible for mandated cost reimbursement for any fiscal year, only actual costs may be claimed. Actual costs are those costs actually incurred to implement the mandated activities. Actual costs must be traceable and supported by source documents that show the validity of such costs, when they were incurred, and their relationship to the reimbursable activities. A source document is a document created at or near the same time the actual cost was incurred for the event or activity in question. Source documents may include, but are not limited to, employee time records or time logs, sign-in sheets, invoices, and receipts.

Evidence corroborating the source documents may include, but is not limited to, worksheets, cost allocation reports (system generated), purchase orders, contracts, agendas, training packets, and declarations. Declarations must include a certification or declaration stating, ‘I certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct based upon personal knowledge.’ Evidence corroborating the source documents may include data relevant to the reimbursable activities otherwise in compliance with local, state, and federal government requirements. However, corroborating documents cannot be substituted for source documents.¹²⁴

¹¹⁷ *City of Modesto v. National Med, Inc.* (2005) 128 Cal.App.4th 518, 527.

¹¹⁸ *In re Cindy B.* (1987) 192 Cal.App.3d 771, 783-784

¹¹⁹ *City of Modesto v. National Med, Inc.* (2005) 128 Cal.App.4th 518, 527.

¹²⁰ *In re Cindy B.* (1987) 192 Cal.App.3d 771, 779.

¹²¹ *Department of Health Services v. Fontes* (1985) 169 Cal.App.3d 301, 304-305; *Tapia v. Superior Court* (1991) 53 Cal.3d 282; 287-292; *Murphy v. City of Alameda* (1993) 11 Cal.App.4th 906, 911-912.

¹²² *Clovis Unified School Dist. v. Chiang* (2010) 188 Cal.App.4th 794, 797.

¹²³ *Clovis Unified School Dist. v. Chiang* (2010) 188 Cal.App.4th 794, 801–802.

¹²⁴ *Clovis Unified School Dist. v. Chiang* (2010) 188 Cal.App.4th 794, 802.

The court held that the rule was an invalid underground regulation under the Administrative Procedure Act for the audit period at issue and overturned the Controller's audits. Notably, and of relevance here, the court found substantial evidence showing that prior to the Controller's use of the CSDR in performing audits, the Controller had approved reimbursement based on (1) declarations and certifications from employees that set forth, after the fact, the time they spent on mandated tasks; or (2) an annual accounting of time based upon the number of mandated activities and the average duration of each activity.¹²⁵ The court recognized that "it is now physically impossible to comply with the CSDR's requirement of contemporaneousness"¹²⁶

The Controller, however, requested that the court take judicial notice that the Commission adopted the CSDR by later amending the Parameters and Guidelines. The court denied the request and did not apply the CSDR, since the issue concerned the use of the rule in earlier years, when no notice was provided to the claimant. The court stated:

We deny this request for judicial notice. This is because the central issue in the present appeal concerns the Controller's policy of using the CSDR during the 1998 to 2003 fiscal years, when the CSDR was an underground regulation. This issue is not resolved by the Commission's subsequent incorporation of the CSDR into its Intradistrict Attendance and Collective Bargaining Programs' P & G's.¹²⁷

The court determined that the Parameters and Guidelines in effect at the time the mandated costs were incurred were the Parameters and Guidelines that governed the audit.¹²⁸

Here, the claimant was not on notice of a contemporaneous source document requirement when the costs were incurred in fiscal years 2002-2003 through 2010-2011 because the Parameters and Guidelines were not adopted until March 2011. Thus, requiring the claimant to provide contemporaneous source documentation for costs incurred during the fiscal years preceding adoption of the Parameters and Guidelines (fiscal years 2002-2003 through 2010-2011) would violate due process and be incorrect as a matter of law.

C. Because the Controller Did Not Apply the Correct Standard in Determining Whether the Documentation Provided was Sufficient to Show Twice-Weekly Trash Collection, and the Claimant Provided Additional Documentation That May Not Have Been Reviewed by the Controller, This Matter Is Remanded to the Controller for Further Review.

The Controller is authorized by Government Code section 17561(d) to conduct an audit in order to verify the application of a reasonable reimbursement methodology and to reduce any claims that are excessive or unreasonable. Government Code section 12410 also provides that

¹²⁵ *Clovis Unified School Dist. v. Chiang* (2010) 188 Cal.App.4th 794, 802.

¹²⁶ *Clovis Unified School Dist. v. Chiang* (2010) 188 Cal.App.4th 794, 804-805.

¹²⁷ *Clovis Unified School Dist. v. Chiang* (2010) 188 Cal.App.4th 794, 809, fn. 5. Emphasis in original.

¹²⁸ *Clovis Unified School Dist. v. Chiang* (2010) 188 Cal.App.4th 794, 812-813.

The Controller shall superintend the fiscal concerns of the state. The Controller shall audit all claims against the state, and may audit the disbursement of any state money, for correctness, legality, and for sufficient provisions of law for payment.

The courts have also held that the Controller's duty to audit includes the duty to ensure that expenditures are authorized by law.¹²⁹ Thus, even without the Parameters and Guidelines, the Controller is authorized by law to audit a claim for reimbursement and require the claimant to provide documentation supporting the claim for twice weekly trash collection per receptacle in order to verify the costs claimed under the RRM. As indicated above, prior to the Controller's use of the contemporaneous source document rule, the Controller approved reimbursement based on (1) declarations and certifications from employees that set forth, after the fact, the time they spent on mandated tasks; or (2) annual accountings of time.¹³⁰

According to the Final Audit Report, the claimant provided the Controller with the following documentation to support costs incurred for two trash collections per receptacle per week (104 annual collections) for the period of July 1, 2002 through June 30, 2012:

- A bus stop list (date generated unknown) indicating that the transit-stop trash receptacles were maintained twice a week by city employees.
- A letter addressed to its consultant, dated December 17, 2014, stating that the transit-stop trash receptacles are maintained twice a week.¹³¹

Neither of the above documents are included in the record for this IRC.

The documentation the claimant provided in the IRC consists of:

- A Time Log for the municipal stormwater mandate. This is a spreadsheet that lists the number of trash pickups (two per week) per fiscal year from 2002-2003 to 2010-2011. The spreadsheet includes a column for "24 receptacles" as well as hourly rate information and the last column for "eligible reimbursement." Above the signature of Joe Vasquez, Public Works Superintendent, it says, "I hereby certify under the penalty of perjury the [sic] laws of the State of California that the foregoing is true and correct based upon my personal knowledge." The log is dated September 27, 2011.¹³²
- A letter from the claimant (signed by David Sung, Finance Director) to its consultant dated November 8, 2012, stating in pertinent part: "The information for the stormwater data for FY 11-12 is as follows: 24 receptacles, cleaned out twice a week, At an hourly rate of \$23.69, cleaning time 0.5 each, Time Frame for 52 weeks. There have been no changes from last year for the data needed to complete your report."¹³³

¹²⁹ *Tirapelle v. Davis* (1993) 20 Cal.App.4th 1317, 1335.

¹³⁰ *Clovis Unified School Dist. v. Chiang* (2010) 188 Cal.App.4th 794, 802.

¹³¹ Exhibit A, IRC, filed February 18, 2021, page 300 (Final Audit Report).

¹³² Exhibit A, IRC, filed February 18, 2021, page 29 (Time Log). According to the narrative in the IRC (page 3), this log was "to prepare claims for reimbursement."

¹³³ Exhibit A, IRC, filed February 18, 2021, page 31 (Nov. 8, 2012 Letter from Claimant to Cost Recovery Systems).

- A ‘reimbursement claims receipt’ that lists the fiscal years and amounts claimed from 2002-2003 to 2010-2011, and states “The following claims were submitted to and received by the State Controller’s Office by Cost Recovery Systems on behalf of the City of Hawaiian Gardens.” It is signed by Finance Director David Sung on 9/28/11.¹³⁴

The only indication in the record that the Controller received the documents above during the course of the audit is the IRC narrative that says the first two documents (the time log and letter) were provided to the auditors.¹³⁵ Although the Final Audit Report describes other documents that were provided to the auditors, the report does not indicate that these documents were received, reviewed, or considered, by the auditors.

The Time Log filed with the IRC is signed by the Public Works Superintendent Joe Vasquez under penalty of perjury and states that it is based on his personal knowledge. The IRC narrative contends that Mr. Vasquez was employed during the audit years “and [he] would have had first-hand knowledge of [the number of trash collections per receptacle per week] as the direct supervisor of this program.”¹³⁶ However, there is no statement in the declaration or evidence in the record showing that Mr. Vasquez was employed by the claimant as a public works superintendent during the audit period, so it is not clear what his “personal knowledge” is based on. Thus, more information is needed to determine if his declaration is reliable. The mandate began July 1, 2002, more than nine years before the Time Log was signed by Mr. Vasquez in September 2011.

Similarly, the November 8, 2012 letter from the claimant to Cost Recovery Systems gives information regarding the number of receptacles, frequency of trash collection, hourly rate, cleaning time and time frame (52 weeks), for the mandate. However, the letter does not indicate the source of the author’s knowledge of the alleged facts in the letter. The same is true of the reimbursement claims receipt signed by the claimant’s Finance Director on September 28, 2011. None of the documentation in the record describes what the declarant’s knowledge is based on or how he knows that information (e.g., how long he has been employed by the city or in what capacity).

Accordingly, since the Controller did not correctly apply the documentation requirements to determine the number of trash collections, and the claimant has provided additional documentation that may not have been reviewed by the Controller, the Commission remands the reimbursement claims back to the Controller to further review and verify the costs claimed under the RRM based on the number of weekly trash collections performed during the audit period and reinstate those costs that are deemed eligible for reimbursement in accordance with this decision.

V. Conclusion

For the foregoing reasons, the Commission partially approves this IRC and concludes that the IRC was timely filed, and that the Controller incorrectly reduced the costs claimed under the reasonable reimbursement methodology pertaining to the weekly number of trash collections during fiscal years 2002-2003 through 2011-2012.

¹³⁴ Exhibit A, IRC, filed February 18, 2021, page 307 (Claims Receipt).

¹³⁵ Exhibit A, IRC, filed February 18, 2021, page 4.

¹³⁶ Exhibit A, IRC, filed February 18, 2021, page 3.

The Commission remands the reimbursement claims back to the Controller to further review and verify the costs claimed under the reasonable reimbursement methodology based on the number of weekly trash collections during the audit period and reinstate those costs that are deemed eligible for reimbursement in accordance with this Decision.

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 July 12, 2022, I served the:

- **Draft Proposed Decision, Schedule for Comments, and Notice of Hearing issued July 12, 2022**

Municipal Storm Water and Urban Runoff Discharges, 20-0304-I-12

Los Angeles Regional Quality Control Board Order No. 01-182,

Permit CAS004001, Part 4F5c3

Fiscal Years: 2002-2003, 2003-2004, 2004-2005, 2005-2006, 2006-2007, 2007-2008, 2008-2009, 2009-2010, 2010-2011, 2011-2012

City of Hawaiian Gardens, 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 July 12, 2022 at Sacramento, California.



Jill L. Magee

Commission on State Mandates

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COMMISSION ON STATE MANDATES

Mailing List

Last Updated: 5/11/22

Claim Number: 20-0304-I-12

Matter: Municipal Storm Water and Urban Runoff Discharges

Claimant: City of Hawaiian Gardens

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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