

August 1, 2024

Mr. Fernando Lemus
County of Los Angeles
500 West Temple Street, Room 603
Los Angeles, CA 90012

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 Expedited Parameters and Guidelines, Schedule for Comments, and Notice of Tentative Hearing Date

Disclosure Requirements and Deferral of Property Taxation, 22-TC-06
Statutes 2022, Chapter 712 (SB 989); Revenue and Taxation Code Sections
2610.8 and 2636.1
County of Los Angeles, Claimant

Dear Mr. Lemus and Ms. Sidarous:

On July 26, 2024, the Commission on State Mandates (Commission) adopted the Decision partially approving the Test Claim on the above-entitled matter.

State law provides that reimbursement, if any, is subject to Commission approval of parameters and guidelines for reimbursement of the mandated program, approval of a statewide cost estimate, a specific legislative appropriation for such purpose, a timely-filed claim for reimbursement, and subsequent review of the reimbursement claim by the State Controller's Office.

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

Draft Expedited Parameters and Guidelines

Pursuant to California Code of Regulations, title 2, section 1183.9, Commission staff has expedited the parameters and guidelines process by preparing Draft Expedited Parameters and Guidelines to assist the claimant. The proposed reimbursable activities have been limited to those approved in the Decision by the Commission. Reasonably necessary activities to perform the mandated activities may be proposed by the parties. (Cal. Code Regs., tit. 2, §1183.7(d).) "Reasonably necessary activities" are those activities necessary to comply with the statutes, regulations and other executive orders found to impose a state-mandated program (Cal. Code Regs., tit. 2, §1183.7(d).) Whether an activity is reasonably necessary is a mixed question of law and fact. All representations of fact to support any proposed reasonably necessary activities shall be supported by documentary evidence submitted in accordance with section 1187.5 of the Commission's regulations.

Review of Draft Expedited Parameters and Guidelines

Proposed modifications and comments may be filed on the Draft Expedited Parameters and Guidelines no later than **5:00 pm on August 22, 2024**. (Cal. Code Regs., tit. 2, §1183.9(b).) Please note that all representations of fact submitted to the Commission

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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

Rebuttals

Written rebuttals may be filed within 15 days of service of comments. (Cal. Code Regs., tit. 2, § 1183.9(c).)

Draft Proposed Decision and Parameters and Guidelines

If there are no substantive comments filed by the comment deadline, then no Draft Proposed Decision will be prepared or issued for comment and the matter will be set for the next regularly scheduled hearing, pursuant to section 1183.9(d) of the Commission's regulations. If substantive comments are filed, Commission staff will review the Draft Expedited Parameters and Guidelines, comments, and any rebuttals and will prepare a Draft Proposed Decision and Parameters and Guidelines, which will be issued for comment.

Alternative Process: Joint Reasonable Reimbursement Methodology and Statewide Estimate of Costs

Test Claimant and Department of Finance Submission of Letter of Intent

Within 30 days of the Commission's adoption of a decision on a test claim, the test claimant and the Department of Finance may notify the executive director of the Commission in writing of their intent to follow the process described in Government Code sections 17557.1–17557.2 and section 1183.11 of the Commission's regulations to develop a *joint reasonable reimbursement methodology* and *statewide estimate of costs* for the initial claiming period and budget year for reimbursement of costs mandated by the state. The written notification shall provide all information and filing dates as specified in Government Code section 17557.1(a).

Test Claimant and Department of Finance Submission of Draft Reasonable Reimbursement Methodology and Statewide Estimate of Costs

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

Review of Proposed Reasonable Reimbursement Methodology and Statewide Estimate of Costs

Upon receipt of the jointly developed proposals, Commission staff shall notify all

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.

recipients that they shall have the opportunity to review and provide written comments concerning the draft reasonable reimbursement methodology and proposed statewide estimate of costs within 15 days of service. The test claimant and Department of Finance may submit written rebuttals to Commission staff.

Adoption of Reasonable Reimbursement Methodology and Statewide Estimate of Costs

At least 10 days prior to the next hearing, Commission staff shall review comments and rebuttals and issue a staff recommendation on whether the Commission should approve the draft reasonable reimbursement methodology and adopt the proposed statewide estimate of costs pursuant to Government Code section 17557.2.

Alternative Process: Reasonable Reimbursement Methodology Proposed for Inclusion in Parameters and Guidelines

Government Code section 17518.5 provides a process for a reasonable reimbursement methodology to be proposed by the Department of Finance, the State Controller, an affected state agency, the claimant, or an interested party for inclusion in the parameters and guidelines of an amendment to parameters and guidelines. In this context, Government Code section 17518.5 defines “reasonable reimbursement methodology” as a formula for reimbursing local agencies and school districts for costs mandated by the state, as defined in Section 17514 which shall:

- Be based on cost information from a representative sample of eligible claimants, information provided by associations of local agencies and school districts, or other projections of local costs.
- Consider the variation in costs among local agencies and school districts to implement the mandate in a cost-efficient manner, and
- Whenever possible, be based on general allocation formulas, uniform cost allowances, and other approximations of local costs mandated by the state, rather than detailed documentation of actual local costs. In cases when local agencies and school districts are projected to incur costs to implement a mandate over a period of more than one fiscal year, the determination of a reasonable reimbursement methodology may consider local costs and state reimbursements over a period of greater than one fiscal year, but not exceeding 10 years.

You are advised that comments filed with the Commission are required to 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.shtml> 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 prior approval of a written request to the executive director. (Cal. Code Regs., tit. 2, § 1181.3(c)(2).)

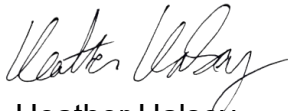
If you would like to request an extension of time to file comments, please refer to section 1187.9(a) of the Commission’s regulations.

Mr. Lemus and Ms. Sidarous
August 1, 2024
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Hearing

The Proposed Decision and Parameters and Guidelines for this matter are tentatively set for hearing on **Friday, September 27, 2024**, at 10:00 a.m., and will be issued on or about September 13, 2024, but may be heard on **Friday, November 22, 2024**, at 10:00 a.m., and will be issued on or about November 8, 2024, if substantive comments are filed by the comment deadline.

Sincerely,

A handwritten signature in black ink, appearing to read "Heather Halsey". The signature is fluid and cursive, with a large initial "H" and a long, sweeping tail.

Heather Halsey
Executive Director

DRAFT EXPEDITED PARAMETERS AND GUIDELINES

Revenue and Taxation Code Sections 2610.8 and 2636.1

Statutes 2022, Chapter 712 (SB 989)

Disclosure Requirements and Deferral of Property Taxation

22-TC-06

County of Los Angeles, Claimant

Period of reimbursement begins September 28, 2022

I. SUMMARY OF THE MANDATE

These Parameters and Guidelines address Statutes 2022, chapter 712 (the test claim statute) that added sections 2610.8 and 2636.1 to the Revenue and Taxation Code, effective September 28, 2022.¹

Section 2636.1 requires a county with a population over four million as determined by the 2020 census, and counties that opt into the requirements by passing a resolution, to defer property tax payments without penalty or interest for property owners claiming relief under Proposition 19 and section 69.6 (the Prop. 19 implementation statute) until the county assessor determines their claim. Deferment requests must be filed with the county within one year of receiving the first tax bill for the replacement property, but before January 1, 2024. Proposition 19 (November 2020) allows, beginning April 1, 2021, property owners who are over 55, severely disabled, or victims of a wildfire or natural disaster, to transfer the taxable base year value of their primary residence to a replacement primary residence located anywhere in the state within two years of the sale of the original primary residence to prevent or mitigate increased property taxes when these property owners move or rebuild.² Property owners seeking relief under Proposition 19 and section 69.6 must file a claim with the county assessor where the replacement primary residence is located.³ Section 2636.1 sunsets on January 1, 2026.⁴

¹ Statutory references are to the Revenue and Taxation Code unless otherwise indicated.

² California Constitution, article XIII A, section 2.1(b)(1).

³ Revenue and Taxation Code section 69.6(c)(1), (e)(1). California Constitution article XIII A, section 2.1(b)(4).

⁴ Revenue and Taxation Code 2636.1(f).

Section 2610.8, which does not sunset, requires the same county of over four million population and counties that opt in to print brief summaries on property tax bills about the availability of Proposition 19 base year value transfers and tax deferral under section 2636.1.

On July 26, 2024, the Commission on State Mandates (Commission) adopted a Decision finding that the test claim statute imposes a reimbursable state-mandated program on the County of Los Angeles, the only county with a population over four million as determined by the 2020 census, within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514, beginning September 28, 2022, for the following reimbursable activities:

- Process deferral requests of property tax payments if received within one year of the first tax bill but before January 1, 2024, and defer without penalty or interest payments that are not paid through impoundment accounts until either the county assessor reassesses the property and a corrected tax bill pursuant to section 69.6 is sent to the owner, or the assessor has determined the property is not eligible for exclusion under section 69.6 and has notified the property owner.⁵
- Print the following disclosures on each tax bill for properties that have been purchased, newly constructed, or changed ownership in the year preceding the tax bill:
 - A brief summary of the availability of the property tax relief under Revenue and Taxation Code section 69.6 (the Prop. 19 implementation statute), and
 - A brief summary of the deferral procedures under Revenue and Taxation Code section 2636.1.⁶

These requirements are not mandated by the state and are not reimbursable for counties that pass a resolution implementing the requirements of the test claim statute.⁷

II. ELIGIBLE CLAIMANTS

The County of Los Angeles is eligible to claim reimbursement for the increased costs incurred as a result of this mandate to the extent the County's costs are paid from proceeds of taxes.

III. PERIOD OF REIMBURSEMENT

Government Code section 17557(e) states that a test claim shall be submitted on or before June 30 following a given fiscal year to establish eligibility for that fiscal year. The

⁵ Revenue and Taxation Code section 2636.1 (Stats. 2022, ch. 712).

⁶ Revenue and Taxation Code section 2610.8 (Stats. 2022, ch. 712).

⁷ Revenue and Taxation Code sections 2610.8(b)(2) and 2631.1(e)(2) (Stats. 2022, ch. 712); *Department of Finance v. Commission on State Mandates (Kern High School Dist.)* (2003) 30 Cal.4th 727, 743; *Coast Community College Dist. v. Commission on State Mandates* (2022) 13 Cal.5th 800, 807, 815.

claimant filed the Test Claim on May 2, 2023, establishing eligibility for reimbursement for the 2021-2022 fiscal year. However, the test claim statute was an urgency statute that became effective on September 28, 2022.⁸ Therefore, costs incurred are reimbursable on or after September 28, 2022.

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

1. Actual costs for one fiscal year shall be included in each claim.
2. Pursuant to Government Code section 17561(d)(1)(A), all claims for reimbursement of initial fiscal year costs shall be submitted to the State Controller (Controller) within 120 days of the issuance date for the claiming instructions.
3. Pursuant to Government Code section 17560(a), a local agency may, by February 15 following the fiscal year in which costs were incurred, file an annual reimbursement claim that details the costs actually incurred for that fiscal year.
4. If revised claiming instructions are issued by the Controller pursuant to Government Code section 17558(c), between November 15 and February 15, a local agency filing an annual reimbursement claim shall have 120 days following the issuance date of the revised claiming instructions to file a claim. (Gov. Code §17560(b).)
5. If the total costs for a given fiscal year do not exceed \$1,000, no reimbursement shall be allowed except as otherwise allowed by Government Code section 17564(a).
6. There shall be no reimbursement for any period in which the Legislature has suspended the operation of a mandate pursuant to state law.

IV. REIMBURSABLE ACTIVITIES

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

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

⁸ Statutes 2022, chapter 712, section 4.

otherwise in compliance with local, state, and federal government requirements. However, corroborating documents cannot be substituted for source documents.

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

The following activities are reimbursable beginning September 28, 2022:

- A. Process deferment requests of property tax payments if received within one year of the first tax bill but before January 1, 2024, and defer without penalty or interest payments that are not paid through impoundment accounts until either the county assessor reassesses the property and a corrected tax bill pursuant to section 69.6 is sent to the owner, or the assessor has determined the property is not eligible for exclusion under section 69.6 and has notified the property owner.⁹
- B. Print the following disclosures on each tax bill for properties that have been purchased, newly constructed, or changed ownership in the year preceding the tax bill:
 1. A brief summary of the availability of the property tax relief under Revenue and Taxation Code section 69.6 (the Prop. 19 implementation statute), and
 2. A brief summary of the deferment procedures under Revenue and Taxation Code section 2636.1.¹⁰

V. CLAIM PREPARATION AND SUBMISSION

Each of the following cost elements must be identified for each reimbursable activity identified in Section IV., Reimbursable Activities, of this document. Each claimed reimbursable cost must be supported by source documentation as described in Section IV. Additionally, each reimbursement claim must be filed in a timely manner.

A. Direct Cost Reporting

Direct costs are those costs incurred specifically for the reimbursable activities. The following direct costs are eligible for reimbursement.

1. Salaries and Benefits

Report each employee implementing the reimbursable activities by name, job classification, and productive hourly rate (total wages and related benefits divided by productive hours). Describe the specific reimbursable activities performed and the hours devoted to each reimbursable activity performed.

2. Materials and Supplies

Report the cost of materials and supplies that have been consumed or expended for the purpose of the reimbursable activities. Purchases shall be claimed at the

⁹ Revenue and Taxation Code section 2636.1 (Stats. 2022, ch. 712).

¹⁰ Revenue and Taxation Code section 2610.8 (Stats. 2022, ch. 712).

actual price after deducting discounts, rebates, and allowances received by the claimant. Supplies that are withdrawn from inventory shall be charged on an appropriate and recognized method of costing, consistently applied.

3. Contracted Services

Report the name of the contractor and services performed to implement the reimbursable activities. If the contractor bills for time and materials, report the number of hours spent on the activities and all costs charged. If the contract is a fixed price, report the services that were performed during the period covered by the reimbursement claim. If the contract services are also used for purposes other than the reimbursable activities, only the pro-rata portion of the services used to implement the reimbursable activities can be claimed. Submit contract consultant and attorney invoices with the claim and a description of the contract scope of services.

4. Fixed Assets

Report the purchase price paid for fixed assets (including computers) necessary to implement the reimbursable activities. The purchase price includes taxes, delivery costs, and installation costs. If the fixed asset is also used for purposes other than the reimbursable activities, only the pro-rata portion of the purchase price used to implement the reimbursable activities can be claimed.

B. Indirect Cost Rates

Indirect costs are costs that are incurred for a common or joint purpose, benefiting more than one program, and are not directly assignable to a particular department or program without efforts disproportionate to the result achieved. Indirect costs may include both: (1) overhead costs of the unit performing the mandate; and (2) the costs of the central government services distributed to the other departments based on a systematic and rational basis through a cost allocation plan.

Compensation for indirect costs is eligible for reimbursement in accordance with the Office of Management and Budget Circular 2 CFR, Chapter I and Chapter II, Part 200 et al. Claimants have the option of using 10 percent of direct labor, excluding fringe benefits, or preparing an Indirect Cost Rate Proposal (ICRP) if the indirect cost rate claimed exceeds 10 percent.

If the claimant chooses to prepare an ICRP, both the direct costs (as defined and described in 2 CFR, Chapter I and Chapter II, Part 200 et al.) and the indirect costs shall exclude capital expenditures and unallowable costs (as defined and described in 2 CFR, Chapter I and Chapter II, Part 200 et al.). However, unallowable costs must be included in the direct costs if they represent activities to which indirect costs are properly allocable.

The distribution base may be: (1) total direct costs (excluding capital expenditures and other distorting items, such as pass-through funds, major subcontracts, etc.); (2) direct salaries and wages; or (3) another base which results in an equitable distribution.

In calculating an ICRP, the claimant shall have the choice of one of the following methodologies:

1. The allocation of allowable indirect costs (as defined and described in 2 CFR, Chapter I and Chapter II, Part 200 et al.) shall be accomplished by: (1) classifying a department's total costs for the base period as either direct or indirect; and (2) dividing the total allowable indirect costs (net of applicable credits) by an equitable distribution base. The result of this process is an indirect cost rate which is used to distribute indirect costs to mandates. The rate should be expressed as a percentage that the total amount of allowable indirect costs bears to the base selected; or
2. The allocation of allowable indirect costs (as defined and described in 2 CFR, Chapter I and Chapter II, Part 200 et al.) shall be accomplished by: (1) separating a department into groups, such as divisions or sections, and then classifying the division's or section's total costs for the base period as either direct or indirect; and (2) dividing the total allowable indirect costs (net of applicable credits) by an equitable distribution base. The result of this process is an indirect cost rate that is used to distribute indirect costs to mandates. The rate should be expressed as a percentage which the total amount of allowable indirect costs bears to the base selected.

VI. RECORD RETENTION

Pursuant to Government Code section 17558.5(a), a reimbursement claim for actual costs filed pursuant to this chapter¹¹ is subject to the initiation of an audit by the Controller no later than three years after the date that the actual reimbursement claim is filed or last amended, whichever is later. However, if no funds are appropriated or no payment is made to a claimant for the program for the fiscal year for which the claim is filed, the time for the Controller to initiate an audit shall commence to run from the date of initial payment of the claim. In any case, an audit shall be completed not later than two years after the date that the audit is commenced. All documents used to support the reimbursable activities, as described in Section IV., must be retained during the period subject to audit. If an audit has been initiated by the Controller during the period subject to audit, the retention period is extended until the ultimate resolution of any audit findings.

VII. OFFSETTING REVENUES AND REIMBURSEMENTS

Any offsetting revenue the claimant experiences in the same program as a result of the same statutes or executive orders found to contain the mandate shall be deducted from the costs claimed. In addition, reimbursement for this mandate from any source, including but not limited to, state and federal funds, any service charge, fee, or assessment authority to offset all or part of the costs of this program, and any other funds that are not the claimant's proceeds of taxes shall be identified and deducted from any claim submitted for reimbursement.

¹¹ This refers to title 2, division 4, part 7, chapter 4 of the Government Code.

VIII. STATE CONTROLLER'S CLAIMING INSTRUCTIONS

Pursuant to Government Code section 17558(b), the Controller shall issue claiming instructions for each mandate that requires state reimbursement not later than 90 days after receiving the adopted parameters and guidelines from the Commission, to assist local governments in claiming costs to be reimbursed. The claiming instructions shall be derived from these parameters and guidelines and the decisions on the test claim and parameters and guidelines adopted by the Commission.

Pursuant to Government Code section 17561(d)(1), issuance of the claiming instructions shall constitute a notice of the right of the eligible claimants to file reimbursement claims, based upon parameters and guidelines adopted by the Commission.

IX. REMEDIES BEFORE THE COMMISSION

Upon request of an eligible claimant, the Commission shall review the claiming instructions issued by the Controller or any other authorized state agency for reimbursement of mandated costs pursuant to Government Code section 17571. If the Commission determines that the claiming instructions do not conform to the parameters and guidelines, the Commission shall direct the Controller to modify the claiming instructions and the Controller shall modify the claiming instructions to conform to the parameters and guidelines as directed by the Commission.

In addition, requests may be made to amend parameters and guidelines pursuant to Government Code section 17557(d), and California Code of Regulations, title 2, section 1183.17.

X. LEGAL AND FACTUAL BASIS FOR THE PARAMETERS AND GUIDELINES

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

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 August 1, 2024, I served the:

- **Current Mailing List dated July 22, 2024**
- **Draft Expedited Parameters and Guidelines, Schedule for Comments, and Notice of Hearing issued August 1, 2024**
- **Decision adopted July 26, 2024**

Disclosure Requirements and Deferral of Property Taxation, 22-TC-06
Statutes 2022, Chapter 712 (SB 989); Revenue and Taxation Code Sections
2610.8 and 2636.1

County of Los Angeles, 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 August 1, 2024 at Sacramento, California.



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

COMMISSION ON STATE MANDATES

Mailing List

Last Updated: 7/22/24

Claim Number: 22-TC-06

Matter: Disclosure Requirements and Deferral of Property Taxation

Claimant: County of Los Angeles

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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