

Edmund G. Brown Jr.
GOVERNOR



STATE OF CALIFORNIA COMMISSION ON STATE MANDATES

REPORT TO THE LEGISLATURE: INCORRECT REDUCTION CLAIMS

January 1, 2018 – December 31, 2018

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City of Oxnard

Lee Adams
County Supervisor
County of Sierra

Heather Halsey
Executive Director
Commission on State Mandates
980 Ninth Street, Suite 300
Sacramento, California 95814
(916) 323-3562
www.csm.ca.gov

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INTRODUCTION

Government Code section 17602 requires the Commission on State Mandates (Commission) to report to the Legislature “the number of individual and consolidated incorrect reduction claims decided during the preceding calendar year and whether and why the reduction was upheld or overturned.” This report fulfills that requirement.

Government Code section 17561(d) authorizes the State Controller’s Office (Controller) to audit claims filed by local agencies and school districts and to reduce any claim for reimbursement of state-mandated costs that the Controller determines 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 (incorrect reduction claims or IRCs). 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.

This report includes a summary of the 9 IRCs completed by the Commission between January 1, 2018 and December 31, 2018.

With only five IRCs now remaining pending, four of which were filed in 2017 and one in 2018, there is no longer a backlog of IRC matters.

SUMMARY OF COMPLETED CLAIMS

A. Decided Incorrect Reduction Claims

Integrated Waste Management, 14-0007-I-07

Public Resources Code Sections 40148, 40196.3, 42920-42928; Public Contract Code Sections 12167 and 12167.1; Statutes 1992, Chapter 1116 (AB 3521); Statutes 1999, Chapter 764 (AB 75); State Agency Model Integrated Waste Management Plan (February 2000)

Fiscal Years 2000-2001, 2003-2004, 2004-2005, 2005-2006, 2006-2007, and 2007-2008

Claimant: El Camino Community College District

Incorrect Reduction Claim Filed: July 17, 2014

Decision Adopted: January 26, 2018

This IRC addressed reductions made by the State Controller's Office (Controller) to reimbursement claims of the El Camino Community College District (claimant) for fiscal years 2000-2001 and 2003-2004 through 2007-2008 (the audit period), under the *Integrated Waste Management* program, 00-TC-07. The Controller made the audit reductions because the claimant did not identify and deduct from its reimbursement claims offsetting cost savings from its diversion of solid waste and the associated reduced or avoided landfill disposal costs.

The test claim statutes require community college districts to adopt and implement, in consultation with California Integrated Waste Management Board (CIWMB, which is now the California Department of Resources Recycling and Recovery, or CalRecycle), integrated waste management (IWM) plans to reduce solid waste¹ To implement their plans, districts must divert from landfill disposal at least 25 percent of generated solid waste by January 1, 2002, and at least 50 percent by January 1, 2004.² The test claim statutes also provide that "Any cost savings realized as a result of the state agency integrated waste management plan shall, to the extent feasible, be redirected to the agency's integrated waste management plan to fund plan implementation and administration costs . . ."³

The statutes, therefore, presume that by complying with the mandate to divert solid waste through the IWM program, landfill fees are reduced or avoided and cost savings are realized. The amount or value of the cost savings may be determined from the calculations of annual solid waste disposal reduction or diversion, which community colleges are required to annually report to CIWMB.⁴

The Commission found that the Controller timely initiated the audit of the fiscal year 2000-2001 reimbursement claim and timely completed the audit for all of the reimbursement claims at issue in this matter pursuant to Government Code section 17558.5. Government Code section 17558.5(a) tolls the time to initiate the audit to three years from the date of initial payment on the claim, rather than three years from the date the claim was filed, "if no funds are appropriated or

¹ Public Resources Code section 42920(b).

² Public Resources Code section 40124.

³ Public Resources Code section 42925(a).

⁴ Exhibit B, Controller's Late Comments on the IRC, pages 75-76 (*State of California, Department of Finance, California Integrated Waste Management Board v. Commission on State Mandates, et al.* (Sacramento County Superior Court, Case No. 07CS00355, Ruling on Submitted Matter).

no payment is made to a claimant for the program for the fiscal year for which the claim is filed.” The record showed that the Controller first made payment on the 2000-2001 reimbursement claim on either January 18, 2011,⁵ or January 28, 2011,⁶ within three years of the date the audit was initiated on January 17, 2014,⁷ so the audit was timely initiated. The audit was complete for all reimbursement claims when the final audit report was issued March 19, 2014,⁸ well before the two-year deadline of January 17, 2016.

On the merits, the Commission found that the audit reductions are partially correct.

During the audit period, the claimant diverted solid waste, as required by the test claim statutes, and exceeded the mandated diversion rate in all years except in the first half of fiscal year 2000-2001. The Controller correctly presumed, consistent with the test claim statutes and the court’s interpretation of those statutes, and without any evidence to the contrary, that the claimant realized cost savings during the audit period equal to the avoided landfill disposal fee per ton of waste required to be diverted.

Based on the evidence in the record, the Commission found that the Controller’s calculation of offsetting cost savings for all years in the audit period except the first half of fiscal year 2003-2004 is correct as a matter of law, and not arbitrary, capricious, or entirely lacking in evidentiary support. For those years the claimant exceeded the mandate, the Controller calculated offsetting savings by allocating the diversion to reflect the mandate. The Controller allocated the diversion by dividing the percentage of solid waste required to be diverted by the test claim statute (either 25 percent or 50 percent) by the actual percentage of solid waste diverted (as annually reported by the claimant to the California Integrated Waste Management Board (CIWMB)). The allocated tonnage of solid waste diverted was then multiplied by the avoided landfill disposal fee (based on the statewide average fee) to calculate the offsetting savings realized.⁹ The formula allocates cost savings based on the mandated rate of diversion, and is intended to avoid penalizing the claimant for diverting more solid waste than the amount mandated by law.¹⁰ The claimant has not filed any evidence to rebut the statutory presumption of cost savings or to show that the statewide average disposal fee is incorrect or arbitrary. Thus, the Controller’s reduction of costs claimed for these fiscal years is correct.

For the first half of fiscal year 2000-2001, the claimant achieved a 21.5 percent diversion, which the Controller correctly determined did *not* reach the minimum 25 percent diversion mandated by the state. To calculate cost savings for this time period, the Controller did not allocate the diversion percentage, but instead multiplied 100 percent of the solid waste that claimant diverted for the year by the avoided landfill disposal fee.¹¹

⁵ Exhibit A, IRC, page 214.

⁶ Exhibit B, Controller’s Late Comments on the IRC, pages 11, 35.

⁷ Exhibit B, Controller’s Late Comments on the IRC, pages 33. Exhibit A, IRC, page 10.

⁸ Exhibit A, IRC, page 26 (Final Audit Report).

⁹ Exhibit A, IRC, pages 34; Exhibit B, Controller’s Late Comments on the IRC, page 19-20.

¹⁰ Exhibit B, Controller’s Late Comments on the IRC, pages 19.

¹¹ Exhibit B, Controller’s Late Comments on the IRC, page 71. The calculation was only for the first half of fiscal year 2000-2001, so the Controller’s calculation was based on half the total tonnage diverted (206.8 tons).

These formulas are consistent with the statutory presumption of cost savings and correctly presume, without any evidence to the contrary, that the waste diverted results in offsetting cost savings in an amount equal to the avoided landfill fee per ton of waste required to be diverted and actually diverted. In years when the claimant exceeded the mandated diversion rates, the Controller's formula limits the offset to the mandated diversion rate.

However, the Commission found that the Controller's reduction of costs claimed for the first half of fiscal year 2003-2004 was incorrect as a matter of law. The Controller allocated the diversion rate for 2003-2004, as it did for the other fiscal years, because the claimant exceeded the mandate. However, the Controller used a 50 percent rate to calculate the allocated diversion rate although the test claim statutes required only 25 percent diversion in calendar year 2003.¹² The requirement to divert 50 percent of solid waste did not become operative until January 1, 2004,¹³ so the calculation of cost savings for fiscal year 2003-2004 is incorrect as a matter of law.

Applying the Controller's cost savings formula (using the mandated 25 percent diversion rate) to the first half of fiscal year 2003-2004, results in offsetting savings of \$13,772 (25 percent divided by 62.5 percent, multiplied by 934.85 tons diverted multiplied by the statewide average landfill disposal fee of \$36.83) rather than \$27,544. The Commission found that the difference of \$13,772 was been incorrectly reduced and should be reinstated to the claimant.

Therefore, the Commission partially approved this IRC, and requested, pursuant to Government Code section 17551(d) and section 1185.9 of the Commission's regulations, that the Controller reinstate \$13,772 to the claimant.

¹² Exhibit B, Controller's Late Comments on the IRC, page 71.

¹³ Public Resources Code sections 42921; Exhibit A, IRC, page 91 (Parameters and Guidelines).

Integrated Waste Management, 14-0007-I-08

Public Resources Code Sections 40148, 40196.3, 42920-42928; Public Contract Code Sections 12167 and 12167.1; Statutes 1992, Chapter 1116 (AB 3521); Statutes 1999, Chapter 764 (AB 75); State Agency Model Integrated Waste Management Plan (February 2000) Fiscal Years 2005-2006, 2006-2007, 2007-2008, 2008-2009, 2009-2010, and 2010-2011

Claimant: North Orange County Community College District

Incorrect Reduction Claim Filed: July 31, 2014

Decision Adopted: March 23, 2018

This IRC addressed reductions made by the Controller to reimbursement claims of the claimant for fiscal years 2005-2006 through 2010-2011 (the audit period), under the *Integrated Waste Management* program, 00-TC-07. The Controller made the audit reductions because the claimant did not identify and deduct from its reimbursement claims offsetting cost savings from its diversion of solid waste and the associated reduced or avoided landfill disposal costs.

The test claim statutes require community college districts to adopt and implement, in consultation with California Integrated Waste Management Board (CIWMB, which is now the California Department of Resources Recycling and Recovery, or CalRecycle), integrated waste management (IWM) plans to reduce solid waste.¹⁴ To implement their plans, districts must divert from landfill disposal at least 25 percent of generated solid waste by January 1, 2002, and at least 50 percent of generated solid waste by January 1, 2004.¹⁵ The test claim statutes also provide that “Any cost savings realized as a result of the state agency integrated waste management plan shall, to the extent feasible, be redirected to the agency’s integrated waste management plan to fund plan implementation and administration costs . . .”¹⁶

The statutes, therefore, presume that by diverting solid waste through the IWM program, landfill fees are reduced or avoided and cost savings are realized. The amount or value of the cost savings may be determined from the calculations of annual solid waste disposal reduction or diversion, which community colleges are required to annually report to CIWMB.¹⁷

The Commission found that the Controller correctly presumed, consistent with the test claim statutes and the court’s interpretation of those statutes, and without any evidence to the contrary, that the claimant realized cost savings during the audit period equal to the avoided landfill disposal fee per ton of waste diverted. The record showed that the claimant diverted solid waste each year during the audit period and thus, achieved cost savings from the avoided landfill fee per ton of waste diverted.¹⁸

The Commission also found, based on the evidence in the record, that the Controller’s calculation of offsetting cost savings for all fiscal years in the audit period was correct as a matter of law and not arbitrary, capricious, or entirely lacking in evidentiary support. In 2006,

¹⁴ Public Resources Code section 42920(b).

¹⁵ Public Resources Code section 40124.

¹⁶ Public Resources Code section 42925(a).

¹⁷ Exhibit B, Controller’s Late Comments on the IRC, pages 75-76 (*State of California, Department of Finance, California Integrated Waste Management Board v. Commission on State Mandates, et al.* (Sacramento County Superior Court, Case No. 07CS00355, Ruling on Submitted Matter).

¹⁸ Exhibit B, Controller’s Late Comments on the IRC, pages 32-63 (Annual Reports), 84-85.

when the claimant exceeded the mandate to divert 50 percent of its solid waste, the Controller calculated offsetting savings by allocating the diversion to reflect the mandate. The Controller allocated the diversion by dividing the mandated rate of solid waste diverted under the test claim statute (50 percent) by the actual rate of solid waste diverted (as annually reported by the claimant to CIWMB). The allocated diversion was then multiplied by the avoided landfill disposal fee (based on the statewide average fee) to calculate the offsetting savings realized.¹⁹ The formula allocates or reduces the offsetting cost savings based on the mandated rate, and is intended to avoid penalizing the claimant for diverting more solid waste than the amount mandated by law.²⁰

To calculate cost savings in all other years when the claimant did not exceed the 50 percent diversion rate,²¹ the Controller multiplied 100 percent of the solid waste that the claimant diverted by the avoided landfill disposal fee (based on the statewide average fee).²²

These formulas are consistent with the statutory presumption of cost savings and correctly presume, without any evidence to the contrary, that waste diverted results in offsetting cost savings in an amount equal to the avoided landfill fee per ton of waste required to be diverted and actually diverted. In 2006 when the claimant exceeded the mandated diversion rate, the Controller's formula limited the offset to the mandated diversion rate.

The Commission therefore concluded that the Controller's reduction of costs claimed for all years in the audit period was correct as a matter of law and is not arbitrary, capricious, or entirely lacking in evidentiary support. Accordingly, the Commission denied this IRC.

¹⁹ Exhibit A, IRC, pages 34; Exhibit B, Controller's Late Comments on the IRC, page 18.

²⁰ Exhibit B, Controller's Late Comments on the IRC, page 18.

²¹ Fullerton College achieved 49.96 percent in 2005 and 32.75 percent in 2007 – 2011, and Cypress College achieved 49.98 percent in 2005, and 40.41 percent in 2007-2011 (Exhibit B, Controller's Late Comments on the IRC, pages 36-37, 40-51, 54-63, 84-85.)

²² Exhibit B, Controller's Late Comments on the IRC, pages 84-85.

Integrated Waste Management, 14-0007-I-09

Public Resources Code Sections 40148, 40196.3, 42920-42928; Public Contract Code Sections 12167 and 12167.1; Statutes 1992, Chapter 1116 (AB 3521); Statutes 1999, Chapter 764 (AB 75); State Agency Model Integrated Waste Management Plan (February 2000)
Fiscal Years 2000-2001, 2001-2002, 2002-2003, 2003-2004, 2004-2005, 2005-2006, 2006-2007, 2007-2008, 2008-2009, 2009-2010, and 2010-2011
Claimant: Long Beach Community College District

Incorrect Reduction Claim Filed: August 11, 2014
Decision Adopted: March 23, 2018

This IRC addressed reductions made by the Controller to reimbursement claims of the claimant for fiscal years 2000-2001 through 2010-2011 (the audit period), under the *Integrated Waste Management* program, 00-TC-07. The Controller made the audit reductions because the claimant did not identify and deduct from its reimbursement claims offsetting cost savings from its diversion of solid waste and the associated reduced or avoided landfill disposal costs.

The test claim statutes require community college districts to adopt and implement, in consultation with California Integrated Waste Management Board (CIWMB, which is now the California Department of Resources Recycling and Recovery, or CalRecycle), integrated waste management (IWM) plans to reduce solid waste.²³ To implement their plans, districts must divert from landfill disposal at least 25 percent of generated solid waste by January 1, 2002, and at least 50 percent of generated solid waste by January 1, 2004.²⁴ The test claim statutes also provide that “Any cost savings realized as a result of the state agency integrated waste management plan shall, to the extent feasible, be redirected to the agency’s integrated waste management plan to fund plan implementation and administration costs . . .”²⁵

The statutes, therefore, presume that by diverting solid waste through the IWM program, landfill fees are reduced or avoided and cost savings are realized. The amount or value of the cost savings may be determined from the calculations of annual solid waste disposal reduction or diversion, which community colleges are required to annually report to CIWMB.²⁶

The claimant diverted solid waste, as required by the test claim statutes, and exceeded the mandated diversion rate (25 or 50 percent) in all years of the audit period. Thus, the Controller correctly presumed, consistent with the test claim statutes and the court’s interpretation of those statutes, and without any evidence to the contrary, that the claimant realized cost savings during the audit period equal to the avoided landfill disposal fee per ton of waste required to be diverted.

The Commission found, based on the evidence in the record, that the Controller’s calculation of offsetting cost savings for all years in the audit period, except calendar years 2002 and 2003, is correct as a matter of law and not arbitrary, capricious, or entirely lacking in evidentiary support. Because the claimant exceeded the mandate and diverted more solid waste than required by law, the Controller derived a cost savings formula that “allocated” the diversion by dividing the

²³ Public Resources Code section 42920(b).

²⁴ Public Resources Code section 40124.

²⁵ Public Resources Code section 42925(a).

²⁶ Exhibit B, Controller’s Late Comments on the IRC, page 79 (*State of California, Department of Finance, California Integrated Waste Management Board v. Commission on State Mandates, et al.* (Sacramento County Superior Court, Case No. 07CS00355, Ruling on Submitted Matter).

mandated solid waste diversion rate, either 25 or 50 percent, by the actual diversion rate, as reported by the claimant to CIWMB. The resulting quotient was then multiplied by the tons of solid waste diverted, as annually reported by the claimant to CIWMB, multiplied by the avoided landfill disposal fee (based on the statewide average fee).²⁷ The formula allocates cost savings based on the mandated rates of diversion, and was intended to avoid penalizing the claimant for diverting more solid waste than the percentage mandated by law.²⁸ The claimant did not file any evidence to rebut the statutory presumption of cost savings or to show that the statewide average disposal fee is incorrect or arbitrary. Thus, the Commission found that the Controller's reduction of costs claimed for these years is correct.

However, the Controller's reduction of costs claimed for calendar years 2002 and 2003 (the second half of fiscal year 2001-2002, all of fiscal year 2002-2003, and the first half of fiscal year 2003-2004) was incorrect as a matter of law and arbitrary, capricious, and entirely lacking in evidentiary support. During calendar year 2002, the claimant achieved a 31.91 percent diversion rate, and in calendar year 2003, a 31.57 percent diversion rate.²⁹ The Controller found that the claimant did not achieve the mandated "50 percent" diversion rate in 2002 and 2003,³⁰ although the mandate to divert at least 50 percent of solid waste was not operative until January 1, 2004.³¹ In calendar years 2002 and 2003, community college districts were required to divert only 25 percent, which the claimant exceeded. Therefore, the Controller's finding that the claimant did not divert the mandated rate in calendar years 2002 and 2003 was incorrect as a matter of law. Moreover, the Controller's calculation of offsetting savings for this period, which used 100 percent of the reported diversion and did not reduce cost savings by allocating the diversion to reflect the mandate as it did for other years when the claimant exceeded the mandate, is arbitrary, capricious, and entirely lacking in evidentiary support. Applying the Controller's calculation of cost savings (using the mandated 25 percent diversion rate) to calendar years 2002 and 2003, results in offsetting savings of:

- \$9,334 for 2002 (25 percent divided by 31.91 percent, multiplied by 329.4 tons diverted multiplied by the statewide average landfill disposal fee of \$36.17), rather than \$11,914; and
- \$9,616 for 2003 (25 percent divided by 31.57 percent, multiplied by 329.7 tons diverted multiplied by the statewide average landfill disposal fee of \$36.83), rather than \$12,143.

Therefore, the Commission found that the difference of \$5,107 (\$24,057 - \$18,950) was incorrectly reduced. Accordingly, the Commission partially approved this IRC, and requested, pursuant to Government Code section 17551(d) and section 1185.9 of the Commission's regulations, that the Controller reinstate \$5,107 to the claimant.

²⁷ Exhibit A, IRC, pages 36-37 (Final Audit Report); Exhibit B, Controller's Late Comments on the IRC, page 20.

²⁸ Exhibit B, Controller's Late Comments on the IRC, page 20.

²⁹ Exhibit B, Controller's Late Comments on the IRC, pages 39, 42, 86.

³⁰ Exhibit A, IRC, pages 32 and 34, footnote 2 (Final Audit Report).

³¹ Public Resources Code sections 42921; Exhibit A, IRC, pages 54 and 58 (Parameters and Guidelines, section IV.(B)(5)).

Integrated Waste Management, 14-0007-I-10

Public Resources Code Sections 40148, 40196.3, 42920-42928; Public Contract Code Sections 12167 and 12167.1; Statutes 1992, Chapter 1116 (AB 3521); Statutes 1999, Chapter 764 (AB 75); State Agency Model Integrated Waste Management Plan (February 2000) Fiscal Years 1999-2000, 2000-2001, 2003-2004, 2004-2005, and 2005-2006

Claimant: Redwoods Community College District

Incorrect Reduction Claim Filed: August 14, 2014

Decision Adopted: May 25, 2018

This IRC addressed reductions made by the Controller to reimbursement claims of the Redwoods Community College District (claimant) for fiscal years 1999-2000, 2000-2001 and 2003-2004 through 2005-2006 (the audit period), under the *Integrated Waste Management* program, 00-TC-07. The Controller made the audit reductions because the claimant did not identify and deduct from its reimbursement claims offsetting cost savings from its diversion of solid waste and the associated reduced or avoided landfill disposal fees.

The test claim statutes require community college districts to adopt and implement, in consultation with California Integrated Waste Management Board (CIWMB, which is now the California Department of Resources Recycling and Recovery, or CalRecycle), integrated waste management (IWM) plans to reduce solid waste³² To implement their plans, districts must divert from landfill disposal at least 25 percent of solid waste by January 1, 2002, and at least 50 percent by January 1, 2004.³³ The test claim statutes also provide that “Any cost savings realized as a result of the state agency integrated waste management plan shall, to the extent feasible, be redirected to the agency’s integrated waste management plan to fund plan implementation and administration costs . . .”³⁴

The statutes, therefore, presume that by diverting solid waste through the IWM program, landfill fees are reduced or avoided and cost savings are realized. The amount or value of the cost savings may be determined from the calculations of annual solid waste disposal reduction or diversion, which community colleges are required to annually report to CIWMB.³⁵

The Commission found that the Controller timely initiated the audit of the fiscal year 2003-2004 reimbursement claim and timely completed the audit for all of the reimbursement claims at issue pursuant to Government Code section 17558.5. Government Code section 17558.5(a) tolls the time to initiate the audit to three years from the date of initial payment on the claim, rather than three years from the date the claim was filed, “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 record shows that the Controller first made payment on the 2003-2004 reimbursement claim on either January 18, 2011,³⁶ or January 28, 2011,³⁷ within three years of the date the audit was initiated

³² Public Resources Code section 42920(b).

³³ Public Resources Code section 40124.

³⁴ Public Resources Code section 42925(a).

³⁵ Exhibit B, Controller’s Late Comments on the IRC, pages 36-37 (*State of California, Department of Finance, California Integrated Waste Management Board v. Commission on State Mandates, et al.* (Sacramento County Superior Court, Case No. 07CS00355, Ruling on Submitted Matter).

³⁶ Exhibit A, IRC, page 188.

on January 17, 2014,³⁸ so the audit was timely initiated. The audit was complete for all reimbursement claims when the final audit report was issued April 11, 2014,³⁹ well before the two-year deadline of January 17, 2016.

On the merits, the Commission found that the audit reductions were partially correct.

During the audit period, the claimant diverted solid waste, exceeding the mandated diversion rate in all years. The Controller correctly presumed, consistent with the test claim statutes and the court's interpretation of those statutes, and without any evidence to the contrary, that the claimant realized cost savings during the audit period equal to the avoided landfill disposal fee per ton of waste required to be diverted.

Based on the evidence in the record, the Commission found that the Controller's calculation of offsetting cost savings for all years in the audit period except the first half of fiscal year 2003-2004 was correct as a matter of law, and not arbitrary, capricious, or entirely lacking in evidentiary support. Because the claimant exceeded the mandate every year of the audit period, the Controller calculated offsetting savings by allocating the diversion to reflect the mandate. To allocate the diversion, the Controller divided the percentage of solid waste required to be diverted by the test claim statute (either 25 percent or 50 percent) by the actual percentage of solid waste diverted (as annually reported by the claimant to the California Integrated Waste Management Board (CIWMB)). The allocated tonnage of solid waste diverted was then multiplied by the avoided landfill disposal fee (based on the statewide average fee) to calculate the offsetting savings realized.⁴⁰ The formula allocates cost savings based on the mandated rate of diversion, and is intended to avoid penalizing the claimant for diverting more solid waste than the percentage mandated by law.⁴¹ The claimant did not file any evidence to rebut the statutory presumption of cost savings or to show that the statewide average disposal fee is incorrect or arbitrary. Thus, the Commission found that the Controller's reduction of costs claimed for these fiscal years was correct.

However, the Commission found, the Controller's calculation of cost savings for the first half of fiscal year 2003-2004, based on an incorrect mandated diversion rate, was incorrect as a matter of law. The Controller allocated the diversion rate for 2003-2004, as it did for the other fiscal years, because the claimant exceeded the mandate. However, the Controller used a 50 percent rate to calculate the allocated diversion rate although the test claim statutes required only 25 percent diversion in calendar year 2003.⁴² The requirement to divert 50 percent of solid waste did not become operative until January 1, 2004,⁴³ so the calculation of cost savings for fiscal year 2003-2004 was incorrect as a matter of law.

Applying the Controller's cost savings formula (using the mandated 25 percent diversion rate to calculate offsetting cost savings) to the first half of fiscal year 2003-2004, results in offsetting savings of \$2,430 (25 percent divided by 57.68 percent, multiplied by 152.25 tons diverted

³⁷ Exhibit B, Controller's Late Comments on the IRC, pages 10-11, 27-29.

³⁸ Exhibit B, Controller's Late Comments on the IRC, pages 25. Exhibit A, IRC, page 10.

³⁹ Exhibit A, IRC, page 27 (Final Audit Report).

⁴⁰ Exhibit A, IRC, pages 33; Exhibit B, Controller's Late Comments on the IRC, page 16-18.

⁴¹ Exhibit B, Controller's Late Comments on the IRC, page 16.

⁴² Exhibit B, Controller's Late Comments on the IRC, page 82.

⁴³ Public Resources Code sections 42921; Exhibit A, IRC, page 90 (Parameters and Guidelines).

multiplied by the statewide average landfill disposal fee of \$36.83) rather than \$4,861. The Commission found that the difference of \$2,431 was incorrectly reduced and should be reinstated to the claimant.

The claimant also questioned the Controller's adjustment of \$5,130, contending that the \$5,130 was offsetting revenues and not offsetting savings. The claimant's reimbursement claims, however, identify the \$5,130 as offsetting savings. Thus, the Controller calculated the total realized offsetting savings by subtracting the offsetting savings reported by the claimant, resulting in an overall reduction of \$38,247 instead of \$43,377.⁴⁴ This adjustment did not result in a reduction of costs claimed within the meaning of Government Code section 17551(d) and thus, the Commission does not have jurisdiction to determine if the adjustment was correct.

Therefore, the Commission partially approved this IRC, and requested, pursuant to Government Code section 17551(d) and section 1185.9 of the Commission's regulations, that the Controller reinstate \$2,431 to the claimant.

⁴⁴ Exhibit A, IRC, pages 31-32 (Final Audit Report).

Integrated Waste Management, 14-0007-I-11

Public Resources Code Sections 40148, 40196.3, 42920-42928; Public Contract Code Sections 12167 and 12167.1; Statutes 1992, Chapter 1116 (AB 3521); Statutes 1999, Chapter 764 (AB 75); State Agency Model Integrated Waste Management Plan (February 2000)
Fiscal Years 1999-2000, 2000-2001, 2001-2002, 2002-2003, 2003-2004, 2004-2005, 2005-2006, 2006-2007, 2007-2008, 2008-2009, and 2010-2011

Claimant: San Bernardino Community College District

Incorrect Reduction Claim Filed: June 9, 2015

Decision Adopted: May 25, 2018

This IRC addressed reductions made by the Controller to reimbursement claims of the San Bernardino Community College District (claimant) for fiscal years 1999-2000 through 2008-2009, and fiscal year 2010-2011 (the audit period), under the *Integrated Waste Management* program, 00-TC-07. The Controller made the audit reductions because the claimant did not identify and deduct from its reimbursement claims offsetting cost savings from its diversion of solid waste and the associated reduced or avoided landfill disposal costs.

The test claim statutes require community college districts to adopt and implement, in consultation with California Integrated Waste Management Board (CIWMB, which is now the California Department of Resources Recycling and Recovery, or CalRecycle), integrated waste management (IWM) plans to reduce solid waste.⁴⁵ To implement their plans, districts must divert from landfill disposal at least 25 percent of generated solid waste by January 1, 2002, and at least 50 percent of generated solid waste by January 1, 2004.⁴⁶ The test claim statutes also provide that “Any cost savings realized as a result of the state agency integrated waste management plan shall, to the extent feasible, be redirected to the agency’s integrated waste management plan to fund plan implementation and administration costs . . .”⁴⁷

The statutes, therefore, presume that by diverting solid waste through the IWM program, landfill fees are reduced or avoided and cost savings are realized. The amount or value of the cost savings may be determined from the calculations of annual solid waste disposal reduction or diversion, which community colleges are required to annually report to CIWMB.⁴⁸

The claimant diverted solid waste, exceeding the mandated diversion rate (25 or 50 percent) in all years of the audit period. Thus, the Controller correctly presumed, consistent with the test claim statutes and the court’s interpretation of those statutes, and without any evidence to the contrary, that the claimant realized cost savings during the audit period equal to the avoided landfill disposal fee per ton of waste required to be diverted. The Commission found, based on the evidence in the record, that the Controller’s calculation of offsetting cost savings for all years in the audit period, except calendar years 2002 and 2003, was correct as a matter of law and not arbitrary, capricious, or entirely lacking in evidentiary support. Because the claimant diverted more solid waste than required by law, the Controller derived a cost savings formula that

⁴⁵ Public Resources Code section 42920(b).

⁴⁶ Public Resources Code section 40124.

⁴⁷ Public Resources Code section 42925(a).

⁴⁸ Exhibit B, Controller’s Late Comments on the IRC, page 83 (*State of California, Department of Finance, California Integrated Waste Management Board v. Commission on State Mandates, et al.* (Sacramento County Superior Court, Case No. 07CS00355, Ruling on Submitted Matter).

“allocated” the diversion by dividing the mandated solid waste diversion rate, either 25 or 50 percent, by the actual diversion rate, as reported by the claimant to CIWMB. The resulting quotient was then multiplied by the tons of solid waste diverted, as annually reported by the claimant to CIWMB, multiplied by the avoided landfill disposal fee (based on the statewide average fee).⁴⁹ The formula allocates cost savings based on the mandated rates of diversion, and was intended to avoid penalizing the claimant for diverting more solid waste than the amount mandated by law.⁵⁰ The claimant did not file any evidence to rebut the statutory presumption of cost savings or to show that the statewide average disposal fee is incorrect or arbitrary. Thus, the Controller’s reduction of costs claimed for these years was correct.

However, the Controller’s reduction of costs claimed for calendar years 2002 and 2003, was incorrect as a matter of law and arbitrary, capricious, and entirely lacking in evidentiary support.

During calendar year 2002, the claimant achieved a 37.57 percent diversion rate.⁵¹ Although the mandated diversion rate for 2002 was 25 percent, the Controller mistakenly found that the claimant did not exceed the “50 percent” mandated diversion rate. The mandate to divert at least 50 percent of all solid waste was not operative until January 1, 2004.⁵² Therefore, the Controller’s finding that the claimant did not divert the mandated rate in calendar year 2002 was incorrect as a matter of law. To calculate the offsetting cost savings for calendar year 2002, the Controller did not allocate the diversion as it had for rest of the audit period, but instead used 100 percent of the diversion to calculate the offsetting savings.⁵³ Thus, the calculation of offsetting savings for calendar year 2002 was arbitrary, capricious, and entirely lacking in evidentiary support.

For calendar year 2003, the Controller correctly found that the claimant exceeded the mandated diversion rate but used a 50 percent rate to calculate the allocated diversion rate, although the test claim statutes required only 25 percent diversion in calendar year 2003.⁵⁴ The requirement to divert 50 percent of solid waste did not become operative until January 1, 2004,⁵⁵ so the calculation of cost savings for calendar year 2003 was incorrect as a matter of law.

Applying the Controller’s calculation of cost savings to calendar years 2002 and 2003 (using the mandated 25 percent rate to calculate the allocated diversion) results in offsetting savings of:

- \$14,167 for 2002 (25 percent divided by 37.57 percent, multiplied by 588.6 tons diverted multiplied by the statewide average landfill disposal fee of \$36.17) rather than \$21,290; and
- \$15,761 for 2003 (25 percent divided by 56.37 percent, multiplied by 964.9 tons diverted multiplied by the statewide average landfill disposal fee of \$36.83) rather than \$31,522.

⁴⁹ Exhibit A, IRC, pages 35-36 (Final Audit Report); Exhibit B, Controller’s Comments on the IRC, page 20.

⁵⁰ Exhibit B, Controller’s Comments on the IRC, page 20.

⁵¹ Exhibit B, Controller’s Comments on the IRC, pages 39, 42, 86.

⁵² Public Resources Code sections 42921; Exhibit A, IRC, pages 53 and 57 (Parameters and Guidelines, section IV.(B)(5)).

⁵³ Exhibit B, Controller’s Comments on the IRC, page 89.

⁵⁴ Exhibit B, Controller’s Comments on the IRC, pages 31-32, 89.

⁵⁵ Public Resources Code sections 42921; Exhibit A, IRC, pages 53 and 57 (Parameters and Guidelines, section IV.(B)(5)).

Therefore, the Commission found that the difference of \$22,884 (\$52,812 - \$29,928) has been incorrectly reduced. Accordingly, the Commission partially approved this IRC, and requested, pursuant to Government Code section 17551(d) and section 1185.9 of the Commission's regulations, that the Controller reinstate \$22,884 to the claimant.

The Stull Act, 14-9825-I-02

Education Code Sections 44662 and 44664⁵⁶
Statutes 1983, Chapter 498, Statutes 1999, Chapter 4
Fiscal Years 2005-2006, 2006-2007, 2007-2008, and 2008-2009

Claimant: Carlsbad Unified School District

Incorrect Reduction Claim Filed: June 9, 2015

Decision Adopted: July 27, 2018

This IRC addressed reductions made by the Controller to reimbursement claims filed by the Carlsbad Unified School District (claimant) for costs incurred during fiscal years 2005-2006 through 2008-2009 (audit period) for the *Stull Act* program. The claimant disputed reductions totaling \$274,101 for the audit period.

The Commission denied this IRC, finding that reductions related to the claimant's time study, and disallowances of completed employee evaluations in all four fiscal years were correct as a matter of law and not arbitrary, capricious, or entirely lacking in evidentiary support.

Specifically, the Controller reduced costs based on denial of 19 of 22 discrete activities identified in the claimant's time study, relating to training, meetings, observation, report writing, conferences between evaluators and teachers, and other activities relating to planning, preparation, and organizing notes, and STAR testing. These activities are beyond the very narrow scope of the approved higher level of service, and the claimant has presented no argument or evidence establishing the relationship to the mandated activities included in the Parameters and Guidelines. The reduction based on the 19 denied activities was therefore correct as a matter of law, and not arbitrary, capricious, or entirely lacking in evidentiary support.

In addition, the Controller reduced reimbursement based on disallowed completed evaluations for non-instructional certificated employees, such as administrators, counselors, and librarians, among others; and preschool teachers. Preschool teachers do not perform the requirements of educational programs mandated by state or federal law, and therefore evaluations of preschool teachers are not reimbursable. Similarly, evaluations of non-instructional certificated personnel are reimbursable under Part IV.B. of the Parameters and Guidelines only if such employees' last regularly-scheduled evaluation resulted in an unsatisfactory evaluation; those facts are not supported in the record. The reduction based on disallowed completed evaluations was therefore correct as a matter of law.

⁵⁶ Note that this caption differs from the Test Claim and Parameters and Guidelines captions because it only includes those code sections approved for reimbursement by the Commission and not those pled in the Test Claim but denied.

Integrated Waste Management, 15-0007-I-12

Public Resources Code Sections 40148, 40196.3, 42920-42928; Public Contract Code Sections 12167 and 12167.1; Statutes 1992, Chapter 1116 (AB 3521); Statutes 1999, Chapter 764 (AB 75); State Agency Model Integrated Waste Management Plan (February 2000)
Fiscal Years 2003-2004, 2005-2006, 2006-2007, 2007-2008,
2008-2009, 2009-2010, and 2010-2011

Claimant: San Mateo County Community College District

Incorrect Reduction Claim Filed: March 15, 2016

Decision Adopted: July 27, 2018

This IRC addressed reductions made by the Controller to reimbursement claims of the San Mateo County Community College District (claimant) for fiscal years 2003-2004 and 2005-2006 through 2010-2011 (the audit period), under the *Integrated Waste Management* program, 00-TC-07. The Controller made the audit reductions because the claimant did not identify and deduct from its reimbursement claims any offsetting savings from its solid waste diversion that results in reduced or avoided landfill disposal fees.

The test claim statutes require community college districts to adopt and implement, in consultation with California Integrated Waste Management Board (CIWMB, which is now the California Department of Resources Recycling and Recovery, or CalRecycle), integrated waste management (IWM) plans to reduce solid waste⁵⁷ To implement their plans, districts must divert from landfill disposal at least 25 percent of solid waste by January 1, 2002, and at least 50 percent by January 1, 2004.⁵⁸ The test claim statutes also provide that “Any cost savings realized as a result of the state agency integrated waste management plan shall, to the extent feasible, be redirected to the agency’s integrated waste management plan to fund plan implementation and administration costs . . .”⁵⁹

The statutes, therefore, presume that by complying with the mandate to divert solid waste through the IWM program, landfill fees are reduced or avoided and cost savings are realized. The amount or value of the cost savings may be determined from the calculations of annual solid waste disposal reduction or diversion, which community colleges are required to annually report to CIWMB.⁶⁰

The Commission found that the audit reductions were partially incorrect.

During the audit period, the claimant diverted solid waste, as required by the test claim statutes, at all three colleges in the district: Cañada College, Skyline College, and College of San Mateo. The Controller correctly presumed, consistent with the test claim statutes and the court’s interpretation of those statutes, and without any evidence to the contrary, that the claimant realized cost savings during the audit period equal to the avoided landfill disposal fee per ton of waste required to be diverted.

⁵⁷ Public Resources Code section 42920(b).

⁵⁸ Public Resources Code section 40124.

⁵⁹ Public Resources Code section 42925(a).

⁶⁰ Exhibit B, Controller’s Comments on the IRC, pages 142-143 (*State of California, Department of Finance, California Integrated Waste Management Board v. Commission on State Mandates, et al.* (Sacramento County Superior Court, Case No. 07CS00355, Ruling on Submitted Matter).

Based on the evidence in the record, the Commission found that the Controller's calculation of offsetting cost savings for all years in the audit period except the first half of fiscal year 2003-2004 is correct as a matter of law, and not arbitrary, capricious, or entirely lacking in evidentiary support. For those years the claimant exceeded the mandated diversion rate, the Controller calculated offsetting savings by allocating the diversion to reflect the mandate by dividing the percentage of solid waste required to be diverted by the test claim statute (either 25 percent or 50 percent) by the actual percentage of solid waste diverted (as annually reported by the claimant to the California Integrated Waste Management Board (CIWMB)). The allocated tonnage of solid waste diverted was then multiplied by the avoided landfill disposal fee (based on the statewide average fee) to calculate the offsetting savings realized.⁶¹ The formula allocates cost savings based on the mandated rate of diversion, and is intended to avoid penalizing the claimant for diverting more solid waste than the amount mandated by law.⁶² The claimant did not file any evidence to rebut the statutory presumption of cost savings or to show that the statewide average disposal fee was incorrect or arbitrary. Thus, the Controller's reduction of costs claimed for these fiscal years was correct.

However, the Commission found, the Controller's reduction of costs claimed for the first half of fiscal year 2003-2004 was incorrect as a matter of law. For Cañada and Skyline Colleges, the Controller allocated the diversion rate for the first half of fiscal year 2003-2004, as it did for the other fiscal years, because the claimant exceeded the mandate. However, the Controller used a 50 percent rate to calculate the allocated diversion for calendar year 2003, although the test claim statutes required only 25 percent diversion until January 1, 2004,⁶³ so the Controller's calculation of cost savings at Cañada and Skyline Colleges for the first half of fiscal year 2003-2004 was incorrect as a matter of law.

For the College of San Mateo, the Controller found that the claimant did not meet the minimum "50 percent" diversion rate during the first half of fiscal year 2003-2004, although the mandated diversion rate during calendar year 2003 was 25 percent diversion (and the College achieved 44 percent).⁶⁴ The requirement to divert 50 percent did not become effective until January 1, 2004,⁶⁵ so the Controller's finding was incorrect as a matter of law. In addition, the Controller did not allocate the diversion rate for the College of San Mateo, as it had for the other fiscal years when the claimant exceeded the mandate. Instead, the Controller used 100 percent of the claimant's diversion to calculate the offsetting savings for the College of San Mateo for the first half of fiscal year 2003-2004,⁶⁶ so the Controller's savings calculation for this period is arbitrary, capricious, or entirely lacking in evidentiary support.

Applying the Controller's cost savings formula (using the mandated 25 percent diversion rate to calculate the allocated diversion) to the first half of fiscal year 2003-2004, results in offsetting savings of:

⁶¹ Exhibit A, IRC, pages 38; Exhibit B, Controller's Comments on the IRC, page 20.

⁶² Exhibit B, Controller's Comments on the IRC, page 20.

⁶³ Public Resources Code sections 42921(b); Exhibit A, IRC, page 74 (Parameters and Guidelines).

⁶⁴ Exhibit B, Controller's Comments on the IRC, page 153.

⁶⁵ Public Resources Code sections 42921(b); Exhibit A, IRC, page 74 (Parameters and Guidelines).

⁶⁶ Exhibit B, Controller's Comments on the IRC, page 153.

- \$1,705 for Cañada College (25 percent divided by 51.13 percent multiplied by 94.7 tons diverted multiplied by the statewide average landfill fee of \$36.83) rather than \$3,411;
- \$1,805 for Skyline College (25 percent divided by 74.41 percent multiplied by 145.85 tons diverted multiplied by the statewide average landfill fee of \$36.83) rather than \$3,610; and
- \$6,124 for the College of San Mateo (25 percent divided by 44.13 percent multiplied by 293.5 tons diverted multiplied by the statewide average landfill fee of \$36.83) rather than \$10,810.

Thus, the Commission found that the reduction of \$8,197 (the difference between the Controller's reduction of \$17,831 and \$9,634, which is the amount that should have been reduced) was incorrect as a matter of law and should be reinstated to the claimant.

Therefore, the Commission partially approved this IRC, and requested, pursuant to Government Code section 17551(d) and section 1185.9 of the Commission's regulations, that the Controller reinstate \$8,197 to the claimant.

Enrollment Fee Collection and Waivers, 15-9913-I-02

Education Code Section 76300;
Statutes 1984, 2d Ex. Sess., Chapter 1; Statutes 1984, Chapters 274 and 1401;
Statutes 1985, Chapters 920 and 1454; Statutes 1986, Chapters 46 and 394;
Statutes 1987, Chapter 1118; Statutes 1989, Chapter 136;
Statutes 1991, Chapter 114; Statutes 1992, Chapter 703;
Statutes 1993, Chapters 8, 66, 67, and 1124; Statutes 1994, Chapters 153 and 422;
Statutes 1995, Chapter 308; Statutes 1996, Chapter 63; Statutes 1999, Chapter 72;
California Code of Regulations, Title 5, Sections 58501-58503, 58611-58613, 58620, and 58630
Fiscal Years 1998-1999, 1999-2000, 2000-2001, 2001-2002, 2002-2003, 2003-2004,
2004-2005, 2005-2006, 2006-2007, 2007-2008, 2008-2009, 2009-2010, and 2010-2011

Claimant: North Orange County Community College District

Incorrect Reduction Claim Filed: June 27, 2016

Decision Adopted: November 30, 2018

This IRC challenged the Controller's reduction of costs claimed by North Orange County Community College District (claimant) for the *Enrollment Fee Collection and Waivers* program for fiscal years 1998-1999 through 2010-2011 (audit period). Of the \$15,955,585 claimed during the audit period, the Controller found that the entire amount was unallowable. The claimant challenged the reductions of costs claimed for salaries and benefits for the ongoing enrollment fee collection activities specified in the Parameters and Guidelines (audit findings 1 and 6/enrollment fee collection activities 1 through 4) and enrollment fee waiver activities (audit findings 3 and 6/enrollment fee waiver activities 7 through 12), and offsetting revenues (audit finding 5).

The Commission found that the IRC was timely filed, and that Controller's reductions were correct as a matter of law and not arbitrary, capricious, or entirely lacking in evidentiary support.

As a preliminary issue, the plain language of Government Code section 17551(d) limits the Commission's jurisdiction on an IRC to whether payments have been "incorrectly *reduced*". In this case, the Controller *increased* the number of students who applied for a fee waiver and were subject to activity 10.⁶⁷ This resulted in an increase in allowable costs. Therefore, the Commission finds that it has no jurisdiction over the increased adjustment to the number of students for activity 10.

The Parameters and Guidelines require that reimbursement claims be based on actual costs incurred that are traceable and supported by contemporaneous source documents, also known as the "contemporaneous source document rule". However, the claimant estimated the staff time to perform the mandated activities for all fiscal years in question and submitted time surveys certified by claimant's employees to support the average times reported.

The contemporaneous source document rule cannot apply to the reimbursement claims for costs incurred before the Parameters and Guidelines were adopted in January 2006 without violating

⁶⁷ Activity 10 is "In the case of an incomplete application or incomplete documentation, notify the student of the additional required information and how to obtain that information. Hold student application and documentation in suspense file until all information is received." Exhibit A, IRC, page 129 (Parameters and Guidelines).

due process principles because the claimants were not on notice of the requirements.⁶⁸ However, since the claimant had actual notice of the claiming requirements after the Parameters and Guidelines were issued, the Controller could have reduced the costs claimed for salaries and benefits to zero in fiscal years 2006-2007 through 2010-2011, which would have been correct as a matter of law.⁶⁹

Instead, the Controller exercised its audit authority to determine if the estimated average times claimed were reasonable by discussing the program with claimant's staff and conducting a time study during an open enrollment period, during which the Controller contemporaneously logged the times spent to perform the enrollment fee collection and waiver activities. The Controller found that the average times estimated by the claimant to perform the mandated activities were overstated. The claimant provided no evidence that the Controller's reduction of the estimated times are wrong, or arbitrary, or capricious.

The Controller also reduced the number of students reported by the claimant for each ongoing reimbursable activity based on data from the Chancellor's Office Management Information System (MIS) on enrollment fee waivers and Board of Governors (BOG) grant recipients. The MIS data is reported annually by community college districts to the Chancellor's Office and includes a student headcount, and eliminates any duplicate students by term based on students' Social Security numbers. The Chancellor has an official duty to maintain the MIS data, which is presumed to have been regularly performed and to be correct, absent evidence to the contrary.⁷⁰ The claimant provided no evidence that the reduction to the number of students in the calculation for salaries and benefits is wrong, or arbitrary or capricious.

Finally, the claimant calculated productive hourly rates by including staff in its calculations who did not perform the mandate, and weighed all employee classifications at the same level as if all staff performed the reimbursable activities to the same extent. The Parameters and Guidelines require the claimant to identify the employees performing the mandate, their job classifications, and the hours devoted to each reimbursable activity performed. Thus, the Parameters and Guidelines require the claimant to specifically identify and weigh staff involvement in the mandate when claiming costs for salaries and benefits. The Controller recalculated the productive hourly rates based on the supporting documentation for the productive hourly rates used in the claimant's reimbursement claims. The Controller determined the level of staff involvement (student, classified or supervisory) after discussions with the claimant's staff, and by observing the staff performing the reimbursable activities. The Commission found that the Controller's reductions to productive hourly rates were correct as a matter of law, and not arbitrary, capricious, or entirely lacking in evidentiary support.

The Commission also found that the Controller's adjustments to offsetting revenues was correct as a matter of law. The Controller found that offsetting revenues identified by the claimant for the enrollment fee collection and waiver activities were understated because the claimant did not accurately report the amounts received from the Chancellor's Office. The plain language of the Parameters and Guidelines and Education Code section 76300(m) require that funds allocated

⁶⁸ *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.

⁶⁹ *California School Boards Association v. State of California* (2009) 171 Cal.App.4th 1183, 1201.

⁷⁰ Evidence Code section 664 establishes a presumption that official duty has been regularly performed.

from the Board of Governors for the fee collection and fee waiver programs be identified as offsetting revenues against the costs incurred. Moreover, in 2008, the Legislature amended Education Code section 76300(m) to clarify the Legislature's intent that the offsetting revenues identified above shall "directly offset mandated costs claimed by community college districts pursuant to Commission on State Mandates consolidated Test Claims 99-TC-13 (Enrollment Fee Collection) and 00-TC-15 (Enrollment Fee Waivers)." ⁷¹ The claimant did not provide any evidence to indicate that the amounts identified by the Chancellor's Office were wrong.

Accordingly, the Commission denied this IRC.

⁷¹ Statutes 2008, chapter 757, section 31 (AB 757).

Interagency Child Abuse and Neglect Investigation Reports (ICAN), 17-0022-I-01

Penal Code Sections 11165.9, 11166, 11166.2, 11166.9⁷², 11168 (formerly 11161.7), 11169, 11170, and 11174.34 (formerly 11166.9) as added or amended by Statutes 1977, Chapter 958; Statutes 1980, Chapter 1071; Statutes 1981, Chapter 435; Statutes 1982, Chapters 162 and 905; Statutes 1984, Chapters 1423 and 1613; Statutes 1985, Chapter 1598; Statutes 1986, Chapters 1289 and 1496; Statutes 1987, Chapters 82, 531, and 1459; Statutes 1988, Chapters 269, 1497, and 1580; Statutes 1989, Chapter 153; Statutes 1990, Chapters 650, 1330, 1363, and 1603; Statutes 1992, Chapters 163, 459, and 1338; Statutes 1993, Chapters 219 and 510; Statutes 1996, Chapters 1080 and 1081; Statutes 1997, Chapters 842, 843, and 844; Statutes 1999, Chapters 475 and 1012; and Statutes 2000, Chapter 916
Fiscal Years 1999-2000 through 2012-2013

Claimant: City of Palmdale

Incorrect Reduction Claim Filed: November 7, 2017

Decision Adopted: November 30, 2018

This IRC addressed reductions made by the State Controller's Office (Controller) to reimbursement claims filed by the City of Palmdale (claimant) for costs incurred during fiscal years 1999-2000 through 2012-2013 (audit period) for the *Interagency Child Abuse and Neglect Investigation Reports (ICAN)* program. The claimant disputed reductions totaling \$2,552,314 for the audit period.

The Commission denied this IRC, finding that reductions related to the claimant's time study, and disallowance of indirect costs, as claimed, for all fiscal years were correct as a matter of law and not arbitrary, capricious, or entirely lacking in evidentiary support. Specifically, the Controller adjusted the results of the claimant's time study for the investigation and reporting to the Department of Justice (DOJ) mandate component, based on excluding one investigation from the sample that included unallowable activities after the case was determined to be substantiated, and rejecting an additional thirty minutes of report writing time that the claimant alleged in its amended claims to be omitted from the allowed time. In addition, the Controller disallowed all indirect costs claimed, based on the claimant's failure to comply with the Parameters and Guidelines and claiming instructions. The Commission found these reductions to be correct as a matter of law, and not arbitrary, capricious, or entirely lacking in evidentiary support.

The claimant also asserted a number of preliminary investigative activities that should be subject to reimbursement, and argued they were not, but should have been, accounted for in the time study. These activities, however, were neither specifically claimed nor specifically disallowed. Therefore, they are not the subject of a reduction and the Commission found that it does not have jurisdiction over these issues.

⁷² Renumbered at Penal Code section 11174.34 (Stats. 2004, ch. 842 (SB 1313)).