

STATE *of* CALIFORNIA
**COMMISSION ON STATE
MANDATES**



**REPORT TO THE LEGISLATURE:
INCORRECT REDUCTION CLAIMS**

January 1, 2021 – December 31, 2021

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Table of Contents

INTRODUCTION	3
SUMMARY OF COMPLETED CLAIMS	4
A. Decided Incorrect Reduction Claims	4
<i>Crime Statistics Reports for the Department of Justice, 17-0240-I-01</i>	4
<i>The Stull Act, 19-9825-I-03</i>	9
<i>Municipal Storm Water and Urban Runoff Discharges, 19-0304-I-04, 20-0304-I-06, 20-0304-I-08, 20-0304-I-09, 20-0304-I-10, 20-0304-I-11, and 20-0304-I-13</i>	11
<i>Municipal Storm Water and Urban Runoff Discharges, 18-0304-I-01</i>	13

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 10 IRCs completed by the Commission between January 1, 2021 and December 31, 2021.

With six IRCs now remaining pending and all tentatively scheduled for hearing, there is no longer a backlog of IRC matters.

SUMMARY OF COMPLETED CLAIMS

A. Decided Incorrect Reduction Claims

Crime Statistics Reports for the Department of Justice, 17-0240-I-01

Penal Code Sections 12025(h)(1) and (h)(3); 12031(m)(1) and (m)(3); 13014; 13023; 13730(a) Statutes 1989, Chapter 1172 (SB 202); Statutes 1992, Chapter 1338 (SB 1184); Statutes 1993, Chapter 1230 (AB 2250); Statutes 1998, Chapter 933 (AB 1999); Statutes 1999, Chapter 571 (AB 491); Statutes 2000, Chapter 626 (AB 715); and Statutes 2004, Chapter 700 (SB 1234)

Fiscal Years 2001-2002, 2002-2003, 2003-2004, 2004-2005, 2005-2006, 2006-2007, 2007-2008, 2008-2009, 2009-2010, 2010-2011, 2011-2012

Claimant: City of San Marcos

Incorrect Reduction Claim Filed: August 22, 2017

Decision Adopted: January 22, 2021

This IRC challenges the Controller's reduction to reimbursement claims filed by the claimant under the *Crime Statistics Reports for the Department of Justice* program for fiscal years 2001-2002 through 2011-2012 (audit period). According to the Final Audit Report, the Controller found that of the \$1,094,487 claimed during the audit period, \$722,360 is allowable and \$372,127 is unallowable.¹ As relevant to this IRC, the program requires local agencies to support all domestic violence-related calls for assistance with a written incident report, and to review and edit the report.²

The claimant contracts for all law enforcement services with the San Diego Sheriff's Office (SDSO). The claimant calculated the costs to perform the reimbursable activity by multiplying the number of domestic violence-related calls for assistance by an average of the estimated time to write the incident report. The claimant then multiplied the hours by the SDSO hourly rates to arrive at the total claimed costs.³ The Controller found that the claimant misstated the number of written incident reports, misstated the time increments per activity, and misstated the contract productive hourly rates.⁴ The claimant disputes only the reductions to the number of domestic violence incident reports in fiscal years 2001-2002 through 2006-2007, and the contract productive hourly rates in fiscal years 2001-2002 through 2006-2007 (Finding 1), and the reductions in indirect costs claimed in Finding 2.⁵

As a threshold matter, the Commission finds that the IRC was timely filed within three years of the date the Controller notified the claimant of the reduction.

The Commission further finds that it has no jurisdiction over the Controller's adjustment in Finding 1 to the increase in the allowable number of written reports of domestic violence-related calls for assistance in fiscal year 2001-2002. The claimant identified 208 written incident

¹ Exhibit A, IRC, filed August 22, 2017, pages 517, 519 (Final Audit Report). These figures include some uncontested audit findings.

² Exhibit A, IRC, filed August 22, 2017, page 506 (Parameters and Guidelines). Penal Code section 13730.

³ Exhibit A, IRC, filed August 22, 2017, page 528 (Final Audit Report).

⁴ Exhibit A, IRC, filed August 22, 2017, page 528 (Final Audit Report).

⁵ Exhibit A, IRC, filed August 22, 2017, pages 4-5, 6.

reports, and the Controller allowed 274 reports.⁶ The Commission also lacks jurisdiction over the Controller's adjustment in Finding 2 to the calculation of indirect costs for fiscal years 2001-2002 through 2006-2007, because the Controller increased annual indirect cost rates from 10 percent to 47.7 percent.⁷ Under Government Code section 17551(d), the Commission only has jurisdiction over audit reductions, but not adjustments that increase allowable costs.

On the merits, the Commission finds that the Controller's reduction in Finding 1 to the number of written reports for domestic violence-related calls for assistance claimed for fiscal years 2002-2003 through 2006-2007 is not arbitrary, capricious, or entirely lacking in evidentiary support. During the audit, the Controller requested supporting documentation to verify the number of domestic violence incidents claimed during the audit period that were supported by incident reports, and the SDSO provided reports from the Automated Regional Justice Information System (ARJIS) for the later fiscal years 2007-2008 through 2011-2012.⁸ These reports identify the date and time of the domestic violence-related calls for assistance in fiscal years 2007-2008 through 2011-2012, the incident number, and the total number of incidents each year during this time period.⁹ However, the SDSO was not able to provide ARJIS reports for incidents claimed for fiscal years 2002-2003 through 2006-2007, or the underlying written reports for the calls for assistance for those years.¹⁰ The Controller therefore calculated an average annual incident count for fiscal years 2002-2003 through 2006-2007, based on the verified data for fiscal years 2007-2008 through 2011-2012. This resulted in a reduction of 412 incident reports for fiscal years 2002-2003 through 2006-2007.¹¹

The claimant argues that by using an average from the five most recent audited years "does not adequately compensate the City for actual mandate related DV case costs. This SCO averaging resulted in an approximately 10% reduction to the City's costs claimed."¹² The claimant argues that supporting documentation was provided in the form of faxed reports from the SDSO, appearing to answer a query from the claimant representative regarding the annual incident count for several different offenses, including "the number of domestic violence calls for services and cases," for the two cities of Encinitas and San Marcos (the claimant);¹³ 2002, 2007, and 2008 reports prepared by the San Diego Association of Governments (SANDAG), on "Crime in the San Diego Region;"¹⁴ and Department of Justice (DOJ) crime data, "CJSC Statistics: Domestic Violence-Related Calls for Assistance," reported for the claimant's jurisdiction, and DOJ's

⁶ Exhibit A, IRC, filed August 22, 2017, page 5; Exhibit B, Controller's Comments on the IRC, filed January 22, 2018, page 342.

⁷ Exhibit A, IRC, filed August 22, 2017, page 542 (Final Audit Report).

⁸ Exhibit A, IRC, filed August 22, 2017, page 529 (Final Audit Report); Exhibit B, Controller's Comments on the IRC, filed January 22, 2018, pages 344-375 (ARJIS reports of domestic violence-related calls for assistance for fiscal years 2007-2008 through 2011-2012).

⁹ Exhibit B, Controller's Comments on the IRC, filed January 22, 2018, pages 344-375 (ARJIS reports of domestic violence-related calls for assistance for fiscal years 2007-2008 through 2011-2012).

¹⁰ Exhibit A, IRC, filed August 22, 2017, page 529 (Final Audit Report).

¹¹ Exhibit A, IRC, filed August 22, 2017, page 529 (Final Audit Report).

¹² Exhibit A, IRC, filed August 22, 2017, page 4.

¹³ Exhibit A, IRC, filed August 22, 2017, pages 27-39.

¹⁴ Exhibit A, IRC, filed August 22, 2017, pages 40-290 (SANDAG reports).

March 2000 publication, “Criminal Statistics Reporting Requirements,” which states that local agencies are required to report data on the number of domestic violence calls on a monthly basis.¹⁵

The Parameters and Guidelines, adopted in 2010, require that claims for actual costs must be traceable and supported by contemporaneous source documentation (documents created at or near the time costs were incurred) that show the validity of such costs, when they were incurred, and their relationship to the reimbursable activities) and define source documents to include employee time records or time logs, sign-in sheets, invoices and receipts.¹⁶ Although the Parameters and Guidelines are regulatory in nature, due process requires that a claimant have reasonable notice of any law that affects their substantive rights and liabilities.¹⁷ Here, the claimant was not on notice of the contemporaneous source document requirement (CSDR) when the costs were incurred in fiscal years 2002-2003 through 2006-2007 because the Parameters and Guidelines were not adopted until September 2010. Thus, for due process reasons, the CSDR cannot be strictly enforced in these fiscal years. However, the Controller is *not* strictly enforcing the CSDR because the Controller is not requiring contemporaneous documentation and did not reduce the costs claimed to \$0.

Instead, the Controller exercised its audit authority and calculated the number of written reports for domestic violence-related calls for assistance in fiscal years 2002-2003 through 2006-2007 “based on verified actual ARJIS data for FY 2007-08 through FY 2011-12 and applied this average to compute costs for unsupported years.”¹⁸ Although the claimant has provided faxed documents from SDSO to the claimant’s representative and third party reports purportedly identifying a larger number of domestic violence related calls for assistance in the claim years, the claimant has not provided any source documentation (such as a list of incidents and the date they occurred, or the written incident reports themselves) for the Controller to verify the actual number of written incident reports claimed under the mandate. The Controller’s audit findings are consistent with Government Code section 17561(d)(1)(C), which authorizes the Controller to audit the records of any local agency or school district to verify the actual amount of mandated costs.¹⁹

Based on this record, the Controller adequately considered the claimant’s documentation, all relevant factors, and demonstrated a rational connection between those factors and the

¹⁵ Exhibit A, IRC, filed August 22, 2017, pages 4, 292-310 (DOJ reports and “Criminal Statistics Reporting Requirements” March 2000).

¹⁶ Exhibit A, IRC, filed August 22, 2017, page 503 (Parameters and Guidelines).

¹⁷ *In re Cindy B.* (1987) 192 Cal.App.3d 771, 783-784; *Clovis Unified School Dist. v. Chiang* (2010) 188 Cal.App.4th 794, 804-805.

¹⁸ Exhibit B, Controller’s Comments on the IRC, filed January 22, 2018, page 20; Exhibit A, IRC, filed August 22, 2017, page 529 (Final Audit Report).

¹⁹ See also Government Code section 12410, which states: “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 held that the Controller’s duty to audit includes the duty to ensure that expenditures are authorized by law. (*Tirapelle v. Davis* (1993) 20 Cal.App.4th 1317, 1335.)

adjustments made.²⁰ Under these circumstances, the Commission is required to defer to the Controller's audit authority and presumed expertise.²¹ There is no evidence that the Controller's calculation is arbitrary, capricious, or entirely lacking in evidentiary support.

The Commission also finds that the Controller's reduction in Finding 1 to the claimant's contracted hourly rates for fiscal years 2001-2002 through 2006-2007 is correct as a matter of law and not arbitrary, capricious, or entirely lacking in evidentiary support. The claimant contracts for all law enforcement services with the SDSO, not just for performing the reimbursable activity.²² For fiscal years 2001-2002 through 2006-2007, the Controller found that the claimant overstated the contract rates applicable to the mandate, "co-mingled multiple classifications [including deputy patrol, sergeant patrol, and sergeant detective] into one rate," and included employee classifications that did not perform the reimbursable activities.²³ The Controller also found that the claimant used an inconsistent number of annual contract hours to compute the claimed hourly rates for these years.²⁴

The Parameters and Guidelines state that the "claimant is only allowed to claim and be reimbursed for increased costs for reimbursable activities identified . . .," and that "[i]ncreased cost is limited to the cost of an activity that the claimant is required to incur as a result of the mandate."²⁵ Regarding contracted services, the Parameters and Guidelines state that only the pro-rata portion of the services used to implement the reimbursable activities can be claimed.²⁶ The claimant included the costs for various classifications and overhead that accounted for all law enforcement services, so the hourly contract rates used by the claimant for fiscal years 2001-2002 through 2006-2007 do not comply with the Parameters and Guidelines because they do not segregate the salary and benefit rate by the classifications that performed the reimbursable activities. Therefore, the Controller's conclusion is correct as a matter of law.

To recalculate hourly rates, the Controller obtained salary and benefit rates from the SDSO that were segregated for each peace officer classification that performed the reimbursable activities and confirmed they were accurate.²⁷ The Controller divided the salary and benefit costs by 1,743 productive hours (which is the number of productive hours noted in the SDSO contract for the later undisputed years) to calculate hourly contract rates for all years, including the disputed years.²⁸ This recalculation complies with the Parameters and Guidelines to ensure that only the

²⁰ *American Bd. of Cosmetic Surgery, Inc. v. Medical Bd. of California* (2008) 162 Cal.App.4th 534, 547-548.

²¹ *American Bd. of Cosmetic Surgery, Inc. v. Medical Bd. of California* (2008) 162 Cal.App.4th 534, 547-548.

²² Exhibit A, IRC, filed August 22, 2017, pages 316-468 (Contracts for Law Enforcement Services). Exhibit B, Controller's Comments on the IRC, filed January 22, 2018, page 23.

²³ Exhibit A, IRC, filed August 22, 2017, page 532 (Final Audit Report); Exhibit B, Controller's Comments on the IRC, filed January 22, 2018, pages 20-23, 377-398.

²⁴ Exhibit A, IRC, filed August 22, 2017, pages 532-533 (Final Audit Report). Exhibit B, Controller's Comments on the IRC, filed January 22, 2018, pages 20-21, 377.

²⁵ Exhibit A, IRC, filed August 22, 2017, page 503 (Parameters and Guidelines).

²⁶ Exhibit A, IRC, filed August 22, 2017, page 506 (Parameters and Guidelines).

²⁷ Exhibit B, Controller's Comments on the IRC, filed January 22, 2018, page 21.

²⁸ Exhibit A, IRC, filed August 22, 2017, page 533 (Final Audit Report). 1,743 productive hours is in the SDSO contract for 2008-2008 through 2011-2012; Exhibit A, IRC, filed

pro-rata costs to comply with the mandate are reimbursable so it is correct as a matter of law and not arbitrary, capricious, or entirely lacking in evidentiary support. The claimant has not provided evidence to the contrary.

Finally, the Commission finds that the Controller's reduction of indirect costs in Finding 2 for fiscal years 2007-2008 through 2011-2012 is not arbitrary, capricious, or entirely lacking in evidentiary support. Section V.B. of the Parameters and Guidelines addresses indirect costs, and provides claimants the option of either claiming 10 percent of direct labor costs, or if indirect costs exceed the 10 percent rate, developing an indirect cost rate proposal by dividing the total allowable indirect costs by an equitable distribution rate.²⁹ For fiscal years 2007-2008 through 2011-2012, the claimant developed indirect cost rate proposals and applied those rates to costs for contracted law enforcement services that the Controller asserts were incorrectly claimed as direct labor costs, resulting in claimed indirect cost rates ranging from 80.8 to 91.8 percent annually.³⁰ The Controller found that the claimed methodology was incorrect because the claimant contracted for law enforcement with the SDSO, so it was inappropriate to claim the costs as indirect "labor costs." The claimant also applied the indirect cost rates to unallowable contract services costs identified in Finding 1.³¹ The Controller recalculated indirect cost rates for fiscal years 2007-2008 through 2011-2012 at 45.9 to 50.4 percent, by "dividing total contract overhead costs, station support staff costs, and "Sergeant Admin" position costs, by the contracted labor costs identified in the contract supplemental schedules," which reduced allowable rates by 35-45 percent over those claimed.³² The other sergeant positions not included in the indirect cost pool, as requested by the claimant, remained classified as direct contract costs.³³ The Commission finds that the Controller adequately considered the claimant's position throughout the audit, all relevant factors, and demonstrated a rational connection between those factors, the choices made, and calculated an indirect cost rate proposal consistent with the Parameters and Guidelines and the contracts with SDSO.³⁴ There is no evidence in the record that the Controller failed to explain its position or consider the claimant's documentation, as alleged in the IRC.

Therefore, the Commission denies this IRC.

August 22, 2017, page 452 (Contract for Law Enforcement Services), Exhibit B, Controller's Comments on the IRC, filed January 22, 2018, page 406 (Contract for Law Enforcement Services).

²⁹ Exhibit A, IRC, filed August 22, 2017, pages 507-508 (Parameters and Guidelines).

³⁰ Exhibit A, IRC, filed August 22, 2017, page 542 (Final Audit Report).

³¹ Exhibit A, IRC, filed August 22, 2017, page 541 (Final Audit Report).

³² Exhibit A, IRC, filed August 22, 2017, pages 541-542 (Final Audit Report). Exhibit B, Controller's Comments on the IRC, filed January 22, 2018, pages 28, 411 (Calculation of Allowable Indirect Cost Rates).

³³ Exhibit B, Controller's Comments on the IRC, filed January 22, 2018, page 427 (Controller's email of April 17, 2017).

³⁴ *American Bd. of Cosmetic Surgery, Inc. v. Medical Bd. of California* (2008) 162 Cal.App.4th 534, 547-548.

The Stull Act, 19-9825-I-03

Education Code Sections 44660-44665;
Statutes 1983, Chapter 498; Statutes 1999, Chapter 4

Fiscal Years 2005-2006, 2006-2007, 2007-2008, 2010-2011, 2011-2012, 2012-2013

Claimant: Fairfield-Suisun Unified School District

Incorrect Reduction Claim Filed: March 2, 2020

Decision Adopted: March 26, 2021

This Incorrect Reduction Claim (IRC) challenges the State Controller’s (Controller’s) reduction of costs claimed for the *Stull Act* program for fiscal years 2005-2006 through 2007-2008 and 2010-2011 through 2012-2013 (audit period) because the Fairfield-Suisun Unified School District (claimant) did not provide contemporaneous source documentation to support the times claimed by employees to perform the reimbursable activities, as required by the Parameters and Guidelines.³⁵ The *Stull Act* program, under prior law, required certificated employees to be evaluated every other year and required the evaluations to be written.³⁶ The test claim statutes imposed a higher level of service on school districts by mandating additional requirements to the evaluation process; namely to evaluate certificated instructional personnel on two new criteria and to include that new information in the existing written evaluation; and to re-evaluate and write an additional evaluation every other year for certificated instructional and non-instructional personnel who previously received a non-satisfactory evaluation.

To determine reimbursable costs for salaries and benefits, the Controller allowed 60 minutes for each allowable evaluation claimed based on the claimant’s collective bargaining agreements for the audit period, which require at least two 30-minute observations per evaluation of certificated instructional personnel.³⁷ The Controller calculated the allowable salaries and benefits by multiplying 60 minutes per evaluation by the number of allowable evaluations performed by the evaluator’s productive hourly rate.³⁸ The claimant contends that 60 minutes does not allow any time to write the evaluations because the collective bargaining agreement requires 60 minutes to observe the employee. The claimant also disputes the Controller’s rejection of its 2017 time study showing an average of 1.55 hours to write an evaluation, but requests the Commission to “allow some reasonable amount of time for each final write up.”³⁹

The Commission finds that the reduction is correct as a matter of law since the claimant did not comply with the contemporaneous source documentation requirement in the Parameters and Guidelines to support the time devoted to the reimbursable activities.

³⁵ Exhibit A, IRC, filed March 2, 2020, page 268 (Audit Report); Exhibit B, Controller’s Late Comments on the IRC, filed July 10, 2020, page 10. According to the audit report, fiscal years 2008 through 2010 were not included in the audit because the statute of limitations to initiate the audit of these years had expired. Exhibit A, IRC, filed March 2, 2020, page 264 (Audit Report).

³⁶ Exhibit F, Test Claim Decision, *The Stull Act*, 98-TC-25, adopted May 27, 2004, page 18.

³⁷ Exhibit A, IRC, filed March 2, 2020, pages 273 (Audit Report), 112 (2005-2007 Contract), 136 (2008-2010 Contract), 162 (2012-2014 Contract). Exhibit B, Controller’s Late Comments on the IRC, filed July 10, 2020, page 14.

³⁸ Exhibit A, IRC, filed March 2, 2020, page 273 (Audit Report).

³⁹ Exhibit A, IRC, filed March 2, 2020, page 3.

In addition, there is no evidence that the Controller's allowance of 60 minutes per evaluation is arbitrary, capricious, or entirely lacking in evidentiary support. The record shows that the Controller "adequately considered all relevant factors, and has demonstrated a rational connection between those factors, the choice made, and the purposes of the enabling statute."⁴⁰ The Controller fully reviewed the claimant's time study, interviewed employees who admitted that the times were "best guesses," and found a wide variation in the times reported.⁴¹ Moreover, there is no indication that the claimant's time study captured only the higher level of service the Commission approved for this mandate. The claimant provides no evidence that the 1.55 hours alleged in the time study reflects anything other than the time to write a full evaluation.

Therefore, the Commission denies this IRC.

⁴⁰ *American Bd. of Cosmetic Surgery, Inc. v. Medical Bd. of California* (2008) 162 Cal.App.4th 534, 547-548.

⁴¹ Exhibit A, IRC, filed March 2, 2020, page 279 (Audit Report). Exhibit B, Controller's Late Comments on the IRC, filed July 10, 2020, pages 15-16, 26-27 (email from the Controller to the claimant, Dec. 21, 2017).

Municipal Storm Water and Urban Runoff Discharges, 19-0304-I-04, 20-0304-I-06, 20-0304-I-08, 20-0304-I-09, 20-0304-I-10, 20-0304-I-11, and 20-0304-I-13

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 Claremont, Claimant

Fiscal Years: 2002-2003, 2003-2004, 2004-2005, 2005-2006, City of Downey, Claimant

Fiscal Years: 2008-2009, 2009-2010, 2010-2011, 2011-2012, City of Glendora, Claimant

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

Fiscal Years: 2002-2003, 2003-2004, 2004-2005, 2005-2006, 2006-2007, 2007-2008, 2008-2009, City of Santa Clarita, Claimant

Fiscal Years: 2002-2003, 2003-2004, 2004-2005, 2005-2006, 2006-2007, 2007-2008, 2008-2009, 2010-2011, 2011-2012, 2012-2013, City of Signal Hill, Claimant

Fiscal Years: 2002-2003, 2003-2004, 2004-2005, 2005-2006, 2006-2007, 2007-2008, 2008-2009, 2009-2010, 2010-2011, 2011-2012, 2012-2013, County of Los Angeles, Claimant

Consolidated Incorrect Reduction Claim Filed: November 5, 2020

Decision Adopted: May 28, 2021

This Consolidated Incorrect Reduction Claim (IRC) alleges that the State Controller's Office (Controller) incorrectly reduced reimbursement claims filed by the cities of Claremont, Downey, Glendora, Pomona, Santa Clarita, and Signal Hill, and the County of Los Angeles for costs claimed to implement the *Municipal Stormwater and Urban Runoff Discharges* program. This IRC and Decision are limited to the issue of whether local return revenues received by the claimants from the Los Angeles County Metropolitan Transportation Authority under the Proposition A and Proposition C local return programs, which were used to fund the costs of the mandated program, are required to be identified as offsetting revenues.

The Controller found that the claimants failed to identify and deduct as offsetting revenues the Proposition A and Proposition C local return funds received from the Los Angeles County Metropolitan Transportation Authority (Metro) that the claimants used to pay for the installation and maintenance of trash receptacles at transit stops required by the mandated program.

The Commission finds that the IRCs and Notices of Intent to Join a Consolidated IRC (Notice of Intent to Join) were timely filed.

The Commission further finds that the Controller's reduction, based on its determination that Proposition A and Proposition C local return funds are offsetting revenues that should have been identified and deducted from the reimbursement claims, is correct as a matter of law. Proposition A and Proposition C are transactions and use taxes levied by Metro. A portion of the Proposition A and Proposition C tax revenues are distributed to the claimant cities and county through the Proposition A and Proposition C local return programs for use on eligible transportation projects. These taxes, however, are not levied "by or for" the cities and county, as that constitutional phrase is interpreted by the courts, because the claimants do not have the authority to levy Proposition A and C taxes, and thus, these taxes are not the claimants' local

proceeds of taxes.⁴² Nor are the proceeds subject to the cities' or the county's respective appropriations limits.⁴³ Under article XIII B, section 6 of the California Constitution, the state is required to provide reimbursement only when a local government is mandated to spend its own proceeds of taxes subject to the appropriations limit of article XIII B.⁴⁴

Accordingly, the Commission denies this Consolidated IRC.

⁴² *Bell Community Redevelopment Agency v. Woosley* (1985) 169 Cal.App.3d 24, 32; Article XIII B, section 8(b) of the California Constitution.

⁴³ Public Utilities Code sections 130350 (Stats. 1976, ch. 1333), 130354; Exhibit L, Proposition C Ordinance, http://media.metro.net/projects_studies/taxpayer_oversight_comm/proposition_c_ordinance.pdf (accessed on February 22, 2021), page 6.

⁴⁴ *Dept. of Finance v. Commission on State Mandates* (2016) 1 Cal.5th 749, 762-763; *County of Fresno v. State of California* (1991) 53 Cal.3d 482, 486-487.

Municipal Storm Water and Urban Runoff Discharges, 18-0304-I-01

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

Claimant: City of Bellflower

Incorrect Reduction Claim Filed: August 17, 2018

Decision Adopted: July 23, 2021

This IRC challenges the Controller’s reduction to reimbursement claims filed by the City of Bellflower (claimant) for the *Municipal Storm Water and Urban Runoff Discharges* program for fiscal years 2002-2003 to 2009-2010 (the audit period).

The Controller found that the claimant failed to identify and deduct as offsetting revenues the Proposition C local return funds received from the Los Angeles County Metropolitan Transportation Authority (Metro) under the Proposition C local return program that the claimant used to pay for the maintenance of trash receptacles at transit stops as required by the mandated program. During the audit period, the claimant filed reimbursement claims totaling \$533,742 to perform the mandated activities of maintaining trash receptacles at each of its transit stops.⁴⁵ The claimant used \$530,321 in Proposition C local return funds to pay for the ongoing mandated trash receptacle maintenance, so the Controller reduced the claims by \$530,321.⁴⁶

The Commission finds that the IRC was timely filed within three years of the date the Controller notified the claimant of the reduction.

The Commission also finds that Proposition C local return revenue used by the claimant is offsetting revenue that should have been identified and deducted from the reimbursement claims and thus, the Controller’s reduction is correct as a matter of law. Section VIII of the Parameters and Guidelines requires that “reimbursement for this mandate received from any federal, state or *nonlocal source* shall be identified and deducted from this claim” as offsetting revenue.

To understand the meaning of *nonlocal* revenue, the Parameters and Guidelines must be read consistently with the constitutional legal principles underlying the reimbursement of state-mandated costs.⁴⁷ The purpose of article XIII B, section 6 is to preclude “the state from shifting financial responsibility for carrying out governmental functions to local agencies, which are ‘ill equipped’ to assume increased financial responsibilities *because of the taxing and spending limitations that articles XIII A and XIII B impose.*”⁴⁸ Thus, the courts have held that article XIII B, section 6 requires reimbursement only when the state-mandated program forces local governments to incur increased actual expenditures of their limited “proceeds of taxes,” which

⁴⁵ Exhibit A, IRC, filed August 17, 2018, pages 78-80 (Audit Report).

⁴⁶ Exhibit A, IRC, filed August 17, 2018, pages 81-82 (Audit Report).

⁴⁷ See *Clovis Unified School Dist. v. Chiang* (2010) 188 Cal.App.4th 974, 811 and 812, where the court states that the parameters and guidelines must be read in context, and with the fundamental legal principles underlying state-mandated costs.

⁴⁸ *Dept. of Finance v. Commission on State Mandates* (2016) 1 Cal.5th 749, 763 (quoting *County of San Diego v. State of California* (1997) 15 Cal.4th 68, 81. Emphasis added. See also, *County of Fresno v. State of California* (1991) 53 Cal.3d 482, 487.

are counted against the local governments' spending limit.⁴⁹ "Appropriations subject to limitation" for local government means "any authorization to expend during a fiscal year the 'proceeds of taxes levied by or for that entity'"⁵⁰ Except for state subventions, the items that make up "proceeds of taxes" are charges levied to raise general revenues for the local entity.⁵¹ The expenditure of funds that are not from the entity's proceeds of taxes are not subject to the appropriation limit, nor are entities that spend nontax proceeds eligible for reimbursement under article XIII B, section 6.⁵² The reference in the Parameters and Guidelines to "nonlocal" funds for a state-mandated program means that the funds used for the program are not the claimant's proceeds of taxes, nor are subject to the claimant's appropriations limit imposed by article XIII B, and entities that spend the nonlocal funds are not eligible for reimbursement under article XIII B, section 6. When used to pay for a state-mandated program, nonlocal funds are required to be identified and deducted from a reimbursement claim as offsetting revenue.

Proposition C is a transactions and use (or sales) tax levied by Metro and subject to Metro's spending limitation. These taxes are not levied by or for the claimant and are not subject to the claimant's appropriation limit.⁵³ Rather, a portion of Metro's Proposition C tax revenues are distributed to the claimant as "local return" funds for use on eligible transportation projects. The only entity with power and authority to levy the Proposition C sales tax is Metro.⁵⁴ In addition, Government Code section 7904 states: "In no event shall the appropriation of the same proceeds of taxes be subject to the appropriations limit of more than one local jurisdiction or the state." Because the Proposition C ordinance establishes an appropriations limit for Metro,⁵⁵ section 7904 prohibits the claimant from establishing an appropriations limit on the same Local Return funds. Accordingly, the claimant's local return revenues do not constitute the claimant's proceeds of taxes, nor are they subject to the claimant's appropriation limit, and are, therefore, "nonlocal" sources of revenue. Thus, expenditures from these "nonlocal" Proposition C local return funds should have been identified and deducted as offsetting revenues and the Controller's reduction is correct as a matter of law.

Accordingly, the Commission denies this IRC.

⁴⁹ *County of Sonoma v. Commission on State Mandates* (2000) 84 Cal.App.4th 1264, 1283; *County of Los Angeles v. Commission on State Mandates* (2003) 110 Cal.App.4th 1176, 1185; *Redevelopment Agency of the City of San Marcos v. Commission on State Mandates* (1997) 55 Cal.App.4th 976, 986-987.

⁵⁰ California Constitution, article XIII B, section 8(b) (emphasis added).

⁵¹ Article XIII B, section 8(c), of the California Constitution; *County of Placer v. Corin* (1980) 113 Cal.App.3d 443, 451.

⁵² *County of Placer v. Corin* (1980) 113 Cal.App.3d 443, 447; *County of Sonoma v. Commission on State Mandates* (2000) 84 Cal.App.4th 1264, 1283; *County of Los Angeles v. Commission on State Mandates* (2003) 110 Cal.App.4th 1176, 1185; *Redevelopment Agency of the City of San Marcos v. Commission on State Mandates* (1997) 55 Cal.App.4th 976, 986-987.

⁵³ *Bell Community Redevelopment Agency v. Woosley* (1985) 169 Cal.App.3d. 24, 32-33.

⁵⁴ Public Utilities Code section 130231.

⁵⁵ Exhibit E, Los Angeles Metropolitan Transportation Authority, "An Ordinance Establishing An Additional Retail Transactions And Use Tax in the County of Los Angeles For Public Transit Purposes," November 1990, page 6.