

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



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

January 1, 2022 – December 31, 2022

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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 six IRCs completed by the Commission between January 1, 2022 and December 31, 2022.

With zero IRCs now remaining pending, there is no longer a backlog of IRC matters.

SUMMARY OF COMPLETED CLAIMS

A. Decided Incorrect Reduction Claims

Municipal Storm Water and Urban Runoff Discharges, 19-0304-I-02

Los Angeles Regional Water 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, 2012-2013

Claimant: City of Norwalk

Incorrect Reduction Claim Filed: May 22, 2020

Decision Adopted: January 28, 2022

This IRC challenged the State Controller's Office's (Controller's) reduction to reimbursement claims filed by the City of Norwalk (claimant) for the *Municipal Storm Water and Urban Runoff Discharges* program for fiscal years 2002-2003 to 2012-2013 (the audit period).

During the audit period, the claimant filed reimbursement claims totaling \$1,441,130 to perform the mandated activities of installing and maintaining trash receptacles at its transit stops.¹ The Controller's final audit found that \$361,058 was allowable and \$1,079,622 was unallowable.² The Controller's reductions were set forth in the following three findings: the claimant overstated the amount of one-time activities related to the number of transit stop trash receptacles installed (Finding 1); the claimant overstated ongoing costs related to the maintenance of trash receptacles for the audit period by overstating the number of trash collections (Finding 2); and the claimant used Proposition A and C Local Return funds to pay for the program, but did not report those revenues as offsetting revenues (Finding 3).³

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

The Commission found that the Controller's reduction of the claimant's one-time activities related to the purchase and installation of transit stop trash receptacles (Finding 1) was not arbitrary, capricious, or entirely lacking in evidentiary support. To support its claim for reimbursement, the claimant provided a maintenance agreement from Nationwide Environmental Services Inc. (Nationwide) stating that it would maintain 217 bus stops.⁴ The agreement, however, does not identify the transit receptacles actually installed by the claimant during the audit period.⁵ To verify the claimant's request for reimbursement, the Controller reviewed a city-generated spreadsheet from 2007 that identified the 217 transit locations that the Controller used to determine that 23 transit stops were either abandoned or did not contain a trash receptacle.⁶ The Controller also reviewed a Geographical Information System (GIS) transit map

¹ Exhibit A, IRC, filed May 22, 2020, pages 190-215 (Audit Report).

² Exhibit A, IRC, filed May 22, 2020, pages 190-215 (Audit Report).

³ Exhibit A, IRC, filed May 22, 2020, pages 190-215 (Audit Report).

⁴ Exhibit A, IRC, filed May 22, 2020, page 3.

⁵ Exhibit A, IRC, filed May 22, 2020, pages 201-204 (Audit Report).

⁶ Exhibit A, IRC, filed May 22, 2020, pages 201-204 (Audit Report).

that identified 194 bus stop locations, and the claimant's 2012-2013 budget that acknowledged 194 bus stops.⁷ The claimant contends that it submitted invoices supporting its claim of receptacles installed, but the claimant's reimbursement claim for fiscal year 2006-2007 states that Olivas Valdez, Inc. "[f]urnished all labor and materials for installation of 194 litter receptacles at specified bus stop locations."⁸ The Controller considered the claimant's claims and documentation, conducted a diligent inquiry into claimant's claims, and came to its determination that the claimant was only allowed reimbursement for the installation of 194 trash receptacles. This decision was not rebutted with any evidence by the claimant.

The Commission found that the Controller's reduction to the number of trash collections claimed (Finding 2) was correct as a matter of law and not arbitrary, capricious, or entirely lacking in evidentiary support. The claimant failed to provide adequate supporting documentation required by section VII. of the Parameters and Guidelines showing the number of trash collections during the audit period. The claimant relies on two service agreements with Conservation Corps and Nationwide, but these agreements do not prove the number of trash collections claimed. Thus, the reduction is correct as a matter of law. The Controller reviewed the GIS transit map provided by the claimant, Google images dating back to 2007, discussions with the Los Angeles Metropolitan Transit Authority's (Metro's) Manager of Strategic Planning and Administrative Services, the city-generated spreadsheet, the claimant's fiscal year 2012-2013 budget, and the claimant's service agreements with Conservation Corps and Nationwide to determine the allowable number of trash collections during the audit period.⁹ The claimant contends that the Controller's conclusion is supported by speculation as to bus stop locations and routes that may change over the years, but fails to provide any evidence demonstrating that their claim for reimbursement is accurate or that the Controller's findings are inaccurate. The Controller's field audit was deliberate and the findings are rationally tied to the evidence it reviewed in the audit.

The Commission further found 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, was 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 city, as that constitutional phrase is interpreted by the courts, because the claimant does not have the authority to levy Proposition A and C taxes, and thus, these taxes are not the claimant's local proceeds of taxes.¹⁰ Nor are the proceeds subject to the city's appropriations limit.¹¹ Under article XIII B, section 6 of the California Constitution, the state is required to provide

⁷ Exhibit A, IRC, filed May 22, 2020, pages 201-204 (Audit Report).

⁸ Exhibit A, IRC, filed May 22, 2020, page 307.

⁹ Exhibit A, IRC, filed May 22, 2020, pages 204-208 (Audit Report).

¹⁰ *Bell Community Redevelopment Agency v. Woosley* (1985) 169 Cal.App.3d 24, 32; Article XIII B, section 8(b) of the California Constitution.

¹¹ Government Code section 7904; Public Utilities Code sections 130350, 130354; Exhibit C(2), Proposition C Ordinance, http://media.metro.net/projects_studies/taxpayer_oversight_comm/proposition_c_ordinance.pdf (accessed on February 22, 2021), page 6.

reimbursement only when a local government is mandated to spend its own proceeds of taxes subject to the appropriations limit of article XIII B.¹²

Accordingly, the Commission denied this IRC.

¹² *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, 19-0304-I-03
Los Angeles Regional Water 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, and 2008-2009

Claimant: City of Arcadia

Incorrect Reduction Claim Filed: June 8, 2020

Decision Adopted: March 25, 2022

This IRC challenged the State Controller's Office's (Controller's) reduction to reimbursement claims filed by the City of Arcadia (claimant) for the *Municipal Storm Water and Urban Runoff Discharges* program for fiscal years 2002-2003 through 2008-2009. The Controller reduced 100 percent of the costs claimed on the ground that the claimant failed to identify non-local, restricted funds from the Proposition A Local Return program, which were used by the claimant to pay for the reimbursable activities.

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

The Commission further found that the Controller's reduction, based on its determination that Proposition A 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 funds are transactions and use taxes levied by the Los Angeles Metropolitan Transit Authority (Metro). A portion of the Proposition A tax revenues are distributed to cities and the county through the Proposition A local return program for use on eligible transportation projects. These taxes, however, are not levied "by or for" the claimant, as that constitutional phrase is interpreted by the courts, because the claimant does not have the authority to levy Proposition A taxes, and thus, these taxes are not the claimant's local proceeds of taxes.¹³ Nor are the proceeds subject to the claimant's appropriations limit.¹⁴ 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.¹⁵

Accordingly, the Controller's reduction was correct as a matter of law and the Commission denied this IRC.

¹³ *Bell Community Redevelopment Agency v. Woosley* (1985) 169 Cal.App.3d 24, 32; Article XIII B, section 8(b) of the California Constitution.

¹⁴ Government Code section 7904; Public Utilities Code sections 130350, 130354; Exhibit D, Proposition C Ordinance, http://media.metro.net/projects_studies/taxpayer_oversight_comm/proposition_c_ordinance.pdf (accessed on October 14, 2020), page 6.

¹⁵ *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 Stormwater and Urban Runoff Discharges, 19-0304-I-05

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

Claimant: City of La Puente

Incorrect Reduction Claim Filed: June 10, 2020

Decision Adopted: May 27, 2022

This Incorrect Reduction Claim (IRC) alleged that the State Controller’s Office (Controller) incorrectly reduced reimbursement claims filed by the City of La Puente for costs arising from the *Municipal Stormwater and Urban Runoff Discharges* program. The Controller found that the claimant failed to identify and deduct as offsetting revenues funds received from the Los Angeles County Metropolitan Transportation Authority under the Proposition A Local Return Program that were used by the claimant to maintain trash receptacles at transit stops as required by the mandated program.

The Commission found that this IRC was timely filed.

The Commission found that the Controller’s reduction, based on its determination that the Proposition A 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 is a transactions and use tax levied by the Los Angeles County Metropolitan Transportation Authority. A portion of the Proposition A tax revenues are distributed to the City of La Puente, and other cities within the county, through the Proposition A Local Return Program for use on eligible transportation projects. 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.¹⁶ The Proposition A local return funds distributed to the claimant are not the claimant’s “proceeds of taxes” because the tax is not levied by or for the claimant, nor is the tax subject to the claimant’s appropriations limit.

Accordingly, the Commission denied this IRC.

¹⁶ *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 Stormwater and Urban Runoff Discharges, 20-0304-I-07

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, 2012-2013

Claimant: City of Lakewood

Incorrect Reduction Claim Filed: October 22, 2020

Decision Adopted: July 22, 2022

This Incorrect Reduction Claim (IRC) challenged reductions by the State Controller’s Office (Controller) to reimbursement claims filed by the City of Lakewood (claimant) for fiscal years 2002-2003 through 2012-2013 (audit period) under the *Municipal Stormwater and Urban Runoff Discharges* program. At issue were the Controller’s reduction of costs claimed, based on its findings that the claimant did not provide contemporaneous source documentation to support its claim under the reasonable reimbursement methodology for the number of weekly trash collections performed during the audit period and reduced the number of collections claimed from twice weekly (104 annual collections) to once weekly (52 annual collections); and that the claimant failed to offset from its claim forms Proposition A local return funds – non-local tax revenues – used to purchase trash receptacles in fiscal years 2005-2006 and 2008-2009.

The Commission found that this IRC was timely filed.

The Commission further found that the Controller’s reduction of costs claimed for twice weekly trash collection based on the claimant’s failure to provide contemporaneous source documents was incorrect as a matter of law. The Parameters and Guidelines for the *Municipal Stormwater and Urban Runoff Discharges* program do not require the claimant to provide contemporaneous source documentation to support a claim for ongoing maintenance activities, including trash collection, under the reasonable reimbursement methodology. Rather, “[t]he RRM is in lieu of filing detailed documentation of actual costs.”¹⁷ Thus, section VII. B, which pertains to costs claimed using a reasonable reimbursement methodology, simply requires that “Local agencies must retain documentation which supports the reimbursement of the maintenance costs identified in Section IV.B of these parameters and guidelines during the period subject to audit, including documentation showing the number of trash receptacles in the jurisdiction and the number of trash collections or pickups.”¹⁸

Furthermore, even assuming the Parameters and Guidelines could be interpreted to require contemporaneous source documentation to support the ongoing trash collection activities, applying such a requirement to the claiming period before the Parameters and Guidelines were adopted (fiscal years 2002-2003 through 2010-2011) would violate due process and be incorrect as a matter of law.¹⁹ The claimant was not on notice of a contemporaneous source document

¹⁷ Exhibit A, IRC, filed October 22, 2020, page 396 (Parameters and Guidelines).

¹⁸ Exhibit A, IRC, filed October 22, 2020, page 397 (Parameters and Guidelines).

¹⁹ *Clovis Unified School Dist. v. Chiang* (2010) 188 Cal.App.4th 794, 802-813; *City of Modesto v. National Med, Inc.* (2005) 128 Cal.App.4th 518, 527; *In re Cindy B.* (1987) 192 Cal.App.3d 771, 783-784; *Department of Health Services v. Fontes* (1985) 169 Cal.App.3d 301, 304-305; *Tapia v. Superior Court* (1991) 53 Cal.3d 282; 287-292; *Murphy v. City of Alameda* (1993) 11 Cal.App.4th 906, 911-912.

requirement when the costs were incurred in fiscal years 2002-2003 through 2010-2011 because the Parameters and Guidelines were not adopted until March 2011.

The documents provided by the claimant, however, contain inconsistencies and do not verify that trash collection was performed twice per week during the audit period. Accordingly, the Commission remanded the reimbursement claims back to the State Controller's Office to further review and verify the costs claimed under the reasonable reimbursement methodology based on the number of weekly trash collections during the audit period and reinstate those costs that are deemed eligible for reimbursement in accordance with this decision.

The Commission also found that the Controller's reductions, based on its determination that Proposition A local return funds are offsetting revenues that should have been identified and deducted from the reimbursement claims, was correct as a matter of law. Proposition A is a transactions and use tax levied by the Los Angeles County Metropolitan Transportation Authority. A portion of the Proposition A tax revenues are distributed to the claimant through the Proposition A Local Return Program for use on eligible transportation projects. 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.²⁰ The Proposition A local return funds distributed to the claimant are not the claimant's "proceeds of taxes" because the claimant does not levy the tax, nor is the tax subject to the claimant's appropriations limit.

Accordingly, the Commission partially approved this IRC and remanded the reimbursement claims to the Controller to further review and reinstate those costs that are deemed eligible for reimbursement in accordance with this Decision.

²⁰ *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 Stormwater and Urban Runoff Discharges, 20-0304-I-12
Los Angeles Regional Water 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

Claimant: City of Hawaiian Gardens

Incorrect Reduction Claim Filed: February 18, 2021

Decision Adopted: September 23, 2022

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

The Commission found that this IRC was timely filed.

The Commission further found that the Controller’s reduction of costs claimed for twice-weekly trash collection, based on the claimant’s failure to provide contemporaneous source documents, was incorrect as a matter of law. The Parameters and Guidelines for the *Municipal Stormwater and Urban Runoff Discharges* program do not require the claimant to provide contemporaneous source documentation to support a claim for ongoing maintenance activities, including trash collection, under the RRM. Rather, “[t]he RRM is in lieu of filing detailed documentation of actual costs.”²¹ Thus, section VII.B. of the Parameters and Guidelines, which pertains to costs claimed using an RRM, simply requires that “Local agencies must retain documentation which supports the reimbursement of the maintenance costs identified in Section IV.B of these parameters and guidelines during the period subject to audit, including documentation showing the number of trash receptacles in the jurisdiction and the number of trash collections or pickups.”²²

Even if the Parameters and Guidelines could be interpreted to require contemporaneous source documentation to support the ongoing trash collection activities, applying this requirement to the claiming period before the Parameters and Guidelines were adopted (fiscal years 2002-2003 through 2010-2011) would violate due process and be incorrect as a matter of law.²³ The claimant was not on notice of a contemporaneous source document requirement when incurring

²¹ Exhibit A, IRC, filed February 18, 2021, page 279 (Parameters and Guidelines).

²² Exhibit A, IRC, filed February 18, 2021, page 280 (Parameters and Guidelines).

²³ *Clovis Unified School Dist. v. Chiang* (2010) 188 Cal.App.4th 794, 802-813; *City of Modesto v. National Med, Inc.* (2005) 128 Cal.App.4th 518, 527; *In re Cindy B.* (1987) 192 Cal.App.3d 771, 783-784; *Department of Health Services v. Fontes* (1985) 169 Cal.App.3d 301, 304-305; *Tapia v. Superior Court* (1991) 53 Cal.3d 282; 287-292; *Murphy v. City of Alameda* (1993) 11 Cal.App.4th 906, 911-912.

the costs during fiscal years 2002-2003 through 2010-2011 because the Parameters and Guidelines were not adopted until March 2011.²⁴

Included with the IRC is a Time Log that lists the number of trash pickups (two per week) per fiscal year from 2002-2003 to 2010-2011, which is signed by Joe Vasquez, Public Works Superintendent, and states that “I hereby certify under the penalty of perjury the [sic] laws of the State of California that the foregoing is true and correct based upon my personal knowledge.” The log is dated September 27, 2011.²⁵ However, there is no evidence in the record showing that Mr. Vasquez was employed by the claimant as a public works superintendent during the audit period, so it is unclear what his “personal knowledge” is based on. The mandated program began July 1, 2002, up to nine years before the Time Log was signed by Mr. Vasquez in September 2011.

The other two documents included with the IRC are a letter from the claimant’s Finance Director indicating that 24 receptacles were cleaned twice per week in fiscal year 2011-2012, and a reimbursement claims receipt that lists the amounts claimed during the audit period.²⁶

The Final Audit Report does not indicate that the auditors received or considered these documents filed with the IRC.

Because the Controller did not apply the correct (RRM) standard to determine whether the documentation provided was sufficient to show twice-weekly trash collection during the audit period, and the claimant provided additional documentation that the Controller may not have reviewed, the Commission approved this IRC and remanded the reimbursement claims back to the Controller to further review and verify the costs claimed and reinstate those costs that are eligible for reimbursement in accordance with this decision.

²⁴ Exhibit A, IRC, filed February 18, 2021, page 274 (Parameters and Guidelines).

²⁵ Exhibit A, IRC, filed February 18, 2021, page 29 (Time Log).

²⁶ Exhibit A, IRC, filed February 18, 2021, pages 31 and 307 (Nov. 8, 2012 Letter from Claimant to Cost Recovery Systems, Claims Receipt).

Interagency Child Abuse and Neglect Investigation Reports (ICAN), 20-0022-I-02

Penal Code Sections 11165.9, 11166, 11166.2, 11166.9,²⁷ 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

California Code of Regulations, Title 11, Section 903 (Register 98, No. 29)²⁸

“Child Abuse Investigation Report” Form SS 8583 (Rev. 3/91)

Fiscal Years 1999-2000, 2000-2001, 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 South Lake Tahoe

Incorrect Reduction Claim Filed: May 13, 2021

Decision Adopted: December 2, 2022

This IRC addressed reductions made by the State Controller’s Office (Controller) to costs claimed by the City of South Lake Tahoe (claimant) for fiscal years 1999-2000 through 2011-2012 (audit period) for the *Interagency Child Abuse and Neglect Investigation Reports (ICAN)* program. The *ICAN* program requires child protective agencies, including law enforcement agencies, to submit a report to the Department of Justice (DOJ, Form SS 8583), when the agency receives a report of suspected child abuse (SCARs, Form SS 8572) from a mandated reporter and the agency determines that the suspected child abuse is “not unfounded.” The claimant disputes reductions totaling \$638,346 for the audit period.

The Controller found that the claimant overstated the number of SCARs investigated for purposes of preparing and submitting Form SS 8583 to DOJ, on the basis that the claimant failed to exclude SCARs generated by mandated reporters employed by its own police department and included other agency-generated SCARs for which a full initial investigation was either not performed or documented (Finding 2). The Controller also found that the claimant overstated indirect costs based on its determination that the public safety dispatcher and evidence technician positions do not perform any indirect job duties and therefore the Controller excluded these positions from the indirect cost pool (Finding 3). The claimant disputes these findings.

As a preliminary matter, the Commission found that the claimant timely filed the IRC.

The Commission found that the Controller’s reduction of investigation costs in Finding 2, based on the Controller’s exclusion of the SCARs submitted by mandated reporters employed by the claimant’s police department, was correct as a matter of law and not arbitrary, capricious, or entirely lacking in evidentiary support. Under the Parameters and Guidelines, claimants are eligible for reimbursement to complete an investigation for purposes of preparing and submitting

²⁷ Renumbered at Penal Code section 11174.34 (Stats. 2004, ch. 842 (SB 1313)).

²⁸ The substantive requirements of section 903 are now found at section 902, pursuant to amendments effected by Register 2010, Number 2.

the Form SS 8583 to the Department of Justice (DOJ).²⁹ Submitting the Form SS 8583 to DOJ is required when a report of abuse is “not unfounded.” However, in cases where the SCAR (Form SS 8572) is generated by a mandated reporter employed by a police department, where the mandated reporter determines “in his or her professional capacity or within the scope of his or her employment” that the report of suspected child abuse or severe neglect is “not unfounded,” the mandated reporter, in most cases, has completed the requisite level of investigation necessary to trigger the DOJ reporting requirement (i.e., to prepare and submit the Form SS 8583 to DOJ), and no further investigation would be required, and there is no evidence in the record in this case to the contrary.³⁰ Thus, this reduction is correct as a matter of law.³¹

The Commission further found that the Controller’s reduction of investigation costs in Finding 2, based on the number of SCARs referred to the claimant’s police department by other agencies for which the claimant alleges the police department completed a full initial investigation, was correct as a matter of law and not arbitrary, capricious, or entirely lacking in evidentiary support. The Controller determined that the police department completed a full initial investigation for only 10 percent of the SCARs referred by other agencies.³² For the remaining 90 percent, the Controller allowed additional time increments for partial initial investigation activities, consistent with the Parameters and Guidelines, despite the fact that the claimant did not provide supporting documentation.³³ The claimant asserts that four additional investigative activities, though not expressly stated in the Parameters and Guidelines, should have been eligible for reimbursement for those 90 percent of cases that the Controller deemed not fully investigated, because without performing these additional investigative activities, it would have been impossible to determine case disposition.³⁴ None of the additional activities proposed by the claimant were approved by the Commission as reasonably necessary activities and therefore the claimant’s proposed activities are not eligible for reimbursement.

The Commission found that the Controller’s reduction of indirect costs in Finding 3, which excluded the public safety dispatcher and evidence technician classifications from the indirect cost pool, was correct as a matter of law and is not arbitrary, capricious, or entirely lacking in evidentiary support. The Parameters and Guidelines require the claimant to choose between two methodologies when calculating an ICRP, one in which the cost objective is a department as a whole, and the other in which the cost objective is a group, such as a division or program, within the department. Under the applicable ICRP methodology of classifying the police department’s expenditures as a whole into direct and indirect costs, the degree to which the job duties performed by the public safety dispatcher and evidence technician are direct or indirect is based on the relationship of those duties to the police department’s direct and indirect functions as a whole. The Controller correctly interpreted the Parameters and Guidelines and analyzed the public safety dispatcher and evidence technician duty statements and did not identify any duties that were indirect in nature, or “in support of general business functions and which are not attributable to a special project or unit.”³⁵ There is no evidence in the record that the Controller

²⁹ Exhibit A, IRC, filed May 13, 2021, page 241 (Decision and Parameters and Guidelines).

³⁰ Exhibit A, IRC, filed May 13, 2021, page 197 (Decision and Parameters and Guidelines).

³¹ Exhibit A, IRC, filed May 13, 2021, page 495 (Final Audit Report).

³² Exhibit A, IRC, filed May 13, 2021, page 483 (Final Audit Report).

³³ Exhibit A, IRC, filed May 13, 2021, page 485 (Final Audit Report).

³⁴ Exhibit A, IRC, filed May 13, 2021, pages 5-7, 10.

³⁵ Exhibit A, IRC, filed May 13, 2021, pages 507-508 (Final Audit Report), emphasis added.

failed to explain its position or consider the claimant's documentation. Rather, the record shows that the Controller adequately considered all relevant factors and demonstrated a rational connection between those factors and the decisions made. Under these circumstances, the Commission's review of the Controller's audit decisions is limited, out of deference to the Controller's authority and presumed expertise. The Commission may not reweigh the evidence or substitute its judgement for that of the Controller.³⁶

Therefore, the Commission denied this IRC.

³⁶ *American Bd. of Cosmetic Surgery, Inc. v. Medical Bd. of California* (2008) 162 Cal.App.4th 534, 547-548.