

PROOF OF SERVICE BY MAIL

I, the undersigned, declare as follows:

I am a resident of the County of Sacramento, and I am over the age of 18 years and not a party to the within action. My place of employment is 3130 Kilgore Road, Suite 400, Rancho Cordova, CA 95670.

On July 17, 2009, I served:

**RESPONSE TO DEPARTMENT OF FINANCE
ON PROPOSED PARAMETERS AND GUIDELINES**

Government Code Sections 56001, 56326.5, 56381,
56381.6, 56425, 56426.5, and 56430

Statutes 1991, Chapter 439 (AB 748)

Statutes 2000, Chapter 761 (AB 2838)

Statutes 2002, Chapter 493 (AB 1948)

LAFCO Municipal Services Review Guidelines

(Final Draft, October 3, 2002, Governor's Office of Planning and Research)

LAFCO Municipal Services Review Guidelines Appendices

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Local Agency Formation Commissions

02-TC-23

Sacramento Metropolitan Fire District, Claimant

and

Declaration of Allan P. Burdick

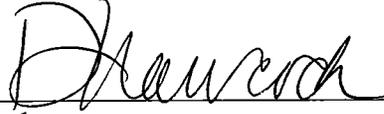
In Support of Test Claimant's Response to
Department of Finance on Proposed Ps & Gs

and

**CLAIMANT'S REVISED
PROPOSED PARAMETERS AND GUIDELINES**

by placing a true copy thereof in an envelope addressed to each of the persons listed on the mailing list attached hereto, and by sealing and depositing said envelope in the United States mail at Rancho Cordova, California, with postage thereon fully prepaid.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed this 17th day of July, 2009, at Rancho Cordova, California.

A handwritten signature in cursive script, appearing to read "D. Hancock", is written above a horizontal line.

Declarant

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Attention: Marianne O'Malley
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Sacramento, CA 95814

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Department of Finance
915 L Street, Suite 1190
Sacramento, CA 95814

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State Controller's Office, Accounting & Reporting
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DON METTE
Fire Chief

Sacramento Metropolitan Fire District

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RESPONSE TO DEPARTMENT OF FINANCE ON PROPOSED PARAMETERS AND GUIDELINES

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Local Agency Formation Commissions

02-TC-23

Sacramento Metropolitan Fire District, Claimant

Test claimant Sacramento Metropolitan Fire District (hereinafter "District") submits the following in response to the comments filed by the Department of Finance (hereinafter "Department") on September 11, 2008. The District partially concurs with the changes submitted by the Department. Those changes are incorporated in the attached, Claimant's Revised Proposed Parameters and Guidelines. The District, however, does not concur with the deletion of activity number four: Prepare for, attend and present written statements (documentation) at LAFCO meeting.

The Department, in its comments, disagrees with the inclusion of activity 4 regarding the LAFCO meetings on the grounds that there is no statutory requirement for this activity and it is not necessary to implement the mandate.

As to the first ground, the Department is correct. The attendance at LAFCO meeting where a special district's written statements are to be considered is not specifically mandated within the mandate legislation nor anywhere else in the codes. This, however,

is no bar to the consideration of an activity at the parameters and guidelines stage of the proceedings. As stated in regulation, in pertinent part:

(a) The parameters and guidelines shall describe the claimable reimbursable costs and contain the following information:

* * *

(4) Reimbursable Activities. A description of the specific costs and types of costs that are reimbursable, including one-time costs and on-going costs, and a description of the most reasonable methods of complying with the mandate. "The most reasonable methods of complying with the mandate" are those methods not specified in statute or executive order that are necessary to carry out the mandated program. (2 CCR § 1183.1, subd. (a)(4).)

Thus, inclusion of activities beyond those mandated is envisioned in and supported by the regulations.

The Department, too, is aware of this fact as it stated that the activity in question is not necessary to implement the mandate. The District disagrees. LAFCOs operate in a manner similar to Boards of Supervisors, City Councils, and even this Commission, in that the discussion of matters on the agenda with representatives before a final decision is reached is usual and customary. (See Declaration of Allan P. Burdick In Support of In Support of Test Claimant's Response to Department of Finance on Proposed Ps & Gs). LAFCOs invite and encourage the attendance of representatives at meetings to discuss matters on the LAFCO agenda. This give and take is the hallmark of such proceedings.

In looking at whether attendance at meetings is "necessary to carry out the mandate program", the analysis takes us to the *sine qua non* of the mandate: communication with the LAFCO so it can carry out its responsibilities in compliance with law.

Government Code section 56425, subdivision (a) states:

In order to carry out its purposes and responsibilities for planning and shaping the logical and orderly development and coordination of local governmental agencies so as to advantageously provide for the present and future needs of the county and its communities, the commission shall develop and determine the sphere of influence of each local governmental agency within the county and enact policies designed to promote the logical and orderly development of areas within the sphere.

To further this purpose, the mandate legislation, Government Code section 56425, subdivision (h)(1) (subsequently renumbered to subdivision (i)(1)) "requires independent special districts to file written statements with the LAFCO, specifying the functions or

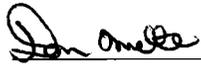
classes of service provided by those districts ... when a LAFCO adopts or updates a sphere of influence for a special district....” This Commission found that this activity is a reimbursable state mandate. This filing of statements is a method by which agencies communicate with their LAFCO. This communication requires the preparation of the statements to be filed, the drafting and filing of statements and, to bring the matter to its natural close, the appearance at the public meeting where those written statements are discussed and reviewed by the LAFCO. Since these discussions can raise questions, delineate unforeseen issues and lead the LAFCO in new directions, written statements alone are not always sufficient for the LAFCO to complete its business. (See Declaration of Allan P. Burdick, *supra*.)

The essence of the mandate is meaningful communication between special districts and their LAFCO. As such, the attendance at meetings is not only necessary to carry out the mandated program; it is crucial to the purpose of the mandate. Therefore, the District requests that the Commission adopt Claimant’s Revised Parameters and Guidelines attached hereto.

CERTIFICATION

I declare under penalty of perjury under the laws of the State of California that the statements made in this document are true and correct, except as to those matters stated upon information and belief and as to those matters, I believe them to be true.

Executed this 16th day of July, 2009, at Sacramento, California, by:



Sacramento Metropolitan Fire District

1
2 Declaration of Allan P. Burdick
3 In Support of Test Claimant's Response to
4 Department of Finance on Proposed Ps & Gs

5 I, Allan P. Burdick, state as follows:

6 1. I am currently employed by MAXIMUS, Inc. and have worked with California's
7 state mandate cost local program since 1978 as an employee of MAXIMUS or the California
8 State Association of Counties. I have personal knowledge of the facts stated herein and if called
9 upon to testify, I could do so competently.

10 2. I spoke to representatives of three LAFCo's in an effort to establish whether
11 representatives are required to attend LAFCO meeting where the agency had a matter on the
12 agenda. Similar to a Commission on State Mandates meeting, all agreed there is no requirement
13 for agency representatives to attend meetings. They are, however, invited and encouraged to
14 attend. With rare exceptions, the local agency's staff are in contact with the LAFCo staff before
15 the meetings, and they discuss, among other things, the value or benefit to either the local agency
16 or LAFCo from their attendance.

17 3. I have spoke to a number of LAFCo staff members over the years, and LAFCo
18 meetings are similar to most other local government meetings, such as city council and county
19 board of supervisor meetings. Since LAFCo commissioners are made up of elected
20 representative of cities, counties and special districts, their policies, procedures and practices are
21 based on those of their parent organizations. Similar to governing board meetings of local
22 government, while there is no statutory or regulatory requirement to attend a meeting, an agency
23 has an obligation to its taxpayers to insure they are represented if the outcome may have
24 consequences on its constituents.

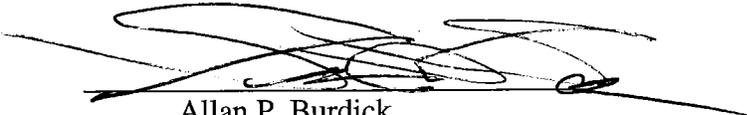
25 4. On July 7, 2009, I spoke to Kathleen Rollings-McDonald, Executive Officer, for
26 the San Bernardino County LAFCO. She told me that they invite and encourage representatives
27 from the districts to attend. In fact, they are currently requesting the grand jury to look into some
28 irregularities with an independent cemetery district for which they did a municipal service

1 review and never got anyone from the district to participate. So, there is a possible negative
2 impact for not participating. Also, they considered a municipal service review for four cities at
3 its June meeting and, based on the response from the cities in this case, the Commission is
4 making changes and staff is taking it back to the Commission later this month. So, attendance at
5 the meetings can not only help the district but assists the LAFCO in its decision-making process.

6 5. On July 7, 2009, I spoke to Elisa Carvalho, Senior Management Analyst, for the
7 Yolo County LAFCO. She confirmed that as I had been told by Ms. Rollings-McDonald that
8 representatives are invited and encouraged to participate when they have a matter on the agenda.
9 For example in Yolo County, if the City of Davis had an update to its sphere of influence on the
10 agenda, the City would almost certainly have at least one representative attend. If was a small
11 special district, such as the Clarksburg Fire District which had a proposed MSO on the LAFCo
12 agenda and everything had been worked out with LAFCo staff and there were no issues, most
13 likely no one would attend from the District.

14 6. On July 7, 2009, I spoke to Diane Thorpe, Commission Clerk, for the Sacramento
15 County LAFCO who agreed that the participation of representatives who have something on the
16 agenda is encouraged.

17 I declare under penalty of perjury that the foregoing is true and correct as based upon my
18 personal knowledge, information or belief, and that this declaration is executed this _____ day of
19 July, 2009, at Rancho Cordova, California.

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21 
22 Allan P. Burdick
23 MAXIMUS
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**CLAIMANT'S REVISED
PROPOSED PARAMETERS AND GUIDELINES**

Government Code Sections 56001, 56326.5, 56381,
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Local Agency Formation Commissions

02-TC-23

Sacramento Metropolitan Fire District, Claimant

I. SUMMARY OF THE MANDATE

On September 27, 2007, the Commission on State Mandates (Commission) adopted a Statement of Decision finding that the test claim legislation imposes a partially reimbursable state-mandated program upon independent special districts within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514. Specifically, the Commission found that only one statutory provision, Government Code section 56425, subdivision (h) (subsequently renumbered to subdivision (i)(1)) – constitutes a state-mandated “new program or higher level of service” in an existing program. As the claimant is an independent special district, the findings of this test claim apply to independent special districts only and *not* LAFCOs or other local government agencies. Furthermore, only independent special districts that are subject to the tax and spend limitations of articles XIII A and XIII B of the California Constitution are eligible claimants. All other activities claimed for sphere of influence reviews or municipal service reviews are either required of the LAFCO and not special districts, or the activities are not mandated since the Municipal Service Review Guidelines and Appendices do not constitute executive orders.

The Commission approved this test claim for the following reimbursable activities:

Filing written statements with the LAFCO specifying the functions or classes of service provided by independent special districts, for the following time periods and types of spheres of influence:

- July 1, 2001 through December 31, 2001 – when a LAFCO adopts or updates any sphere of influence or sphere of influence that includes a special district.
- On and after January 1, 2002 – when a LAFCO adopts or updates a sphere of influence for a special district.

II. ELIGIBLE CLAIMANTS

Any independent special district participating in the LAFCO which is subject to the tax and spend limitations of articles XIII A and XIII B of the California Constitution and that incurs increased costs as a result of this reimbursable state-mandated program is eligible to claim reimbursement of those costs.

III. PERIOD OF REIMBURSEMENT

Government Code section 17557, subdivision (e), states that a test claim shall be submitted on or before June 30 following a given fiscal year to establish eligibility for that fiscal year. The Sacramento Metropolitan Fire District filed the test claim on May 29, 2003. Therefore, costs incurred pursuant to Government Code section 56425, subdivision (h) are reimbursable on or after July 1, 2002.

Actual costs for one fiscal year shall be included in each claim. Estimated costs of the subsequent year may be included on the same claim, if applicable. Pursuant to Government Code section 17561, subdivision (d)(1)(A), all claims for reimbursement of initial fiscal year costs shall be submitted to the State Controller within 120 days of the issuance date for the claiming instructions.

If the total costs for a given fiscal year do not exceed \$1,000, no reimbursement shall be allowed except as otherwise allowed by Government Code section 17564.

IV. REIMBURSABLE ACTIVITIES

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

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

section 2015.5. Evidence corroborating the source documents may include data relevant to the reimbursable activities otherwise in compliance with local, state, and federal government requirements. However, corroborating documents cannot be substituted for source documents.

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

For each eligible claimant, the following activities are reimbursable:

A. On-going Activities:

For written statements to the LAFCO, when required by the LAFCO, specifying the functions or classes of service provided by the district, for the following time periods and types of spheres of influence:

- July 1, 2001 through December 31, 2001 – when a LAFCO adopts or updates any sphere of influence or sphere of influence that includes a special district.
- On and after January 1, 2002 – when a LAFCO adopts or updates a sphere of influence for a special district:
 1. Gather information from within the special district and from outside sources, as needed to prepare the written statements.
 2. Draft written statements and/or spheres of influence, including but not limited to, the initial draft, reviews and revisions as needed.
 3. File written statements documentation with the LAFCO.
 4. Prepare for, attend, and present written statements documentation at LAFCO meeting.

(Government Code section 56425, subdivision (h)(1) (subsequently renumbered to subdivision (i)(1).)

V. **CLAIM PREPARATION AND SUBMISSION**

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

A. Direct Cost Reporting

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

1. Salaries and Benefits

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

2. Materials and Supplies

Report the cost of materials and supplies that have been consumed or expended for the purpose of the reimbursable activities. Purchases shall be claimed at the actual price after deducting discounts, rebates, and allowances received by the claimant. Supplies that are withdrawn from inventory shall be charged on an appropriate and recognized method of costing, consistently applied.

3. Contracted Services

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

4. Fixed Assets and Equipment

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

5. Travel

Report the name of the employee traveling for the purpose of the reimbursable activities. Include the date of travel, destination point, the specific reimbursable activity requiring travel, and related travel expenses reimbursed to the employee in compliance with the rules of the local jurisdiction. Report employee travel time according to the rules of cost element A.1., Salaries and Benefits, for each applicable reimbursable activity.

B. Indirect Cost Rates

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

Compensation for indirect costs is eligible for reimbursement utilizing the procedure provided in the Office of Management and Budget (OMB) Circular A-87. Claimants have the option of using 10% of direct labor, excluding fringe benefits, or preparing an Indirect Cost Rate Proposal (ICRP) if the indirect cost rate claimed exceeds 10%.

If the claimant chooses to prepare an ICRP, both the direct costs (as defined and described in OMB Circular A-87 Attachments A and B) and the indirect costs shall exclude capital expenditures and unallowable costs (as defined and described in OMB Circular A-87 Attachments A and B). However, unallowable costs must be included in the direct costs if they represent activities to which indirect costs are properly allocable.

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

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

1. The allocation of allowable indirect costs (as defined and described in OMB Circular A-87 Attachments A and B) shall be accomplished by (1) classifying a department's total costs for the base period as either direct or indirect, and (2) dividing the total allowable indirect costs (net of applicable credits) by an equitable distribution base. The result of this process is an indirect cost rate which is used to distribute indirect costs to mandates. The rate should be expressed as a percentage which the total amount allowable indirect costs bears to the base selected; or
2. The allocation of allowable indirect costs (as defined and described in OMB Circular A-87 Attachments A and B) shall be accomplished by (1) separating a department into groups, such as divisions or sections, and then classifying the division's or section's total costs for the base period as either direct or indirect, and (2) dividing the total allowable indirect costs (net of applicable credits) by an equitable distribution base. The result of this process is an indirect cost rate that is used to distribute indirect costs to mandates. The rate should be expressed as a percentage which the total amount allowable indirect costs bears to the base selected.

VI. RECORD RETENTION

Pursuant to Government Code section 17558.5, subdivision (a), a reimbursement claim for actual costs filed by a local agency or school district pursuant to this chapter¹ is subject to the initiation of an audit by the Controller no later than three years after the date that the actual reimbursement claim is filed or last amended, whichever is later. However, if no funds are appropriated or no payment is made to a claimant for the program for the fiscal year for which the claim is filed, the time for the Controller to initiate an audit shall commence to run from the date of initial payment of the claim. In any case, an audit shall be completed not later than two years after the date that the audit is commenced. All documents used to support the reimbursable activities, as described in Section IV, must be retained during the period subject to audit. If an audit has been initiated by the Controller during the period subject to audit, the retention period is extended until the ultimate resolution of any audit findings.

VII. OFFSETTING REVENUES AND REIMBURSEMENTS

Any offsets the claimant experiences in the same program as a result of the same statutes or executive orders found to contain the mandate shall be deducted from the costs claimed. In addition, reimbursement for this mandate from any source, including but not limited to, service fees collected, federal funds, and other state funds, shall be identified and deducted from this claim.

VIII. STATE CONTROLLER'S CLAIMING INSTRUCTIONS

Pursuant to Government Code section 17558, subdivision (b), the Controller shall issue claiming instructions for each mandate that requires state reimbursement not later than 60 days after

¹ This refers to Title 2, division 4, part 7, chapter 4 of the Government Code.

receiving the adopted parameters and guidelines from the Commission, to assist local agencies and school districts in claiming costs to be reimbursed. The claiming instructions shall be derived from the test claim decision and the parameters and guidelines adopted by the Commission.

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

IX. REMEDIES BEFORE THE COMMISSION

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

In addition, requests may be made to amend parameters and guidelines pursuant to Government Code section 17557, subdivision (d), and California Code of Regulations, title 2, section 1183.2.

X. LEGAL AND FACTUAL BASIS FOR THE PARAMETERS AND GUIDELINES

The Statement of Decision is legally binding on all parties and provides the legal and factual basis for the parameters and guidelines. The support for the legal and factual findings is found in the administrative record for the test claim. The administrative record, including the Statement of Decision, is on file with the Commission.