

COMMISSION ON STATE MANDATES

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June 19, 2008

Mr. Allan Burdick
MAXIMUS
4320 Auburn Blvd., Suite 2000
Sacramento, CA 95841

And Interested Parties and Affected State Agencies (See Enclosed Mailing List)

RE: Draft Staff Analysis, Proposed Parameters and Guidelines, and Hearing Date
California Fire Incident Reporting System, CSM-4419/00-TC-02
The New California Fire Incident Reporting System Manual – Version 1.0/
July 1990
San Ramon Valley Fire Protection District & City of Newport Beach, Claimants

Dear Mr. Burdick:

The draft staff analysis and proposed parameters and guidelines for this program are enclosed for your review and comment.

Written Comments

Any party or interested person may file written comments on the draft staff analysis and proposed parameters and guidelines by Thursday, **July 10, 2008**. You are advised that comments filed with the Commission are required to be simultaneously served on the other interested parties on the mailing list, and to be accompanied by a proof of service. (Cal. Code Regs., tit. 2, § 1181.2.) If you would like to request an extension of time to file comments, please refer to section 1183.01, subdivision (c)(1), of the Commission's regulations.

Hearing

This matter is set for hearing on Friday, **August 1, 2008**, Room 447, State Capitol, Sacramento, California. The final staff analysis will be issued on or about July 18, 2008. This matter is proposed for the consent calendar. Please let us know in advance if you or a representative of your agency will testify at the hearing, and if other witnesses will appear. If you would like to request postponement of the hearing, please refer to section 1183.01, subdivision (c)(2), of the Commission's regulations.

Special Accommodations

For any special accommodations such as a sign language interpreter, an assistive listening device, materials in an alternative format, or any other accommodations, please contact the Commission Office at least five to seven *working* days prior to the meeting.

Please contact me at (916) 323-8217 with any questions regarding this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Nancy Patton".

NANCY PATTON
Assistant Executive Director

Enclosures

J:mandates/4000/4419/psgsdsatrans

MAILED: FAXED: _____
DATE: 6/19/08 INITIAL: E.A
CHRON: _____ FILE: _____
WORKING BINDER: _____

ITEM _____

DRAFT STAFF ANALYSIS
PROPOSED PARAMETERS AND GUIDELINES

The New California Fire Incident Reporting System Manual – Version 1.0/July 1990

California Fire Incident Reporting System

CSM-4419/00-TC-02

San Ramon Valley Fire Protection District and City of Newport Beach, Claimants

EXECUTIVE SUMMARY

Summary of the Mandate

All fire protection agencies in California have had a duty since January 1, 1974, to report “information and data to the State Fire Marshal relating to each fire” in their jurisdiction pursuant to Health and Safety Code section 13110.5, in the form, time and manner prescribed by the State Fire Marshal. The Commission on State Mandates (Commission) adopted a Statement of Decision on December 4, 2006, concluding that the New California Fire Incident Reporting System Manual (Version 1.0, July 1990), mandated a new program or higher level of service on local agencies within the meaning of article XIII B, section 6 of the California Constitution, and imposed costs mandated by the state pursuant to Government Code section 17514, by requiring the local implementation of a computerized version of CFIRS, with submission of forms by diskette or magnetic tape.

- Claimants who incurred actual costs for implementing the new computerized CFIRS format from July 1, 1990 (the beginning of the reimbursement period), to June 30, 1992 (the date of the letter from the State Fire Marshal stating that computerized filing was no longer required), are eligible for one-time costs for acquiring and implementing any necessary hardware and software.

The Commission concluded that Health and Safety Code section 13110.5, as amended by Statutes 1987, chapter 345, does not impose a new program or higher level of service within the meaning of article XIII B, section 6 of the California Constitution. Because fire incident reporting was required by prior law, the Commission found that the 1990 CFIRS manual and related reporting forms do not mandate a new program or higher level of service for ongoing reporting of fire or other incidents, other than as described above.

Discussion

The claimant’s proposed parameters and guidelines were received on January 4, 2007 and issued for comment by Commission staff on January 12, 2007. On January 29, 2007, Department of Finance (DOF) submitted comments on the draft parameters and guidelines, suggesting some amendments to the reimbursable activities. On June 1, 2007, the claimant filed and served a response to DOF’s comments, stating agreement with DOF’s comments. However, staff finds that some of the changes suggested are inconsistent with the Commission’s Statement of

Decision. Specifically, staff finds that a blanket exclusion of reimbursement for costs incurred *during* the reimbursement period, for hardware purchases or employee training by local agencies already using a computerized CFIRS process, violates Government Code section 17565.

Therefore, the attached proposed parameters and guidelines, as modified by staff, follow the language originally submitted by the claimant in January 2007, with minor amendments to further emphasize the limited two-year reimbursement period. Commission staff also made non-substantive, technical changes for purposes of clarification, consistency with language in recently adopted parameters and guidelines, and conformity to the Statement of Decision. All subsequent amendments, whether proposed by DOF, the claimant, or Commission staff, are noted by underline and strikethrough in the proposed parameters and guidelines.

Staff Recommendation

Staff recommends that the Commission adopt the proposed parameters and guidelines, as modified by staff, beginning on page 9. Staff also recommends that the Commission authorize staff to make any non-substantive, technical corrections to the parameters and guidelines following the hearing.

STAFF ANALYSIS

Claimants

San Ramon Valley Fire Protection District (San Ramon) and
City of Newport Beach (Newport Beach)

Chronology

12/07/06 Adopted Statement of Decision issued

01/04/07 Proposed parameters and guidelines received from claimant, Newport Beach

01/12/07 Commission staff deemed the filing complete and requested comment from state agencies and interested parties

01/31/07 DOF submitted comments on the proposed parameters and guidelines

06/01/07 Claimant submitted a concurring response to DOF's comments, including revised proposed parameters and guidelines

06/19/08 Commission staff issues draft staff analysis and proposed parameters and guidelines, as modified by staff

Summary of the Mandate

All fire protection agencies in California have had a duty since January 1, 1974, to report "information and data to the State Fire Marshal relating to each fire" in their jurisdiction pursuant to Health and Safety Code section 13110.5, in the form, time and manner prescribed by the State Fire Marshal. The State Fire Marshal issued a manual and reporting forms in 1974 entitled the "California Fire Incident Reporting System" (CFIRS). This test claim, as amended, alleged that a 1987 amendment to the Health and Safety Code, and the 1990 edition of the CFIRS manual, imposed a reimbursable state-mandated program.

The Commission adopted a Statement of Decision on December 4, 2006,¹ concluding that the New California Fire Incident Reporting System Manual (Version 1.0, July 1990), mandated a new program or higher level of service on local agencies within the meaning of article XIII B, section 6 of the California Constitution, and imposed costs mandated by the state pursuant to Government Code section 17514, by requiring the local implementation of a computerized version of CFIRS, with submission of forms by diskette or magnetic tape.

- Claimants who incurred actual costs for implementing the new computerized CFIRS format from July 1, 1990 (the beginning of the reimbursement period), to June 30, 1992 (the date of the letter from the State Fire Marshal stating that computerized filing was no longer required), are eligible for one-time costs for acquiring and implementing any necessary hardware and software.

The Commission concluded that Health and Safety Code section 13110.5, as amended by Statutes 1987, chapter 345, does not impose a new program or higher level of service within the meaning of article XIII B, section 6 of the California Constitution. Because fire incident reporting was required by prior law, the Commission found that the 1990 CFIRS manual and

¹ Exhibit A to Final Staff Analysis.

related reporting forms do not mandate a new program or higher level of service for ongoing reporting of fire or other incidents, other than as described above.

Discussion

The claimant's proposed parameters and guidelines were received on January 4, 2007² and issued for comment by Commission staff on January 12, 2007. On January 31, 2007, DOF submitted comments on the draft parameters and guidelines, and suggested amendments to the reimbursable activities.³ On June 1, 2007, the claimant responded to DOF's comments,⁴ and attached revised parameters and guidelines with the changes suggested. The attached proposed parameters and guidelines, as modified by staff, use the language originally submitted by the claimant in January 2007. All subsequent amendments, whether proposed by DOF, the claimant, or Commission staff, are noted by underline and strikethrough.

In addition to the changes described below, Commission staff made non-substantive, technical changes for purposes of clarification, consistency with language in recently adopted parameters and guidelines, and conformity to the Statement of Decision. The title was amended to remove the reference to Statutes 1987, chapter 345, which was denied; staff deleted other listed statutes which were never pled in the test claim. Section I, Summary of the Mandate, was also amended to include additional information on the findings from the Statement of Decision.

Section IV. Reimbursable Activities

DOF's January 31, 2007 comments on the claimant's proposed parameters and guidelines recommend additions to each of claimant's reimbursable activities, as indicated by underline:

1. Purchase of necessary computer hardware to implement the CFIRS program per the 1990 version of the CFIRS manual, during the July 1, 1990, through June 30, 1992, time period. Any fire departments of districts using the computer tape submittal process, prior to July 1, 1990, are excluded from the reimbursement of computer hardware purchases.
2. Purchase and/or development of computer software or conversion of existing computer software necessary to implement the CFIRS program per the 1990 version of the CFIRS manual, during the July 1, 1990, through June 30, 1992, time period.
3. Installation and/or implementation of necessary computer hardware and/or software, during the July 1, 1990, through June 30, 1992 time period.
4. Creation of back-up copy(ies) of necessary computer software, during the July 1, 1990, through June 30, 1992, time period.
5. Training on utilization of necessary computer hardware and/or software for each employee. Training at any fire departments or districts using computer tape submittal process prior to July 1, 1990, is excluded from reimbursement for computer hardware training.

² Exhibit B to Final Staff Analysis.

³ Exhibit C to Final Staff Analysis.

⁴ Exhibit D to Final Staff Analysis.

6. Training on the submittal of reports via the necessary computer hardware and/or software for each employee. Training at any fire departments or districts using the computer tape submittal process, prior to July 1, 1990, is excluded from reimbursement.

No Exclusion of Fire Departments or Districts Using a Computer Tape Submittal Process Prior to Reimbursement Period:

Although the claimant agreed to all of DOF's suggested amendments in its June 1, 2007 letter, staff finds that some of the changes are inconsistent with the Commission's Statement of Decision and mandates law. The Statement of Decision, at page 13, discusses those fire agencies which had adopted a computer tape submittal process prior to the 1990 CFIRS manual:

According to the State Fire Marshal, some departments were already sending computerized reports in by mainframe tape. The Questions and Answers booklet addresses those departments, stating they may continue to send in tapes in the old format monthly, or begin sending the tapes in the new format quarterly, beginning in 1991, but at page 9, the booklet states: "You may continue to use the old format during '91 if additional time is needed to accomplish your conversion."

Regarding a "deadline for tape departments to" switch to the new system, the document gives a date of "January, 1992." The Commission notes that for those departments that were already using mainframe tape to complete CFIRS reporting before the 1990 manual was issued, Government Code section 17565 provides that when a local agency incurs costs at its option that are later state-mandated, reimbursement is still required "for those costs incurred after the operative date of the mandate."

Thus, staff finds that a blanket exclusion of reimbursement for costs incurred *during* the reimbursement period, for hardware purchases or employee training, violates Government Code section 17565. Although DOF's comments assert: "any fire district or department that submitted CFIRS reports using the computer tape submittal process prior to July 1, 1990, would have no need for additional hardware purchases," staff finds this is inaccurate because existing hardware may have required augmentation or replacement during the reimbursement period. Because fire departments or districts using a computer tape submittal process prior to July 1, 1990 may have incurred additional hardware or training costs during the reimbursement period in order to comply with the requirements of the 1990 CFIRS manual, such agencies may not be excluded in the parameters and guidelines. Pursuant to Government Code section 17565 and the Commission's Statement of Decision, "costs incurred after the operative date of the mandate," are reimbursable, even if the local agency began implementation "at its option" prior to that date. However, eligible costs are still limited to the actual costs incurred by a local agency to implement the mandate *during* the two-year reimbursement period.

Time-Limiting Language

DOF requested additional time-limiting language after most of the activities, specifying that the activity is reimbursable "during the July 1, 1990, through June 30, 1992 time period." Staff finds such changes are unnecessary because the reimbursement period is identical for all activities and is explained under Section III., Reimbursement Period. However, for additional emphasis, staff added language regarding the two-year reimbursement period before the list of reimbursable activities.

Training Costs

Finally, the first four activities refer to the purchase and implementation of necessary hardware and software for the implementation of the computerized CFIRS program. Such activities are encompassed by the plain language of the Commission's findings in the Statement of Decision. The fifth and sixth activities address employee training regarding the computer hardware and software, and the electronic submission of CFIRS reports. Although employee training is not explicitly required by the test claim executive order, section 1183.1, subdivision (a)(4), of the Commission's regulations authorizes the Commission to include the "most reasonable methods of complying with the mandate" in the parameters and guidelines.

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." Staff finds that training employees on the use of necessary hardware and software was the most reasonable method of implementing the mandate to submit computerized CFIRS reports to the state. The original claimant, San Ramon, declared under penalty of perjury in the test claim filing, regarding "Implementation Costs" of a computerized CFIRS program: "It will be necessary to train staff on the use of the system. The training will vary by the individuals responsibility, and it will be necessary to periodically repeat much of the training."⁵

The State Fire Marshal contemplated local training as a necessary activity for the computerized CFIRS, as found in the test claim record. In September 1989, the State Fire Marshal issued a package to all California fire chiefs, including a cover letter, printouts of CFIRS forms, and a booklet entitled "Questions and Answers about the New CFIRS." In that booklet, at page 10, the State Fire Marshal addressed the question: "How can I get training on the new CFIRS?" The response follows: "Since you can only use the new format on a PC or mainframe computer, the training you'll need is going to be mostly on how you use the software that you install in your department." DOF has not disputed the training activities. Therefore, staff retained employee training on CFIRS hardware, software, and electronic report submittal in the proposed parameters and guidelines, but clarified that such training is one-time per employee.

Because training is included as a reimbursable activity, staff added the direct cost reporting boilerplate language for training, under Section V, Claim Preparation and Submission, of the proposed parameters and guidelines.

Staff Recommendation

Staff recommends that the Commission adopt the proposed parameters and guidelines, as modified by staff, beginning on page 9. Staff also recommends that the Commission authorize staff to make any non-substantive, technical corrections to the parameters and guidelines following the hearing.

⁵ Test Claim Filing, filed December 31, 1990, page 4.

**PROPOSED PARAMETERS AND GUIDELINES,
AS MODIFIED BY STAFF**

The New California Fire Incident Reporting System Manual – Version 1.0/July 1990

California Fire Incident Reporting System
CSM-4419/00-TC-02

San Ramon Valley Fire Protection District and City of Newport Beach, Claimants
Chapter 345, Statutes of 1987; Chapter 1214, Statutes of 1994; Chapter 91, Statutes of 1995;
Chapter 155, Statutes of 1996; July 1990 Fire Incident Reporting Manual

Claim no. CSM 4419

I. SUMMARY OF THE MANDATE

All fire protection agencies in California have had a duty since January 1, 1974, to report information and data to the State Fire Marshal relating to each fire in their jurisdiction pursuant to Health and Safety Code section 13110.5, in the form, time and manner prescribed by the State Fire Marshal. The State Fire Marshal issued a manual and reporting forms in 1974 entitled the "California Fire Incident Reporting System" (CFIRS). This test claim, as amended, alleged that a 1987 amendment to the Health and Safety Code, and the 1990 edition of the CFIRS manual, imposed a reimbursable state-mandated program.

The Commission on State Mandates (Commission) adopted a Statement of Decision on December 4, 2006, concluding that the New California Fire Incident Reporting System Manual (Version 1.0, July 1990), mandated a new program or higher level of service on local agencies within the meaning of article XIII B, section 6 of the California Constitution, and imposed costs mandated by the state pursuant to Government Code section 17514, by requiring the local implementation of a computerized version of CFIRS, with submission of forms by diskette or magnetic tape.

- Claimants who incurred actual costs for implementing the new computerized CFIRS format from July 1, 1990 (the beginning of the reimbursement period), to June 30, 1992 (the date of the letter from the State Fire Marshal stating that computerized filing was no longer required), are eligible for one-time costs for acquiring and implementing any necessary hardware and software.

The Commission concluded that Health and Safety Code section 13110.5, as amended by Statutes 1987, chapter 345, does not impose a new program or higher level of service within the meaning of article XIII B, section 6 of the California Constitution. Because fire incident reporting was required by prior law, the Commission found that the 1990 CFIRS manual and related reporting forms do not mandate a new program or higher level of service for ongoing reporting of fire or other incidents, other than as described above. The within test claim, filed on December 31, 1991, addresses the 1987 amendments to the Health and Safety Code section 13110.5, and the resulting 1990 version of the California Fire Incident Reporting System (CFIRS) manual regarding the duty to report information and data on fires to the State Fire Marshall. The new manual made changes to the manner in which data was collected requiring use of a computerized version of the data forms.

~~On December 4, 2006, the Commission on State Mandates found that the above referenced test claim constituted a partially reimbursable state mandated program. Specifically, the Commission found that requiring the local implementation of a computerized version of CFIRS, with submission of forms by diskette or magnetic tape, mandated a new program or higher level of service on local fire agencies. The Commission concluded that claimants who incurred actual costs for implementing the new computerized CFIRS format may be eligible for one-time costs for acquiring and implementing any necessary hardware and software. The Commission, however, limited the reimbursable period from July 1, 1990, the beginning of the reimbursement period based on the filing date of San Ramon's test claim, to June 30, 1992, the date a letter was issued from the State Fire Marshal stating that fire incident reports may be submitted by hardcopy rather than diskette or tape.~~

II. ELIGIBLE CLAIMANTS

Any county, city, city and county, or fire district that incurred increased costs as a result of this reimbursable state-mandated program is eligible to claim reimbursement of those costs.

III. PERIOD OF REIMBURSEMENT

The test claim for this mandate was filed by the original test claimant, San Ramon Valley Fire Protection District, on December 31, 1991. When the test claim was filed, Government Code section 17757 stated that "[a] test claim shall be submitted on or before December 31 following a fiscal year in order to establish eligibility for reimbursement for that fiscal year." Therefore, the period of reimbursement begins July 1, 1990.

On June 30, 1992, a letter was issued by the State Fire Marshal stating that, effective immediately, fire incident reports may be submitted by hardcopy rather than diskette or tape. This letter rescinded the mandate. Therefore, the period of reimbursement ends is through June 30~~29~~, 1992.

Actual costs for one fiscal year shall be included in each claim. ~~Estimated costs for 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 given 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 reported 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.

Claimants may use time studies to support salary and benefit costs when an activity is task-repetitive. Time study usage is subject to the review and audit conducted by the State Controller's Office.

For each eligible claimant, the following activities are eligible for reimbursement, when the activities were conducted and/or costs were incurred from July 1, 1990 through June 29, 1992:

A. One-Time Activities from July 1, 1990 through June 29, 1992:

1. Purchase of necessary computer hardware to implement the CFIRS program per the 1990 version of the CFIRS manual.
2. Purchase and/or development of computer software or conversion of existing computer software necessary to implement the CFIRS program per the 1990 version of the CFIRS manual.
3. Installation and/or implementation of necessary computer hardware and/or software.
4. Creation of back-up copy(ies) of necessary computer software.
5. Training on utilization of necessary computer hardware and/or software for each employee. (One-time per employee.)
6. Training on the submittal of reports via the necessary computer hardware and/or software for each employee. (One-time per employee.)

V. **CLAIM PREPARATION AND SUBMISSION**

Each of the following cost elements must be identified for the reimbursable activities identified in Section IV of this document. Each 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.

6. Training

Report the cost of training an employee to perform the reimbursable activities, as specified in Section IV of this document. Report the name and job classification of each employee preparing for, attending, and/or conducting training necessary to implement the reimbursable activities. Provide the title, subject, and purpose (related to the mandate of the training session), dates attended, and location. If the training encompasses subjects broader than the reimbursable activities, only the pro-rata portion can be claimed. Report employee training time for each applicable reimbursable activity according to the rules of cost element A.1, Salaries and Benefits, and A.2, Materials and Supplies. Report the cost of consultants who conduct the training according to the rules of cost element A.3, Contracted Services.

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) ~~separate~~ 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. RECORDS 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 State 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

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

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 OTHER REIMBURSEMENTS

Any offsetting revenues 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 federal, state or non-local source shall be identified and deducted from this claim.

VIII. STATE CONTROLLER'S CLAIMING INSTRUCTIONS

Pursuant to Government Code section 17558, subdivision (be), the Controller shall issue claiming instructions for each mandate that requires state reimbursement not later than 60 days after receiving the adopted parameters and guidelines from the Commission, to assist local agencies 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)(21), issuance of the claiming instructions shall constitute a notice of the right of local agencies to file reimbursement claims, based upon parameters and guidelines adopted by the Commission.

IX. REMEDIES BEFORE THE COMMISSION

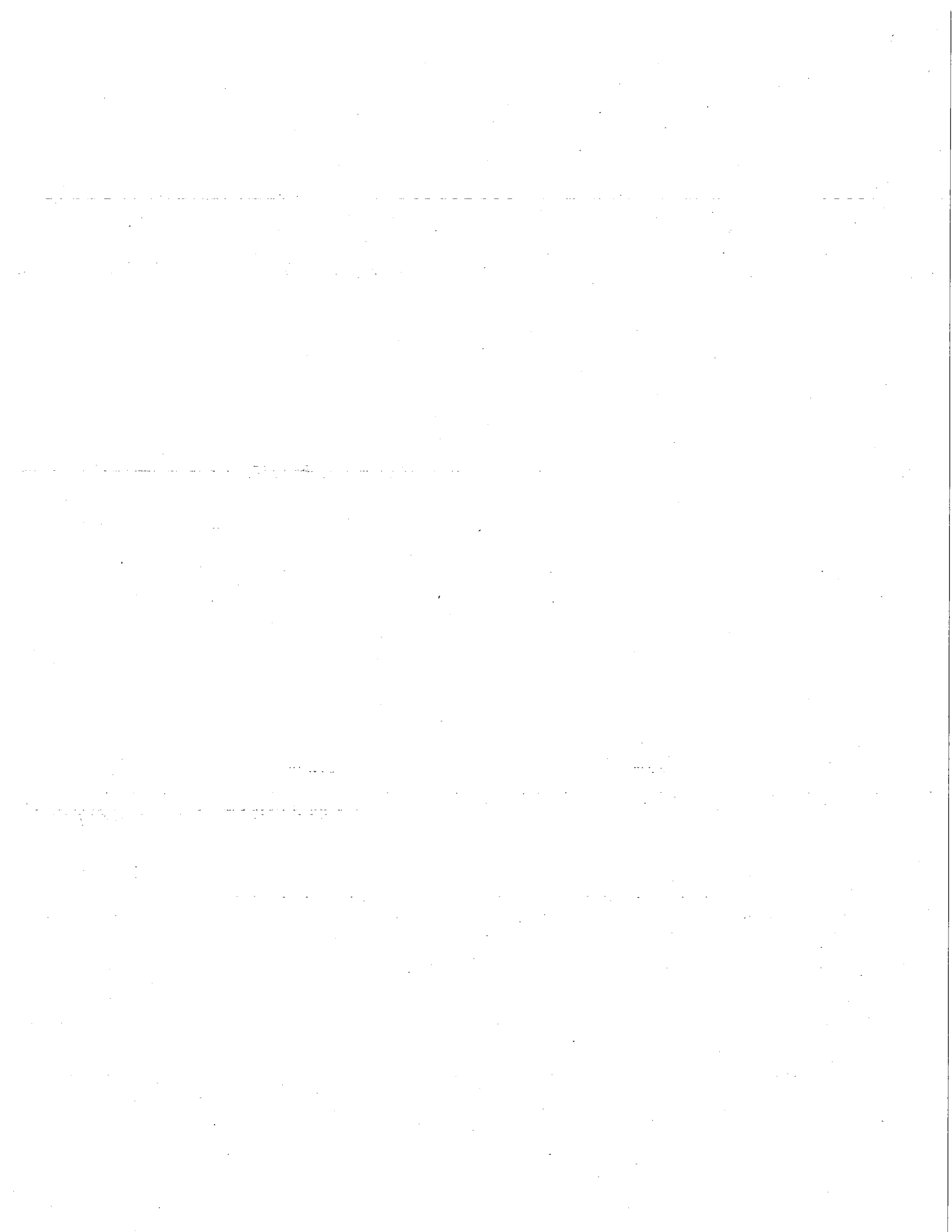
Upon request of a local agency or school district, the Commission shall review the claiming instructions issued by the State Controller or any other authorized state agency for reimbursement of mandated costs pursuant to Government Code section 17571. If the Commission determines that the claiming instructions 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 (ad), 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.

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COMMISSION ON STATE MANDATES

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December 7, 2006

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 4320 Auburn Blvd., Suite 2000
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Mr. William D. Ross
 Law Offices of William D. Ross
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 Los Angeles, CA 90071-2610

And Affected State Agencies and Interested Parties (see attached mailing list)

RE: Adopted Statement of Decision

California Fire Incident Reporting System Manual; CSM-4419/00-TC-02
 San Ramon Valley Fire Protection District & City of Newport Beach, Claimants
 July 1990 California Fire Incident Reporting System Manual; Health and Safety Code
 Section 13110.5 as Amended by Statutes 1987, Chapter 345

Dear Mr. Burdick

The Commission on State Mandates adopted the attached Statement of Decision on December 4, 2006. State law provides that reimbursement, if any, is subject to Commission approval of parameters and guidelines for reimbursement of the mandated program; approval of a statewide cost estimate; a specific legislative appropriation for such purpose; a timely-filed claim for reimbursement; and subsequent review of the claim by the State Controller's Office.

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

- **Claimant's Submission of Proposed Parameters and Guidelines.** Pursuant to Government Code section 17557 and California Code of Regulations, title 2, sections 1183.1 et seq., the claimant is responsible for submitting proposed parameters and guidelines by **January 5, 2007**. See Government Code section 17557 and California Code of Regulations, title 2, sections 1183.1 et seq. for guidance in preparing and filing a timely submission. Also, the claimant may propose a "reasonable reimbursement methodology," a formula for reimbursing local agency costs mandated by the state. (See Gov. Code, § 17518.5 and Cal. Code Regs., tit.2, 1183.13.)
- **Review of Proposed Parameters and Guidelines.** Within ten days of receipt of completed proposed parameters and guidelines, the Commission will send copies to the Department of Finance, Office of the State Controller, affected state agencies, and interested parties who are on the enclosed mailing list. Any recipient may propose a "reasonable reimbursement methodology" pursuant to Government Code section 17518.5. All recipients will be given an opportunity to provide written comments or

December 7, 2006

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recommendations to the Commission within 15 days of service. The claimant and other interested parties may submit written rebuttals. (See Cal. Code Regs., tit. 2, § 1183.11.)

- **Adoption of Parameters and Guidelines.** After review of the proposed parameters and guidelines and all comments, Commission staff will recommend the adoption of the claimant's proposed parameters and guidelines or adoption of an amended, modified, or supplemented version of the claimant's original submission. (See Cal. Code Regs., tit. 2, § 1183.12.)

Please contact Nancy Patton at (916) 323-3562 if you have any questions.

Sincerely,



PAULA HIGASHI
Executive Director

Enclosure: Adopted Statement of Decision

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BEFORE THE
COMMISSION ON STATE MANDATES
STATE OF CALIFORNIA

IN RE TEST CLAIM:

Health and Safety Code Section 13110.5;
Statutes 1987, Chapter 345 (SB 2187);
The New California Fire Incident Reporting
System Manual – Version 1.0/July 1990;

Filed on December 31, 1991, by San Ramon
Valley Fire Protection District, Claimant;
Re-filed on June 13, 1996, and Amended on
July 17, 2000 by City of Newport Beach.

Case No.: CSM-4419/00-TC-02


*California Fire Incident Reporting System
Manual*

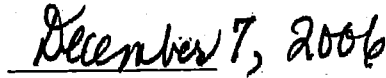
STATEMENT OF DECISION PURSUANT
TO GOVERNMENT CODE SECTION 17500
ET SEQ.; CALIFORNIA CODE OF
REGULATIONS, TITLE 2, DIVISION 2,
CHAPTER 2.5, ARTICLE 7

(Adopted on December 4, 2006)

STATEMENT OF DECISION

The attached Statement of Decision of the Commission on State Mandates is hereby adopted
in the above-entitled matter.


PAULA HIGASHI, Executive Director


Date

BEFORE THE
COMMISSION ON STATE MANDATES
STATE OF CALIFORNIA

IN RE TEST CLAIM:

Health and Safety Code Section 13110.5;
Statutes 1987, Chapter 345 (SB 2187);
The New California Fire Incident Reporting
System Manual – Version 1.0/July 1990;
Filed on December 31, 1991, by San Ramon
Valley Fire Protection District, Claimant;
Re-filed on June 13, 1996, and Amended on
July 17, 2000 by City of Newport Beach.

Case No.: CSM-4419, 00-TC-02

*California Fire Incident Reporting System
Manual*

PROPOSED STATEMENT OF DECISION
PURSUANT TO GOVERNMENT CODE
SECTION 17500 ET SEQ.; CALIFORNIA
CODE OF REGULATIONS, TITLE 2,
DIVISION 2, CHAPTER 2.5, ARTICLE 7

(Adopted on December 4, 2006)

STATEMENT OF DECISION

The Commission on State Mandates (“Commission”) heard and decided this test claim during a regularly scheduled hearing on December 4, 2006. Juliana Gmur and Allan Burdick of MAXIMUS, Glen Everroad, City of Newport Beach, and Terry Ulaszewski, Fire Support Services Manager, City of Newport Beach, appeared for the claimants. Penny Nichols and Giny Chandler of the Department of Forestry and Fire Protection, represented the State Fire Marshal. Susan Geanacou, Donna Ferebee, and Carla Castaneda appeared for the Department of Finance (DOF).

The law applicable to the Commission’s determination of a reimbursable state-mandated program is article XIII B, section 6 of the California Constitution, Government Code section 17500 et seq., and related case law.

The Commission adopted the staff analysis to partially approve this test claim at the hearing by a vote of 6-0.

Summary of Findings

All fire protection agencies in California have had a duty since January 1, 1974, to report “information and data to the State Fire Marshal relating to each fire” in their jurisdiction pursuant to Health and Safety Code section 13110.5. The State Fire Marshal issued a manual and reporting forms in 1974 entitled the “California Fire Incident Reporting System” (CFIRS). This test claim, as amended, alleges that a 1987 amendment to the Health and Safety Code, and the 1990 edition of the CFIRS manual, imposed a reimbursable state-mandated program.

The original test claim filing (CSM-4419) by San Ramon Valley Fire Protection District (San Ramon) was received on December 31, 1991. When the test claim was filed, Government Code

Statement of Decision
CFIRS Manual (CSM-4419, 00-TC-02)
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section 17757 stated that “[a] test claim shall be submitted on or before December 31 following a fiscal year in order to establish eligibility for reimbursement for that fiscal year.” Therefore, potential reimbursement goes back to July 1, 1990.

San Ramon appeared to drop out of the test claim process after asking for a postponement of the test claim hearing set for November 19, 1992, “to allow for the development of a response to the State Fire Marshals report on this issue.” The postponement was granted, but San Ramon never responded in writing to requests for updates so that the hearing could be rescheduled.

On June 13, 1996, the Commission received a “duplicate” test claim from City of Newport Beach (Newport Beach) which was given the same test claim number as the San Ramon filing.¹ On December 6, 1996, Commission staff issued a draft staff analysis, and the hearing was set for February 27, 1997. Newport Beach requested a prehearing, which was held on January 31, 1997. Following this prehearing, the Executive Director requested additional information in writing from Newport Beach. This request was repeated in March 2000, including a note that the claim was being set for dismissal if the response was not received. On April 25, 2000, Newport Beach requested that the claim be removed from inactive status and asked for a 90-day extension of time to obtain the information. On July 17, 2000, Newport Beach filed a test claim amendment (00-TC-02) which alleges a reimbursable state-mandated program was imposed by the amendments to Health and Safety Code section 13110.5 by Statutes 1987, chapter 345.

The claimants allege that the “New CFIRS Manual - Version 1.0, July 1990,” imposed a reimbursable state mandate by expanding the reporting categories from 10 to over 100; requiring quarterly reports on diskette or magnetic tape; expanding the one page form to three pages; and increasing the CFIRS manual from 100 to over 500 pages to describe the reporting requirements.

The Commission finds that requiring the local implementation of a computerized version of CFIRS, with submission of forms by diskette or magnetic tape, mandated a new program or higher level of service on local fire agencies. This was a significant, substantive change to the CFIRS program compared to what was required pre-1975. Claimants who incurred actual costs for implementing the new computerized CFIRS format may be eligible for one-time costs for acquiring and implementing any necessary hardware and software. However, this activity is only reimbursable from July 1, 1990, the beginning of the reimbursement period based on the filing date of San Ramon’s test claim, until June 30, 1992, the date a letter was issued from the State Fire Marshal stating that fire incident reports may be submitted by hardcopy rather than diskette or tape.

Other than the time-limited higher level of service for implementing a computerized version of CFIRS, the claimants have failed to demonstrate how the 1990 CFIRS manual creates a new program or higher level of service for filing incident reports beyond the broad pre-1975 requirement that the chief fire official of each fire department in the state, “shall furnish information and data to the State Fire Marshal relating to each fire which occurs within his area of jurisdiction,” in the form, time and manner prescribed by the State Fire Marshal.

¹ There is no evidence in the record that San Ramon withdrew or Newport Beach took over by substitution of the parties. The Commission sent a letter on March 29, 2004, requesting clarification of San Ramon’s status. On April 7, 2004, San Ramon responded that they intend to remain a co-claimant.

The Commission concludes that the New California Fire Incident Reporting System Manual (Version 1.0, July 1990), mandated a new program or higher level of service on local agencies within the meaning of article XIII B, section 6 of the California Constitution, and imposed costs mandated by the state pursuant to Government Code section 17514, for requiring the local implementation of a computerized version of CFIRS, with submission of forms by diskette or magnetic tape.

Claimants who incurred actual costs for implementing the new computerized CFIRS format from July 1, 1990 (the beginning of the reimbursement period), to June 30, 1992 (the date of the letter from the State Fire Marshal stating that computerized filing was no longer required), may be eligible for one-time costs for acquiring and implementing any necessary hardware and software.

The Commission concludes that Health and Safety Code section 13110.5, as amended by Statutes 1987, chapter 345, does not impose a new program or higher level of service within the meaning of article XIII B, section 6 of the California Constitution.

BACKGROUND

All fire protection agencies in California have had a duty since January 1, 1974 to report "information and data to the State Fire Marshal relating to each fire" in their jurisdiction pursuant to Health and Safety Code section 13110.5. The State Fire Marshal issued a manual and reporting forms in 1974 entitled the "California Fire Incident Reporting System." This test claim, as amended, alleges that a 1987 amendment to the Health and Safety Code, and the 1990 edition of the CFIRS manual, imposed a reimbursable state-mandated program.

Prior law as enacted by Statutes 1972, chapter 758, follows:

Health and Safety Code Section 13110.5.

The State Fire Marshal shall gather statistical information on all fires occurring within this state. Beginning January 1, 1974, the chief fire official of each fire department operated by the state, a city, city and county, fire protection district, organized fire company, or other public or private entity which provides fire protection, shall furnish information and data to the State Fire Marshal relating to each fire which occurs within his area of jurisdiction. The State Fire Marshal shall adopt regulations prescribing the scope of the information to be reported, the manner of reporting such information, forms to be used, the time such information shall be reported and other requirements and regulations as he determines necessary.

The State Fire Marshal shall annually analyze the information and data reported, compile a report, and disseminate a copy of such report together with his analysis to each chief fire official in the state. The State Fire Marshal shall also furnish a copy of his report and analysis to any other interested person upon request.

Claimants' Positions

Test Claim: December 31, 1991 Original Filing² and June 13, 1996 Duplicate Filing

Claimant, San Ramon, asserts that to comply with Statutes 1972, chapter 758, amending Health and Safety Code section 13110.5, the State Fire Marshal "instituted a fire incident reporting procedure known as the California Fire Incident Reporting System (CFIRS)." San Ramon argues that "[t]he implementation and conversion of CFIRS from the old manual system to the new computerized system results in a wide range of new state mandated activities." When the test claim was re-filed by Newport Beach in 1996, similar activity and cost allegations were made. Newport Beach asserts that "the reporting system was expanded from 10 items to 100 items with some of the additional items designated optional. The additional optional items are not included in this test claim."³

Newport Beach also alleges that there are two new sections on the report, Fire Service Casualty, and Non-Fire Service Casualty, "each requiring a separate page to complete."

Following is a chart summarizing the allegations of the two claimants on implementation and ongoing reimbursable activities imposed by the 1990 CFIRS manual:

<i>Alleged New Activity – One-time</i>	<i>San Ramon Estimated Cost⁴</i>	<i>Newport Beach Estimated Cost⁵</i>
Development, implementation and conversion plans	\$2,080	No estimate provided
Design new system, obtain new software, install and test system	\$800 software; \$416 install and test; hardware costs unknown	\$41,250 programming costs; \$3,395 software
Develop and provide training	\$11,248	\$3,415 in staff time
<i>Alleged New Activity - Ongoing</i>	<i>San Ramon Estimated Cost</i>	<i>Newport Beach Estimated Cost</i>
Collection and recording of incident data at scene	\$3,083	No estimate provided
Complete, review, verify, correct data and enter into computer	\$6,246	\$21,630
Prepare and submit quarterly reports	"To be determined"	\$1,000

² When the test claim was filed, Government Code section 17757 stated that "[a] test claim shall be submitted on or before December 31 following a fiscal year in order to establish eligibility for reimbursement for that fiscal year." Therefore, potential reimbursement goes back to July 1, 1990.

³ Newport Beach Test Claim Filing, June 13, 1996, page 1.

⁴ San Ramon Test Claim Filing, December 31, 1991, pages 5-6.

⁵ Newport Beach Test Claim Filing, June 13, 1996, pages 2-3.

Test Claim Amendment: July 17, 2000

Newport Beach filed a test claim amendment on July 17, 2000, adding Health and Safety Code section 13110.5, as amended by Statutes 1987, chapter 345 to the test claim allegations.

Specifically, Newport Beach asserts that both the San Ramon and Newport Beach test claim filings "inadvertently omitted the amendment." Newport Beach states:

Although the statute speaks in terms of it being discretionary to local fire departments to provide information on medical aid incidents and hazardous materials incidents, with the implementation of *CFIRS* the State Fire Marshal instituted a mandatory method of computerized reporting, which included those medical aid incidents occurring within the local jurisdiction. In no other method could the State Fire Marshal obtain the requisite information to achieve its mandatory obligation to gather information on all fires, medical aid incidents and hazardous materials incidents.

December 1, 2000 Response

Following a prehearing on January 31, 1997, the Commission requested that the claimant, Newport Beach, provide additional information in writing to support its test claim allegations. In the response received December 1, 2000, Newport Beach argues that the State Fire Marshal never informed the claimants that filing medical aid incident and hazardous material incident reports through *CFIRS* was optional until after the test claim was filed. They also argue that the new forms require more codes, which are difficult to remember, and therefore take additional time to look up. These allegations are further discussed in the analysis below.

Comments on the October 16, 2006 Draft Staff Analysis

Claimant, Newport Beach, filed a letter on November 13, 2006, responding to the draft staff analysis. The letter makes or reasserts the following four arguments: under the new *CFIRS* manual, whenever a fire service vehicle is dispatched, an incident report is required, resulting in a greater number of reports; the new manual changed the coding system resulting in increased staff time needed to find the correct code to enter on an incident report; the manual fails to specifically label certain data entries as optional; and prior decisions of the Commission are not binding.

Claimant, San Ramon, filed a letter on November 14, 2006, disputing the conclusions of the draft staff analysis, primarily asserting that the staff analysis fails to consider Article XIII B, section 6 "in the context of its implementation of Article XIII A." The claimant argues that this "joint construction" leads to a conclusion supporting the claimant's position that all of the *CFIRS* test claim activities should be found reimbursable on an ongoing basis, rather than limited in time and scope.

These arguments will be addressed as appropriate in the analysis below.

Department of Finance Position

September 21, 1992 Comments

Initial comments from DOF on the original test claim filing, dated September 21, 1992, conclude "that the 1990 *CFIRS* revisions do constitute a limited state-mandated local program" for providing the data on magnetic tape or diskette, which "was a new requirement and may have

resulted in some fire protection agencies having to acquire computer capability by lease or purchase.”

DOF argues “that the quantity of data to be reported in the new format has not increased,” and:

In addition, we would note that the Commission has heard and denied a test claim (No. CSM-4356) based on a very similar factual situation involving the California School Accounting Manual (CSAM). ... To summarize that decision, the Commission found that, since school districts had been required since at least 1964 to comply with CSAM, subsequent changes in CSAM did not constitute a reimbursable state mandate because it did not alter the underlying requirement to provide the data prescribed in CSAM. We would contend that the same rationale would apply to the 1990 revisions to CFIRS.⁶

February 7, 1997 Comments

A draft staff analysis was issued December 6, 1996. In response, DOF filed comments stating:

Any requirement to submit documentation only on disk or computer tape was removed in June 30, 1992, with a letter from the State Fire Marshal to all California Fire Chiefs. However, according to the Question and Answer booklet sent to all California Fire Chiefs in September 1989 the “old format” was going to be accepted until 1992. Therefore, the computerization requirement was never implemented.

DOF also notes that hazardous materials and medical incident reports remain optional, and they reiterate the argument that changes to the CFIRS manual do not impose a reimbursable state mandate, consistent with the Commission’s earlier decision regarding changes to the school accounting manual.

Comments on the October 16, 2006 Draft Staff Analysis

According to a letter received on November 13, 2006, DOF agrees “with the draft staff analysis that the revisions to the manual resulted in a limited state-mandated local program by requiring that data be provided on magnetic tape or diskette from July 1, 1990 to June 30, 1992.”

State Fire Marshal Position

September 22, 1992 Comments

Initial comments from the California State Fire Marshal dated September 22, 1992, on the San Ramon test claim filing, assert that the CFIRS manual was issued in 1974, and the claim is based on the changes adopted in 1990. The State Fire Marshal “conclude[s] that the requirement to submit data in electronic form may constitute a very narrow and limited higher level of service in an existing local program for those agencies without any access to a personal computer. It is

⁶ Newport Beach’s November 13, 2006 letter asserts that prior decisions of the Commission are not binding, citing *Weiss v. State Board of Equalization* (1953) 40 Cal.2d 772, and the 1989 Attorney General Opinion finding that prior Commission decisions have no precedential value. (72 Ops.Cal.Atty.Gen. 173, 178 (1989).) These are true points of law, and this analysis does not rely on prior decisions of the Commission.

our contention, however, that the type and net amount of data to be reported for fire incidents is essentially the same." The State Fire Marshal also asserts that the agency "has never attempted to enforce the mandatory provision of the program, nor is it our intention to do so in the future."⁷

Responding to the test claim specifics, the State Fire Marshal argues that "there has been no change to the underlying services and functions provided by California fire departments. The reporting requirements are fundamentally the same, only the prescribed format has changed."

Regarding San Ramon's statement that the CFIRS reports were "expanded from 10 to 100 items," the State Fire Marshal responds that "[i]n response to user input, the updated system provides the fire department the optional capability to capture information on all emergency incidents; however, the mandated reporting applies only to fires, which is unchanged from the original requirement which has been in place for 18 years."

Regarding the test claimant's assertion that the "code book has been increased from approximately 100 pages to well over 500 pages," the State Fire Marshal's office responds:

It is erroneous to make a direct comparison between the sizes of the two manuals because:

- the new manual contains the instructions for using all the options (non-fire) components of the reporting system;
- the format of the new manual has been expanded to include additional explanatory information to enhance its understanding and user-friendliness;
- the print style and page layout of the new manual is designed with more open space for easier reading, and to make it convenient to add user notes, resulting in more pages;
- the tables of codes are significantly larger so as to provide a more accurate and definitive selection for the use.

It is the [California State Fire Marshal's] position that the extent of the requirements imposed by both manuals - regarding fires - are essentially the same.

Regarding San Ramon's assertion that the "new CFIRS added two sections, each requiring a separate page," the State Fire Marshal's office responds:

The sections in question refer to supplemental information required when a casualty occurs in a fire.

There has always been a requirement to submit a separate casualty report. The old form (SFM GO-1) was used for both a civilian and a fire fighter casualty. Because of the vastly different types of information needed ... the single form was divided into two forms - one for each category.

The requirement to submit a casualty report is unchanged. The fire department merely uses the report appropriate for the circumstances.

⁷ Cover letter, signed by Ronny J. Coleman, State Fire Marshal.

The State Fire Marshal also questions San Ramon's implementation costs, including the estimate based on 1,000 fires per year, noting that past reporting of fires from that department were an average of 200 per year. They also note that the fire department "already ha[s] two existing computers in their Fire Prevention Bureau, and others in Administration."

February 4, 1997 Comments

Following the Newport Beach test claim filing and the January 31, 1997 pre-hearing, the State Fire Marshal submitted four additional documents, and stated in the cover letter, "[c]ollectively, these documents further confirm that the updated CFIRS merely continued the mandate for reporting fires – which has been in place for the past 25 years; and additionally, provided new options for reporting all types of other incidents at the discretion of the local agency."

One of the documents is an official notice "To All California Chief Fire Officials," dated June 30, 1992, from the State Fire Marshal, stating: "Effective immediately, the method for submitting reports for the updated version of CFIRS may be either by mainframe tape or PC/MAC diskette; OR by CSFM hardcopy forms for fires only." The document continues: "Your only obligation for compliance with Health & Safety Code Section 13110.5 is to report all fires in the prescribed updated format. Although CFIRS now provides you the opportunity to capture information on all incidents in a single uniform manner, this is at your option."

COMMISSION FINDINGS

The courts have found that article XIII B, section 6, of the California Constitution⁸ recognizes the state constitutional restrictions on the powers of local government to tax and spend.⁹ "Its purpose 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."¹⁰ A test claim statute or executive order may impose a reimbursable state-mandated program if it orders or commands a local agency or school district to engage in an activity or task.¹¹ In addition, the required activity or task must be new, constituting a "new program," or it must create a "higher level of service" over the previously required level of service.¹²

⁸ Article XIII B, section 6, subdivision (a), provides: (a) Whenever the Legislature or any state agency mandates a new program or higher level of service on any local government, the state shall provide a subvention of funds to reimburse that local government for the costs of the program or increased level of service, except that the Legislature may, but need not, provide a subvention of funds for the following mandates: (1) Legislative mandates requested by the local agency affected. (2) Legislation defining a new crime or changing an existing definition of a crime. (3) Legislative mandates enacted prior to January 1, 1975, or executive orders or regulations initially implementing legislation enacted prior to January 1, 1975.

⁹ *Department of Finance v. Commission on State Mandates (Kern High School Dist.)* (2003) 30 Cal.4th 727, 735.

¹⁰ *County of San Diego v. State of California* (1997) 15 Cal.4th 68, 81.

¹¹ *Long Beach Unified School Dist. v. State of California* (1990) 225 Cal.App.3d 155, 174.

¹² *San Diego Unified School Dist. v. Commission on State Mandates* (2004) 33 Cal.4th 859, 878,

The courts have defined a "program" subject to article XIII B, section 6, of the California Constitution, as one that carries out the governmental function of providing public services, or a law that imposes unique requirements on local agencies or school districts to implement a state policy, but does not apply generally to all residents and entities in the state.¹³ To determine if the program is new or imposes a higher level of service, the test claim legislation must be compared with the legal requirements in effect immediately before the enactment of the test claim legislation.¹⁴ A "higher level of service" occurs when the new "requirements were intended to provide an enhanced service to the public."¹⁵

Finally, the newly required activity or increased level of service must impose costs mandated by the state.¹⁶

The Commission is vested with exclusive authority to adjudicate disputes over the existence of state-mandated programs within the meaning of article XIII B, section 6.¹⁷ In making its decisions, the Commission must strictly construe article XIII B, section 6, and not apply it as an "equitable remedy to cure the perceived unfairness resulting from political decisions on funding priorities."¹⁸

Issue 1: Is the test claim statute or executive order subject to article XIII B, section 6 of the California Constitution?

In order for a test claim statute or executive order to be subject to article XIII B, section 6 of the California Constitution, it must constitute a "program." In *County of Los Angeles v. State of California*, the California Supreme Court defined the word "program" within the meaning of article XIII B, section 6 as one that carries out the governmental function of providing a service to the public, or laws which, to implement a state policy, impose unique requirements on local

(*San Diego Unified School Dist.*); *Lucia Mar Unified School Dist. v. Honig* (1988) 44 Cal.3d 830, 835 (*Lucia Mar*).

¹³ *San Diego Unified School Dist.*, *supra*, 33 Cal.4th 859, 874-875 (reaffirming the test set out in *County of Los Angeles v. State of California* (1987) 43 Cal.3d 46, 56; see also *Lucia Mar*, *supra*, 44 Cal.3d 830, 835.)

¹⁴ *San Diego Unified School Dist.*, *supra*, 33 Cal.4th 859, 878; *Lucia Mar*, *supra*, 44 Cal.3d 830, 835.

¹⁵ *San Diego Unified School Dist.*, *supra*, 33 Cal.4th 859, 878.

¹⁶ *County of Fresno v. State of California* (1991) 53 Cal.3d 482, 487; *County of Sonoma v. Commission on State Mandates* (2000) 84 Cal.App.4th 1265, 1284 (*County of Sonoma*); Government Code sections 17514 and 17556.

¹⁷ *Kinlaw v. State of California* (1991) 54 Cal.3d 326, 331-334; Government Code sections 17551 and 17552.

¹⁸ *County of Sonoma*, *supra*, 84 Cal.App.4th 1265, 1280, citing *City of San Jose v. State of California* (1996) 45 Cal.App.4th 1802, 1817.

governments and do not apply generally to all residents and entities in the state.¹⁹ The court has held that only one of these findings is necessary.²⁰

Although the statute and executive order claimed also apply equally to state and private fire agencies, the court in *Carmel Valley Fire Protection Dist.* found that "fire protection is a peculiarly governmental function," and that "[p]olice and fire protection are two of the most essential and basic functions of local government. [Citations omitted.] This classification is not weakened by State's assertion that there are private sector fire fighters who are also subject to the executive orders."²¹

The Commission finds that fire incident reporting imposes a program within the meaning of article XIII B, section 6 of the California Constitution. In particular, the reporting carries out the governmental function of providing a service to the public because, according to the Office of the State Fire Marshal, changes to CFIRS were "adopted in response to the fire community's need for focused experiential data essential to address today's contemporary issues affecting public fire and life safety protection in our state."²²

However, much of the statutory scheme on fire incident reporting was in place prior to 1975, as was a CFIRS manual and forms, so the analysis must continue to determine if the statute or executive order alleged mandates a new program or higher level of service upon eligible claimants within the meaning of the California Constitution, article XIII B, section 6.

Issue 2: Does the test claim statute or executive order mandate a new program or higher level of service on local agencies within the meaning of article XIII B, section 6 of the California Constitution?

The test claim, as amended in a July 17, 2000 filing from Newport Beach, alleges a reimbursable state-mandated program was imposed by amendments to Health and Safety Code section 13110.5 by Statutes 1987, chapter 345. The underlined material was added:

Health and Safety Code Section 13110.5:

The State Fire Marshal shall gather statistical information on all fires, medical aid incidents, and hazardous materials incidents occurring within this state. The chief fire official of each fire department operated by the state, a city, city and county, fire protection district, organized fire company, or other public or private entity which provides fire protection, shall furnish information and data to the State Fire Marshal relating to each fire which occurs within his or her area of jurisdiction. The chief fire official of each fire department operated by the state shall, and the chief fire official of fire departments operated by a city, city and county, fire protection district, organized fire company, or other public or private entity which provides fire protection may, also furnish information and data to the State Fire Marshal relating to medical aid incidents and hazardous materials incidents which

¹⁹ *County of Los Angeles, supra*, 43 Cal.3d at page 56.

²⁰ *Carmel Valley Fire Protection Dist. v. State of California* (1987) 190 Cal.App.3d 521, 537.

²¹ *Ibid.*

²² State Fire Marshal's September 22, 1992 letter. (Exh. C, Administrative Record (AR) p. 993.)

occur within their area of jurisdiction. The State Fire Marshal shall adopt regulations prescribing the scope of the information to be reported, the manner of reporting the information, the forms to be used, the time the information shall be reported, and other requirements and regulations as the State Fire Marshal determines necessary.

The State Fire Marshal shall annually analyze the information and data reported, compile a report, and disseminate a copy of the report, together with his or her analysis, to each chief fire official in the state. The State Fire Marshal shall also furnish a copy of his or her report and analysis to the State Emergency Medical Services Authority and any other interested person upon request.

This is the only amendment to Health and Safety Code section 13110.5 since its enactment in 1972. However, Newport Beach asserts:

Although the statute speaks in terms of it being discretionary to local fire departments to provide information on medical aid incidents and hazardous materials incidents, with the implementation of *CFIRS* the State Fire Marshal instituted a mandatory method of computerized reporting, which included those medical aid incidents occurring within the local jurisdiction. In no other method could the State Fire Marshal obtain the requisite information to achieve its mandatory obligation to gather information on all fires, medical aid incidents and hazardous materials incidents.

Newport Beach states that the requirements were to be implemented by January 1, 1992. The claimant states that the "optional" reporting provisions of *CFIRS* are "not included in this test claim."

The Commission finds that the amended statutory language only specifies that local fire departments "*may*, also furnish information and data to the State Fire Marshal relating to medical aid incidents and hazardous materials incidents which occur within their area of jurisdiction." All other amendments to the code section are directives to the State Fire Marshal, or fire departments operated by the State. In *City of San Jose v. State of California*, the court clearly found that "[w]e cannot, however, read a mandate into language which is clearly discretionary."²³ The court concluded "there is no basis for applying section 6 as an equitable remedy to cure the perceived unfairness resulting from political decisions on funding priorities."²⁴ Therefore, based on the plain language of the statute,²⁵ the Commission finds that Health and Safety Code section 13110.5, as amended by Statutes 1987, chapter 345, does not mandate a new program or higher level of service.

New CFIRS Manual - Version 1.0, July 1990:

²³ *City of San Jose v. State of California* (1996) 45 Cal.App.4th 1802, 1816.

²⁴ *Id.* at page 1817.

²⁵ "If the terms of the statute are unambiguous, the court presumes the lawmakers meant what they said, and the plain meaning of the language governs." (*Estate of Griswold* (2001) 25 Cal.4th 904, 911.)

The claimants allege that the "New CFIRS Manual - Version 1.0, July 1990," imposed a reimbursable state mandate by:

- expanding the reporting categories from 10 to over 100,
- requiring quarterly reports on diskette or magnetic tape,
- expanding the one page reporting form to 3 pages, and
- increasing the CFIRS manual from 100 to over 500 pages to describe the reporting requirements.

Under Government Code section 17516, an "executive order" may include "any order, plan, requirement, rule, or regulation issued by . . . any agency, department, board, or commission of state government." Health and Safety Code section 13110.5, as enacted in 1972, directs the State Fire Marshal to "adopt regulations prescribing the scope of the information to be reported, the manner of reporting such information, forms to be used, the time such information shall be reported and other requirements and regulations" regarding fire incident reporting. The State Fire Marshal developed the 1974 CFIRS manual as the method of implementation of Health and Safety Code section 13110.5. Thus, pursuant to Government Code section 17516, the CFIRS manual issued by the State Fire Marshal, which details how to complete mandatory fire incident reporting, is included in the definition of an executive order. However, the Commission must still determine if the 1990 version mandates a new program or higher level of service, and costs mandated by the state.

A test-claim statute or executive order mandates a new program or higher level of service within an existing program when it compels a local agency or school district to perform activities not previously required.²⁶ The courts have defined a "higher level of service" in conjunction with the phrase "new program" to give the subvention requirement of article XIII B, section 6 meaning. Accordingly, "it is apparent that the subvention requirement for increased or higher level of service is directed to state-mandated increases in the services provided by local agencies in existing programs."²⁷ A statute or executive order mandates a reimbursable "higher level of service" when, as compared to the legal requirements in effect immediately before the enactment of the test claim legislation, it increases the actual level of governmental service to the public provided in the existing program.²⁸

The claimants allege a new program or higher level of service because the 1990 CFIRS manual requires quarterly reports on diskette or magnetic tape. In their initial comments on the test claim filing, both the State Fire Marshal and DOF conceded that requiring the provision of CFIRS data on magnetic tape or diskette "was a new requirement and may have resulted in some fire protection agencies having to acquire computer capability by lease or purchase."

²⁶ *Lucia Mar Unified School Dist.*, *supra*, 44 Cal.3d 830, 836.

²⁷ *County of Los Angeles*, *supra*, 43 Cal.3d 46, 56; *San Diego Unified School District*, *supra*, 33 Cal.4th 859, 874.

²⁸ *San Diego Unified School Dist.*, *supra*, 33 Cal.4th 859, 878; *Lucia Mar*, *supra*, 44 Cal.3d 830, 835.

In September 1989, the State Fire Marshal issued a package to all California fire chiefs, with a cover letter, printouts of new CFIRS forms, a "record layout and specifications" document,²⁹ and a small booklet entitled "Questions and Answers About the New CFIRS." In the cover letter, the reference to the record layout and specifications document, describing how to develop CFIRS software, states: "These provide the molds into which all CFIRS records must fit. There can be no exceptions -- every CFIRS record must meet this criteria."

The 1989 "Questions and Answers" booklet discusses the new CFIRS and states that the first time fire departments can use the new quarterly CFIRS format is January 1, 1990.³⁰ Until then, the old format -- monthly paper forms or mainframe tape -- was required. The Questions and Answers booklet continues:

If I'm not ready by January 1990, when can I go to the new CFIRS after that?

It's strictly up to you. You can implement the new format as soon as you have the capability to produce the CSFM standard record on a PC. [Emphasis added.]

[...]

Important: You must submit a CFIRS report for every fire that occurs in your jurisdiction. Until you convert to the new format, you must submit the present hardcopy form or mainframe tape -- whichever applies in your case.

How is the CSFM going to put the new records together with the old ones?

[Discussion of phase-in procedures.] This allows both the new and old formats to be used during the transition. This will end when the old format is discontinued, probably in 1992.

According to the State Fire Marshal, some departments were already sending computerized reports in by mainframe tape. The Questions and Answers booklet addresses those departments, stating they may continue to send in tapes in the old format monthly, or begin sending the tapes in the new format quarterly, beginning in 1991, but at page 9, the booklet states: "You may continue to use the old format during '91 if additional time is needed to accomplish your conversion." Regarding a "deadline for tape departments to" switch to the new system, the document gives a date of "January, 1992." The Commission notes that for those departments that were already using mainframe tape to complete CFIRS reporting before the 1990 manual was issued, Government Code section 17565 provides that when a local agency incurs costs at its option that are later state-mandated, reimbursement is still required "for those costs incurred after the operative date of the mandate."

However, on June 30, 1992, an official notice "To All California Chief Fire Officials," was issued by the State Fire Marshal, stating: "Effective immediately, the method for submitting reports for the updated version of CFIRS may be either by mainframe tape or PC/MAC diskette; OR by CSFM hardcopy forms for fires only." The document continues: "Your only obligation for compliance with Health & Safety Code Section 13110.5 is to report all fires in the prescribed updated format. Although CFIRS now provides you the opportunity to capture information on

²⁹ See Exhibit F, "Specifications for Writing CFIRS Software."

³⁰ Exhibit I, page 1361.

all incidents in a single uniform manner, this is at your option.”³¹ Thus, any mandate for fire agencies to convert to a computerized system was eliminated on June 30, 1992. After that date, all computerized reporting was completed at the discretion of the local agency.

The Commission finds that requiring the local implementation of a computerized version of CFIRS, with submission of forms by diskette or magnetic tape, mandated a new program or higher level of service on local fire agencies. This was a significant, substantive change to the CFIRS program compared to what was required pre-1975. Claimants who incurred actual costs for implementing the new computerized CFIRS format from July 1, 1990, the beginning of the reimbursement period, to June 30, 1992, the date of the letter from the State Fire Marshal, may be eligible for one-time costs for acquiring and implementing any necessary hardware and software.³²

³¹ Comments on the draft staff analysis by San Ramon, filed November 14, 2006, page 3, argue that the State Fire Marshal “is estopped from taking” the position that the CFIRS reports may be done in hard copy, and that “local agencies were entitled to rely on the representation of the State Fire Marshall [sic] that the electronic means of reporting was in fact required to their detriment.”

This perhaps would be true if the State Fire Marshal was taking the position, *after the fact*, that electronic reporting was *never* required. But instead they assert that “effective immediately,” electronic reporting is no longer required. If the local agencies found that electronic reporting was more efficient or otherwise beneficial, it was at their option to continue using the electronic version of CFIRS. However, such reporting was no longer required.

San Ramon also argues that allowing hard copy forms instead of electronic reporting “is contrary to the declared legislative intent to implement electronic recordkeeping,” pursuant to Civil Code section 1633.1 et seq. (*Id.* at pg. 4.) The Uniform Electronic Transactions Act of 1999, which addresses the legal effect of electronic records and signatures, is not part of the test claim legislation and may not be analyzed for the imposition of a reimbursable state mandate here.

³² Comments filed on November 14, 2006, on behalf of San Ramon, urge a mandates analysis that uses a “joint construction” of the California Constitution, articles XIII A and XIII B, to find “that police and fire services were to be unaffected by” the passage of article XIII A, and therefore, “[t]he Test Claim should be declared to be a reimbursable State mandate with no limitations to the present.” The case cited by the claimant, *County of Fresno v. Malstrom* (1979) 94 Cal.App.3d 974, 981, states “we find that the ballot arguments in favor of article XIII A support a conclusion that the article is aimed at *general* taxes and governmental spending. The arguments claimed that more than 15 percent of all governmental spending was wasted and that the article’s limitations would not affect property-related governmental *services* (as contrasted with property-related *improvements*) such as trash collection, police and fire protection and street light maintenance...” [Emphasis in original.]

Claimant focuses on the truncated phrase “would not affect ... police and fire protection,” and apparently interprets this to mean that no law can affect police and fire protection without resulting in an unending reimbursable state-mandated program, even if the law or rule is later repealed or rescinded. A great number of appellate and California Supreme Court cases have been published since *Malstrom* (which was decided before article XIII B was adopted) interpreting article XIII B, section 6, specifically, and construing it with article XIII A to discuss

The claimants also seek ongoing reimbursement for additional time necessary to complete CFIRS reports. The allegations conclude that the new CFIRS is three pages, while the original CFIRS was on a one-page form, therefore there is a higher level of service. Even if a form taking up more pages was proof of a higher level of service, this is not the case here – both versions require either one page, or multiple pages, depending on how many casualties may have occurred at the incident. On the Fire Incident Report form included in the 1974 CFIRS manual, there is a reference under section J to the “SFM Form GO-1,” the Fire Casualty Report. At page 109 of the original CFIRS manual it states that the State Fire Marshal requires this additional form for each fire-incident related death, or injury requiring hospitalization. The only change to the new version of CFIRS is that a separate form is used depending on whether the victim is a member of the fire service, or considered a civilian.

The older casualty report form requires identifying information for the incident and for the casualty victim, familiarity of the victim with the structure, location of the victim at the time the fire was ignited, cause of the casualty, condition preventing victim’s escape, condition before injury, nature of casualty, activity at the time of the casualty, parts of the body affected and disposition of the victim; and then space for a detailed narrative is given on the back of the form.

The modern version of the casualty part of the fire incident report separates out the items that were applicable only to fire service personnel, versus those pieces of information that would only be collected for non-firefighters. For example, only the civilian-section of the report now asks for the familiarity of the victim with the structure, or the condition preventing escape -- presumably because these items are not significant for fire personnel. The Commission finds that the new version of a CFIRS report does not require a longer form than the old version.

In a related argument, Newport Beach asserts that the number of coded choices to fill in on the form have increased dramatically, requiring more time “to check the book for the appropriate code to be inserted,” than “to check a box.”³³

CFIRS has always been a code-driven system and required the use of a manual to properly fill in a fire incident report. The January 1974 CFIRS manual describes the purpose of the document:

In keeping with the forgoing statutory provisions [Health & Saf. Code, § 13110.5], the State Fire Marshal has instituted a fire incident reporting procedure known as the California Fire Incident Reporting System, which shall be referred to hereafter as CFIRS.

Fundamentally, this document is a code book, containing an established series of numbers within specified categories which define and represent predetermined fire incident conditions. Through the use of these code numbers, it is possible to

the relationship between article XIII A’s purpose to control certain taxes, with article XIII B’s purpose of controlling government spending. (See *County of Los Angeles v. State of California*, *supra*, 43 Cal.3d at p. 61, and *County of Fresno*, *supra*, 53 Cal.3d 482, 492, for two examples.) A full analysis of the history of article XIII A, particularly one that ignores any established meaning of “mandate” under article XIII B, section 6, is unnecessary here.

³³ Response from Newport Beach, received December 1, 2000, page 20.

provide input into the computers for ultimate feedback of statewide fire incident statistics.

The introduction continues to explain that the codes in the manual are largely drawn from the National Fire Prevention Association Coding System for Fire Reporting, and the Uniform Fire Incident Reporting System. The 1990 CFIRS is also based on the national coding systems.

The claimants also allege that a reimbursable state-mandated program was imposed by the 1990 CFIRS manual because the reporting categories have expanded from 10 to over 100, and the manual has increased from 100 to over 500 pages to describe the reporting requirements. The fact that the new CFIRS manual is considerably bulkier than the old version is not relevant to a mandates analysis. Regarding the test claimant's assertion that the "code book has been increased from approximately 100 pages to well over 500 pages," the State Fire Marshal's office responds:

It is erroneous to make a direct comparison between the sizes of the two manuals because:

- the new manual contains the instructions for using all the options (non-fire) components of the reporting system;
- the format of the new manual has been expanded to include additional explanatory information to enhance its understanding and user-friendliness;
- the print style and page layout of the new manual is designed with more open space for easier reading, and to make it convenient to add user notes, resulting in more pages;
- the tables of codes are significantly larger so as to provide a more accurate and definitive selection for the use.

It is the [California State Fire Marshal's] position that the extent of the requirements imposed by both manuals - regarding fires - are essentially the same.

The Commission agrees with the State Fire Marshal, and finds that the increase in the number of pages of an instructional manual does not allow for the automatic conclusion that a higher level of service has been mandated. This is particularly true when much of the reporting is not required. The 1989 State Fire Marshal's Questions and Answers booklet, described at page 12 above, addresses which part of the CFIRS reporting was mandatory:

Do I have to submit a new CFIRS report for every dispatch, regardless of what it is?

One "yes", a "maybe", and two "no's".

Yes - if it's a FIRE ... NO exceptions - just like it's always been.

MAYBE - if it's a HAZ MAT. If you are the "Administering Agency" for your jurisdiction, you must submit a CHMIRS report to OES.³⁴

³⁴ Any hazardous materials reporting that may be required for the Office of Emergency Services is *not* required by the subject test claim statute or the 1990 CFIRS manual.

You have two choices: you can either send in a separate CHMIRS form; or you can simply enter the information on a CFIRS report and we will have our computer give it to OES's computer.

NO – if it's EMS.

NO – if it's any OTHER type of call (ie; public assist).

In its December 1, 2000 supplemental filing, Newport Beach argues that:

Although the reporting requirement mandated on local fire agencies by statute was for fires only, this new CFIRS system required local fire agencies to report all fires, as well as all medical aid incidents and hazardous materials incidents.

Although the State Fire Marshal has claimed during these filings that the requirements to report medical aid incidents and hazardous materials incidents to it were voluntary, the State Fire Marshal did not communicate this to local fire agencies during the implementation of the new CFIRS manual.

This basic argument was also reasserted in Newport Beach's comments on the draft staff analysis, filed November 13, 2006, page 3, specifically stating "[n]ow, if there is a false alarm, a medical aid incident, a "move up" [footnote omitted], mutual aid, and other miscellaneous incidents, a report must be filed." The claimant's assertions are contradicted by evidence in the record showing that the Questions and Answers document quoted above was transmitted to all California fire officials in September 1989, prior to issuing the new CFIRS manual. The Commission finds that even though the new CFIRS form includes fields for reporting fire, hazardous materials, emergency medical service, and other calls, the Questions and Answers booklet, first distributed in 1989, as well as subsequent editions, explicitly states that a CFIRS report is *only required for fire incidents*, which is consistent with the pre-1975 requirements of Health and Safety Code section 13110.5.

The original CFIRS form and manual required detailed, coded fire incident reporting on the following:

- identifying information;
- property classification;
- property type;
- extent of damage;
- location and cause;
- area, materials, and smoke spread;
- spread of fire;
- protection facilities (sprinklers/extinguishers);
- protection facilities (alarm systems); and
- miscellaneous (casualties; checking "yes" required the filing of an additional "Fire Casualty Report" as discussed above).

The 1990 CFIRS form requires the same basic categories of information, and includes blocks for emergency medical service (medical aid), hazardous materials, or other, miscellaneous incidents. As made clear by Health and Safety Code section 13110.5, and the State Fire Marshal's Questions and Answers booklet—only fire incidents were ever required to be reported through CFIRS. During the transition period, agencies that had not adopted electronic CFIRS reporting were instructed to continue reporting on hardcopy forms for fires only.³⁵ When the State Fire Marshal explicitly removed electronic reporting as a mandatory requirement, they developed a new CFIRS hardcopy form, for fires only, with instructions stating that only the blocks with "black triangles" in the corners were required.³⁶ Those marked blocks fall into the same categories such as: identifying information (date, time, fire department); property type; damage; location and cause; materials; smoke and fire spread; sprinklers and alarms; and casualty reporting. The Commission finds that while individual boxes on the form may be reorganized, or have altered terminology, the same essential information on fire incidents is sought, and no new reporting categories have been mandated.

To the extent that the State Fire Marshal has a duty from Statutes 1987, chapter 345 to gather additional incident report information, they are able to collect it from state agencies, and *request* it of local agencies, but in no way was this additional reporting ever mandated of local agencies.

In fact, even if the State Fire Marshal wanted to require local agencies to provide this additional information, they would be prohibited from doing so under the law. A California Supreme Court decision, which found an administrative rule invalid because it was in direct conflict with statutory law, describes in detail the role of an administrative agency in interpreting statutes:

In determining the proper interpretation of a statute and the validity of an administrative regulation, the administrative agency's construction is entitled to great weight, and if there appears to be a reasonable basis for it, a court will not substitute its judgment for that of the administrative body. (*Id.*, at p. 133; see *Culligan Water Conditioning v. State Bd. of Equalization* (1976) 17 Cal.3d 86, 93 [130 Cal.Rptr. 321, 550 P.2d 593].) ...

[W]e have said that 'Where a statute empowers an administrative agency to adopt regulations, such regulations 'must be consistent; not in conflict with the statute, and reasonably necessary to effectuate its purpose.' (*Mooney v. Pickett* (1971) 4 Cal.3d 669, 679 ...; Gov. Code, § 11342.2.) The task of the reviewing court in such a case "is to decide whether the [agency] reasonably interpreted the legislative mandate.' [Citation.]' (*Credit Ins. Gen. Agents Assn. v. Payne* (1976) 16 Cal.3d 651, 657) Such a limited scope of review constitutes no judicial interference with the administrative discretion in that aspect of the rulemaking function which requires a high degree of technical skill and expertise. [Citation.] Correspondingly, *there is no agency discretion to promulgate a regulation which is inconsistent with the governing statute.* [¶] We repeat our admonition expressed

³⁵ "Until you convert to the new format, you must submit the *present hardcopy form*, or mainframe tape - whichever applies in your case." AR, page 1364.

³⁶ A new hardcopy form appears to have been made available by February 1993. See Exhibit I, AR pages 1384, 1391 (CFIRS Q & A Rev. 3/96).

in *Morris v. Williams* (1967) 67 Cal.2d 733, 737 ...: 'Our function is to inquire into the legality of the regulations, not their wisdom Administrative regulations that violate acts of the Legislature are void and no protestations that they are merely an exercise of administrative discretion can sanctify them.'

Acknowledging that the interpretation of a statute by one charged with its administration was entitled to great weight, we nonetheless affirmed: "Whatever the force of administrative construction ... final responsibility for the interpretation of the law rests with the courts.' [Citations.] *Administrative regulations that alter or amend the statute or enlarge or impair its scope are void and courts not only may, but it is their obligation to [.] strike down such regulations.'* (*Id.*, at p. 748.)' (*Woods v. Superior Court* (1981) 28 Cal.3d 668, 679 [170 Cal.Rptr. 484, 620 P.2d 1032], italics added.)

(*Ontario Community Foundations, Inc. v. State Bd. of Equalization* (1984) 35 Cal.3d 811, 816-817, [emphasis in original].)

Health and Safety Code section 13110.5, as amended in 1987, requires that state fire service agencies *shall*, but local or private fire service agencies *may* "also furnish information and data to the State Fire Marshal relating to medical aid incidents and hazardous materials incidents which occur within their area of jurisdiction." If the State Fire Marshal were to *require* local or private fire service agencies to provide this type of information by administrative rule, such a rule would be void under the law. The fact that the State Fire Marshal has repeatedly issued written directives stating that the CFIRS program only requires fire incident reporting for local agencies consistent with the pre-1975 Health and Safety Code, gives authority to this interpretation.³⁷

Other than the time-limited higher level of service for implementing a computerized version of CFIRS, the claimants have failed to demonstrate how the 1990 CFIRS manual creates a new program or higher level of service for filing incident reports beyond the broad pre-1975 requirement that the chief fire official of each fire department in the state, "shall furnish information and data to the State Fire Marshal relating to each fire which occurs within his area of jurisdiction," in the form, time and manner prescribed by the State Fire Marshal.

The Commission finds that once any requirement to submit fire incident reports in a computerized format was eliminated by the State Fire Marshal's June 30, 1992 letter, use of the 1990 CFIRS manual and related forms require the same duties and activities as pre-1975 law: completing a one-page form with the coded details of a fire incident call, and completing a

³⁷ See Exhibit I, AR page 1365 (CFIRS Q & A, circa Sept. 1989); page 1374 (Jun. 30, 1992 letter from State Fire Marshal to all fire chiefs); and pages 1369-70 (CFIRS Q & A Rev. 3/96).

Newport Beach's November 13, 2006 letter, page 4, asserts that "[w]ithout a clear designation that a data element is optional, the fire departments will complete the section and should be fully reimbursed for the costs unless and until they are so notified by the State Fire Marshall [sic] that that portion of the report is optional." The Commission finds that before, during and after the issuance of the 1990 CFIRS manual, the State Fire Marshal provided written directives to all California chief fire officials, indicating that all parts of CFIRS reporting are optional except fire reporting, which was required under long-standing prior law.

separate form, as needed, to report a related casualty (injury or death) for either fire service personnel or civilians. Therefore, the Commission finds that the 1990 CFIRS manual and related reporting forms do not mandate a new program or higher level of service for reporting fire or other incidents, other than as described in the conclusion below.

Issue 3: Does the executive order impose costs mandated by the state pursuant to Government Code section 17514?

Reimbursement under article XIII B, section 6 is required only if any new program or higher level of service is also found to impose "costs mandated by the state." Government Code section 17514 defines "costs mandated by the state" as any *increased* cost a local agency is required to incur as a result of a statute or executive order that mandates a new program or higher level of service. Both of the claimants estimated mandated costs in excess of \$200, which was the statutory threshold at the time the test claim was filed.

The claimants also stated that none of the Government Code section 17556 exceptions apply. For the activities listed in the conclusion below, the Commission agrees and finds accordingly that the new program or higher level of service also imposes costs mandated by the state within the meaning of Government Code section 17514.

CONCLUSION

The Commission concludes that the New California Fire Incident Reporting System Manual (Version 1.0, July 1990), mandated a new program or higher level of service on local agencies within the meaning of article XIII B, section 6 of the California Constitution, and imposed costs mandated by the state pursuant to Government Code section 17514, for requiring the local implementation of a computerized version of CFIRS, with submission of forms by diskette or magnetic tape.

Claimants who incurred actual costs for implementing the new computerized CFIRS format from July 1, 1990 (the beginning of the reimbursement period), to June 30, 1992 (the date of the letter from the State Fire Marshal stating that computerized filing was no longer required), may be eligible for one-time costs for acquiring and implementing any necessary hardware and software.

The Commission concludes that Health and Safety Code section 13110.5, as amended by Statutes 1987, chapter 345, does not impose a new program or higher level of service within the meaning of article XIII B, section 6 of the California Constitution.

DECLARATION 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 980 Ninth Street, Suite 300, Sacramento, California 95814.

December 7, 2006, I served the:

Adopted Statement of Decision

California Fire Incident Reporting System Manual, CSM-4419/00-TC-02
San Ramon Valley Fire Protection District & City of Newport Beach, Claimants
July 1990 California Fire Incident Reporting System Manual; Health and Safety Code
Section 13110.5 as Amended by Statutes 1987, Chapter 345

by placing a true copy thereof in an envelope addressed to:

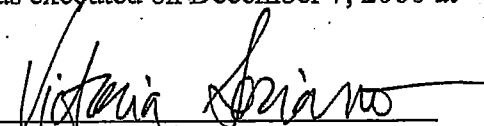
Mr. Allan P. Burdick
MAXIMUS
4320 Auburn Blvd., Suite 2000
Sacramento, CA 95841

Mr. William D. Ross
Law Offices of William D. Ross
520 S. Grand Avenue, Suite 300
Los Angeles, CA 90071-2610

State Agencies and Interested Parties (See attached mailing list);

and by sealing and depositing said envelope in the United States mail at Sacramento, California, with postage thereon fully paid.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on December 7, 2006 at Sacramento, California.



VICTORIA SORIANO

Original List Date: 1/31/1997
 Last Updated: 10/24/2006
 List Print Date: 12/07/2006
 Claim Number: 4419
 Issue: CFIRS Manual

Mailing Information: Notice of adopted SOD

Mailing List

Related Matter(s)

00-TC-02 California Fire Incident Reporting System (First Amendment)

TO ALL PARTIES AND INTERESTED PARTIES:

Each commission mailing list is continuously updated as requests are received to include or remove any party or person on the mailing list. A current mailing list is provided with commission correspondence, and a copy of the current mailing list is available upon request at any time. Except as provided otherwise by commission rule, when a party or interested party files any written material with the commission concerning a claim, it shall simultaneously serve a copy of the written material on the parties and interested parties to the claim identified on the mailing list provided by the commission. (Cal. Code Regs., tit. 2, § 1181.2.)

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<p>Ms. Kate Dargan Office of State Fire Marshal (A-45) Office of State Fire Marshal P.O. Box 944246 Sacramento, CA 94244</p>	<p>Tel: Fax:</p>
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<p>Mr. Leonard Kaye, Esq. County of Los Angeles Auditor-Controller's Office 500 W. Temple Street, Room 603 Los Angeles, CA 90012</p>	<p>Tel: (213) 974-8564 Fax: (213) 617-8106</p>
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COMMISSION ON STATE MANDATES

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January 12, 2007

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And Affected State Agencies and Interested Parties (See Enclosed Mailing List)

Re: **Proposed Parameters and Guidelines**
California Fire Incident Reporting System Manual, CSM-4419/00-TC-02
 July 1990 California Fire Incident Reporting System Manual;
 Health and Safety Code Section 13110.5, as amended by Statutes 1987, Chapter 345
 San Ramon Valley Fire Protection District & City of Newport Beach, Claimants

Dear Mr. Burdick and Mr. Ross:


The Commission on State Mandates received the above-named proposed parameters and guidelines on January 4, 2007. Staff reviewed the proposal and deemed it to be complete and timely filed.

Review and Comments. All state agencies and interested parties in receipt of this letter are invited to comment on the proposed parameters and guidelines. Recommendations and comments must be submitted to the Commission by **January 29, 2007**. The claimant and interested parties may file rebuttals with the Commission by **February 13, 2007**. The claimant, state agencies, and interested parties are required to submit an original and two (2) copies of written responses or rebuttals to the Commission and to simultaneously serve copies on the test claimant, state agencies, and interested parties on the mailing list.

Hearing. If requested, Commission staff will conduct a prehearing conference. A hearing on this matter will be set when the record closes.

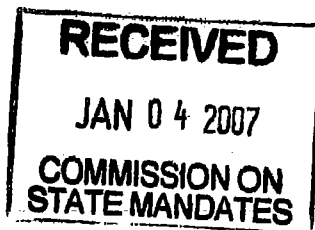
Please contact Victoria Soriano at (916) 323-8213 if you have any questions.

Sincerely,


 NANCY PATTON
 Assistant Executive Director

Enc.: Claimant's Proposed Parameters and Guidelines

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PROPOSED PARAMETERS AND GUIDELINES

California Fire Incident Reporting System

Chapter 345, Statutes of 1987; Chapter 1214, Statutes of 1994; Chapter 91, Statutes of 1995; Chapter 155, Statutes of 1995; Chapter 605, Statutes of 1996; July 1990 Fire Incident Reporting System Manual

Claim no. CSM-4419

I. SUMMARY OF THE MANDATE

The within test claim, filed on December 31, 1991, addresses the 1987 amendments to the Health and Safety Code section 13110.5. and the resulting 1990 version of the California Fire Incident Reporting System (CFIRS) manual regarding the duty to report information and data on fires to the State Fire Marshall. The new manual made changes to the manner in which data was collected requiring use of a computerized version of the data forms.

On December 4, 2006, the Commission on State Mandates found that the above referenced test claim constituted a partially reimbursable state mandated program. Specifically, the Commission found that requiring the local implementation of a computerized version of CFIRS, with submission of forms by diskette or magnetic tape, mandated a new program or higher level of service on local fire agencies. The Commission concluded that claimants who incurred actual costs for implementing the new computerized CFIRS format may be eligible for one-time costs for acquiring and implementing any necessary hardware and software. The Commission, however, limited the reimbursable period from July 1, 1990, the beginning of the reimbursement period based on the filing date of San Ramon's test claim, to June 30, 1992, the date a letter was issued from the State Fire Marshal stating that fire incident reports may be submitted by hardcopy rather than diskette or tape.

II. ELIGIBLE CLAIMANTS

Any county, city, city and county, or fire district that incurred increased costs as a result of this reimbursable state-mandated program is eligible to claim reimbursement of those costs.

III. PERIOD OF REIMBURSEMENT

The test claim for this mandate was filed by the original test claimant, San Ramon Valley Fire Protection District, on December 31, 1991. When the test claim was filed, Government Code section 17757 stated that "[a] test claim shall be submitted on or before December 31 following a fiscal year in order to establish eligibility for reimbursement for that fiscal year." Therefore, the period of reimbursement begins July 1, 1990.

On June 30, 1992, a letter was issued from the State Fire Marshal stating that fire incident reports may be submitted by hardcopy rather than diskette or tape. This letter rescinded the mandate. Therefore, period of reimbursement ends June 30, 1992.

Actual costs for one fiscal year shall be included in each claim. Estimated costs for 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 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 given 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, calendars, 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 reported 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.

Claimants may use time studies to support salary and benefit costs when an activity is task-repetitive. Time study usage is subject to the review and audit conducted by the State Controller's Office.

For each eligible claimant, the following activities are eligible for reimbursement:

A. One-Time Activities:

1. Purchase of necessary computer hardware to implement the CFIRS program per the 1990 version of the CFIRS manual.
2. Purchase and/or development of computer software or conversion of existing computer software necessary to implement the CFIRS program per the 1990 version of the CFIRS manual.
3. Installation and/or implementation of necessary computer hardware and/or software.
4. Creation of back-up copy(ies) of necessary computer software.
5. Training on utilization of necessary computer hardware and/or software for each employee.
6. Training on the submittal of reports via the of necessary computer hardware and/or software for each employee.

V. **CLAIM PREPARATION AND SUBMISSION**

Each of the following cost elements must be identified for the reimbursable activities identified in section IV of this document. Each 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 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 were 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 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 (1) the 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 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 shall exclude capital expenditures and unallowable costs (as defined and described in OMB 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 distributions 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) separate 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. RECORDS 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 State 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. All

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

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 SAVINGS AND REIMBURSEMENTS

Any offsetting savings 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 received from any federal, state or non-local source shall be identified and deducted from this claim.

Pursuant to Government Code section 17558, subdivision (c), the Controller shall issue claiming instructions for each mandate that requires state reimbursement not later than 60 days after receiving the parameters and guidelines from the Commission, to assist local agencies 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)(2), issuance of the claiming instructions shall constitute a notice of the right of local agencies to file reimbursement claims, based upon parameters and guidelines adopted by the Commission.

IX. REMEDIES BEFORE THE COMMISSION

Upon the 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 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 (a), 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.



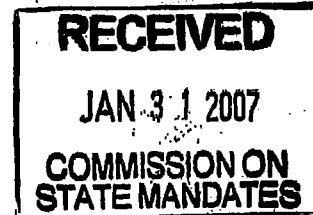
DEPARTMENT OF
FINANCE

ARNOLD SCHWARZENEGGER, GOVERNOR

915 L STREET ■ SACRAMENTO, CA ■ 95833-43706 ■ WWW.DOF.CA.GOV

January 29, 2007

Ms. Paula Higashi
Executive Director
Commission on State Mandates
980 Ninth Street, Suite 300
Sacramento CA 95814



Dear Ms. Higashi:

The Department of Finance has reviewed the proposed parameters and guidelines submitted by the San Ramon Valley Fire Protection District and the City of Newport Beach (claimants), for Claim No. 00-TC-02 "California Fire Incident Reporting System Manual (CFIRS)." Finance concurs with much of the proposed parameters and guidelines and would recommend additional modifications as follows:

1. Purchase of necessary computer hardware to implement the CFIRS program per the 1990 version of the CFIRS manual, during the July 1, 1990 through June 30, 1992 time period. Any fire departments or districts using the computer tape submittal process, prior to July 1, 1990, are excluded from the reimbursement of computer hardware purchases.
2. Purchase and/or development of computer software or conversion of existing computer software necessary to implement the CFIRS program per the 1990 version of the CFIRS manual, during the July 1, 1990 through June 30, 1992 time period.
3. Installation and/or implementation of necessary computer hardware and/or software, during the July 1, 1990 through June 30, 1992 time period.
4. Creation of back-up copies of necessary computer software, during the July 1, 1990 through June 30, 1992 time period.
5. Training on utilization of necessary computer hardware and/or software for each employee. Training at any fire departments or districts using the computer tape submittal process, prior to July 1, 1990, is excluded from reimbursement of computer hardware training.
6. Training on the submittal of reports via the necessary computer hardware and/or software for each employee. Training at any fire departments or districts using the computer tape submittal process, prior to July 1, 1990, is excluded from reimbursement.

Finance notes that any fire district or department that submitted CFIRS reports using the computer tape submittal process prior to July 1, 1990, would have no need for additional hardware purchases.

As required by the Commission's regulations, we are including a "Proof of Service" indicating that the parties included on the mailing list which accompanied your January 12, 2007 letter have been provided with copies of this letter via either United States Mail or, in the case of other state agencies, Interagency Mail Service.

If you have any questions regarding this letter, please contact Carla Castañeda, Principal Program Budget Analyst at (916) 445-3274

Sincerely,



Thomas E. Dithridge
Program Budget Manager

Attachments

Attachment A

DECLARATION OF CARLA CASTAÑEDA
DEPARTMENT OF FINANCE
CLAIM NO. CSM-4419/00-TG-02

1. I am currently employed by the State of California, Department of Finance (Finance), am familiar with the duties of Finance, and am authorized to make this declaration on behalf of Finance.

I certify under penalty of perjury that the facts set forth in the foregoing are true and correct of my own knowledge except as to the matters therein stated as information or belief and, as to those matters, I believe them to be true.

January 29, 2007
at Sacramento, CA

Carla Castañeda
Carla Castañeda

PROOF OF SERVICE

Test Claim Name: California Fire Incident Reporting System Manual

Test Claim Number: CSM-4419/00-TG-02

I, the undersigned, declare as follows:

I am employed in the County of Sacramento, State of California, I am 18 years of age or older and not a party to the within entitled cause; my business address is 915 L Street, 12th Floor, Sacramento, CA 95814.

On January 29, 2007, I served the attached recommendation of the Department of Finance in said cause, by facsimile to the Commission on State Mandates and by placing a true copy thereof: (1) to claimants and nonstate agencies enclosed in a sealed envelope with postage thereon fully prepaid in the United States Mail at Sacramento, California; and (2) to state agencies in the normal pickup location at 915 L Street, 12th Floor, for Interagency Mail Service, addressed as follows:

A-16

Ms. Paula Higashi, Executive Director
Commission on State Mandates
980 Ninth Street, Suite 300
Sacramento, CA 95814

Mr. Steve Shields
Shields Consulting Group, Inc.
1536 36th Street
Sacramento, CA 95816

Ms. Annette Chinn
Cost Recovery Systems, Inc.
705-2 East Bidwell Street, #294
Folsom, CA 95630

Mr. Glen Everroad
City of Newport Beach
3300 Newport Blvd.
P.O. Box 1768
Newport Beach, CA 92659-1768

Wellhouse and Associates
Attention: David Wellhouse
9175 Kiefer Boulevard, Suite 121
Sacramento, CA 95826

A-45
Ms. Kate Dargan
Office of State Fire Marshal
P.O. Box 944246
Sacramento, CA 94244

A-15

Ms. Carla Castaneda
Department of Finance
915 L Street, 12th Floor
Sacramento, CA 95814

Mr. J. Bradley Burgess
Public Resources Management Group
1380 Lead Hill Blvd., Ste. #106
Roseville, CA 95661

Mr. Rick Terry
Fire Chief
San Ramon Valley Fire Protection District
1500 Bollinger Canyon Road
San Ramon, CA 94583

Mr. William Ross
Law Offices of William D. Ross
520 S. Grand Avenue, Suite 300
Los Angeles, CA 90071-2610

Mr. Leonard Kaye, Esq.
County of Los Angeles
Auditor-Controller's Office
500 W. Temple Street, Room 603
Los Angeles, CA 90012

Mr. Allan Burdick
MAXIMUS
4320 Auburn Blvd., Ste. 2000
Sacramento, CA 95841

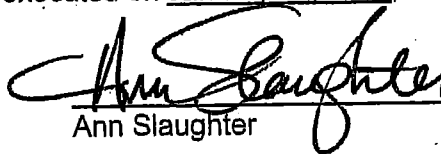
A-15
Donna Ferebee
Department of Finance
915 L Street, 12th Floor
Sacramento, CA 95814

B-08
Ms. Ginny Brummels
State Controller's Office
Division of Accounting & Reporting
3301 C Street, Ste. 500
Sacramento, CA 95816

A-15
Ms. Susan Geanacou
Department of Finance
915 L Street, 12th Floor
Sacramento, CA 95814

Ms. Hameet Barkschat
Mandate Resource Services
5325 Elkhorn Blvd. #307
Sacramento, CA 95842

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on January 29, 2007, at Sacramento, California.


Ann Slaughter

MAXIMUS®

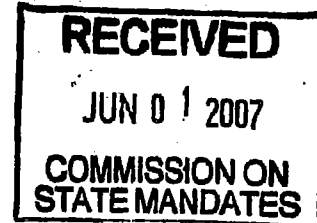
HELPING GOVERNMENT SERVE THE PEOPLE™

Exhibit D

June 1, 2007

Ms. Nancy Patton
Commission on State Mandates
980 Ninth Street
Suite 300
Sacramento, CA 95814

Via Hand Delivery



Re: CSM 4419/00-TC-02

Dear Ms. Patton:

Attached please find an original and two copies of Response to Department of Finance Comments on Proposed Parameters and Guidelines for filing in the matter now pending before the Commission, California Fire Incident Reporting System.

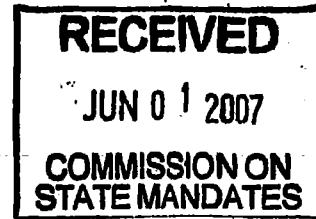
I appreciate your kind attention to this matter. Should you have any questions, please do not hesitate to contact me. Until then, I remain,

Very truly yours,

A handwritten signature in cursive script, appearing to read "Juliana F. Gmur".

Juliana F Gmur, Esq.

Enc.



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

Chapter 345, Statutes of 1987; Chapter 1214, Statutes of 1994; Chapter 91, Statutes of 1995; Chapter 155, Statutes of 1995; Chapter 605, Statutes of 1996; July 1990 Fire Incident Reporting System Manual

Claim no. CSM-4419/00-TC-02

California Fire Incident Reporting System

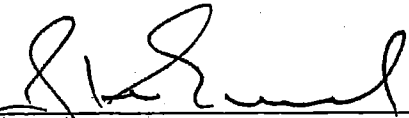
Test co-claimant City of Newport Beach (hereinafter "City") submits the following in response to the comments filed by the Department of Finance on January 31, 2007. The City concurs with the changes submitted by the Department.

Therefore, the City requests that the Commission adopt the Revised Parameters and Guidelines attached hereto which reflect the additions proffered by the Department.

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 30 day of May, 2007, at Sacramento, California, by:



Glen Everroad,
Revenue Manager
City of Newport Beach

REVISED PROPOSED PARAMETERS AND GUIDELINES

California Fire Incident Reporting System

Chapter 345, Statutes of 1987; Chapter 1214, Statutes of 1994; Chapter 91, Statutes of 1995; Chapter 155, Statutes of 1995; Chapter 605, Statutes of 1996; July 1990 Fire Incident Reporting System Manual

Claim no. CSM-4419/00-TC-O2

I. SUMMARY OF THE MANDATE

The within test claim, filed on December 31, 1991, addresses the 1987 amendments to the Health and Safety Code section 13110.5. and the resulting 1990 version of the California Fire Incident Reporting System (CFIRS) manual regarding the duty to report information and data on fires to the State Fire Marshall. The new manual made changes to the manner in which data was collected requiring use of a computerized version of the data forms.

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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) separate 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. RECORDS 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 State 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. 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 SAVINGS AND REIMBURSEMENTS

Any offsetting savings 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 received from any federal, state or non-local source shall be identified and deducted from this claim.

Pursuant to Government Code section 17558, subdivision (c), the Controller shall issue claiming instructions for each mandate that requires state reimbursement not later than 60 days after receiving the parameters and guidelines from the Commission, to assist local agencies 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)(2), issuance of the claiming instructions shall constitute a notice of the right of local agencies to file reimbursement claims, based upon parameters and guidelines adopted by the Commission.

IX. REMEDIES BEFORE THE COMMISSION

Upon the 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 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 (a), and California Code of Regulations, title 2, section 1183.2.

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

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.

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 4320 Auburn Blvd., Suite 2000, Sacramento, CA 95841.

On June 1, 2007, I served:

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

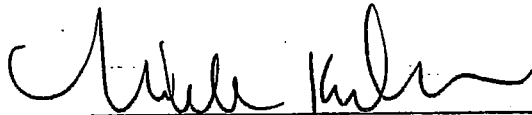
Chapter 345, Statutes of 1987; Chapter 1214, Statutes of 1994; Chapter 91, Statutes of 1995;
Chapter 155, Statutes of 1995; Chapter 605, Statutes of 1996; July 1990 Fire Incident Reporting
System Manual

Claim no. CSM-4419/00-TC-02

California Fire Incident Reporting System

by placing a true copy thereof in an envelope addressed to each of the persons listed on the mailing list, and by sealing and depositing said envelope in the United State mail at Sacramento, 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 8th day of January, 2007, at Clovis, California.



Declarant

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Original List Date: 1/31/1997
Last Updated: 3/27/2007
List Print Date: 06/19/2008
Claim Number: 4419
Issue: CFIRS Manual

Mailing Information: Draft Staff Analysis

Mailing List

Related Matter(s)

00-TC-02 California Fire Incident Reporting System (First Amendment)

TO ALL PARTIES AND INTERESTED PARTIES:

Each commission mailing list is continuously updated as requests are received to include or remove any party or person on the mailing list. A current mailing list is provided with commission correspondence, and a copy of the current mailing list is available upon request at any time. Except as provided otherwise by commission rule, when a party or interested party files any written material with the commission concerning a claim, it shall simultaneously serve a copy of the written material on the parties and interested parties to the claim identified on the mailing list provided by the commission. (Cal. Code Regs., tit. 2, § 1181.2.)

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