

ITEM 8
FINAL 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 submitted comments on the draft parameters and guidelines, suggesting some amendments to the reimbursable activities. On June 1, 2007, the claimant submitted a response to Finance’s comments, concurring with those comments.

On June 19, 2008, Commission staff issued the draft staff analysis and modified proposed parameters and guidelines. Staff modified the parameters and guidelines as described below.

Staff found that some of the changes suggested were inconsistent with the Commission's Statement of Decision. Specifically, 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.

On July 11, 2008, Department of Finance submitted comments concurring with the draft staff analysis. No other comments on the draft staff analysis were received. Therefore, staff made no further changes to the modified 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	Department of Finance 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
07/11/08	Department of Finance submits comments on the draft staff analysis and proposed parameters and guidelines
07/16/08	Commission staff issues final 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

¹ Exhibit A.

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, 2007² and issued for comment by Commission staff on January 12, 2007. On January 31, 2007, Department of Finance submitted comments on the draft parameters and guidelines, and suggested amendments to the reimbursable activities.³ On June 1, 2007, the claimant responded to Finance'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 Department of Finance, 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; and 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

Department of Finance'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.

² Exhibit B.

³ Exhibit C.

⁴ Exhibit D.

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.
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 Finance'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

Department of Finance 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 individual’s 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.

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

Comments on the Draft Staff Analysis

On July 11, 2008, Department of Finance submitted comments concurring with the draft staff analysis.⁶ No other comments on the draft staff analysis were received. Therefore, staff made no further changes to the modified 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.

⁶ Exhibit E.

